



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

Appeal Number: PA/02294/2018

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 25 June 2019**

**Decision & Reasons Promulgated  
On 28 June 2019**

**Before**

**UPPER TRIBUNAL JUDGE PLIMMER**

**Between**

**KH  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

For the appellant: Ms Mair, Counsel  
For the respondent: Mrs Pettersen, Senior Home Office Presenting  
Officer

**DECISION**

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

1. The appellant is a citizen of Algeria. In an 'error of law' decision dated 14 February 2019, I found that the First-tier Tribunal ('FTT') erred in

law and decided that the decision would be re-made by me in the Upper Tribunal ('UT') at an adjourned hearing.

2. I make it clear from the beginning that it was agreed by both parties that the appellant should be treated as a vulnerable witness, and I do so. The FTT accepted the appellant's claim to be a victim of domestic violence. The appellant has given a chilling account of sustained and very serious physical and emotional abuse over an extended period, that is now accepted.

### **Background to asylum claim**

3. As I clarified in my 'error of law' decision, the respondent did not cross-appeal against the FTT's positive factual findings. It is convenient to repeat my summary of these findings in this decision.
  - (a) The appellant worked as a police officer in Algeria in her home area in Tipaza (some 70-80km from Algiers).
  - (b) She has a child ('A'), born to her marriage with her ex-husband ('H'). They were married in 2009 but divorced in 2012. During the course of their marriage the appellant was the victim of sustained and serious domestic violence on the part of H. The appellant continued to live in H's family compound after the divorce.
  - (c) H was convicted of drugs offences in 2016 in Algeria, and after an appeal was sentenced to five years imprisonment. The appellant believes that H and his brothers have been involved in the supply of illicit drugs in Algeria for a long time.
  - (d) H and his family members are suspicious about the appellant's involvement in H's arrest and conviction. The appellant has a well-founded fear of serious harm in her home area for reasons relating to this.
  - (e) The appellant deserted her post as a police officer when she left Algeria on 21 December 2016 in order to claim asylum. This has resulted in the police dismissing her for desertion.
4. The FTT explicitly rejected the following: the appellant did not know about H's drug dealing; she witnessed her husband dealing drugs with her police colleagues; the appellant exaggerated the involvement of the police and failed to show H's connections with the police.
5. Having set out its factual findings, the FTT described the central issue as whether the appellant can internally relocate away from her home area. The FTT referred to a country expert report prepared by Professor Joffe dated 30 August 2018 ('the first Joffe report') and concluded that the appellant could safely and reasonably internally relocate. The FTT therefore concluded that whilst the appellant has a well-founded fear of persecution in her home area, she can internally relocate because H's family do not have connections to the police and

H's conviction demonstrates, contrary to the appellant's claims, that the police are willing to take appropriate action against him and are not scared of him or his connections. In so doing, the FTT noted that the appellant would have family support from her sister and there was insufficient evidence to support the claim that H's family would find out about such contact and trace the appellant.

6. In my 'error of law' decision, I concluded that the FTT erred in law in two key respects. First, the FTT failed to treat the appellant as a vulnerable witness. The FTT failed to weigh this as a relevant factor when making the pivotal assessment of whether it would be unduly harsh for the appellant to internally relocate.
7. Second, the FTT made no clear findings regarding the threat posed by the appellant's brother ('B'). The FTT found that the appellant would have the benefit of the family support, generally necessary for divorced women in Algeria, but failed to take into account or make findings on the appellant's evidence that she could not depend upon her sister ('S') because to do so would expose her to the risk of harm on the part of B.

### **Issues in dispute / hearing**

8. At the beginning of the 're-making' hearing the representatives clarified that the overarching issue in dispute is whether or not the appellant can safely or reasonably be expected to relocate to Algiers, in the light of the FTT's finding that she is at risk from H's family members in her home area.
9. The representatives also agreed that the findings of fact summarised at [3(a) to (e)] above are preserved but that I should re-visit the risk posed by B and / or his likely attitude, before making my own assessment on internal relocation.

### **Evidence**

10. The appellant confirmed the truth of two statements dated 3 March 2018 and 1 March 2019. The appellant was then cross-examined by Mrs Pettersen, who focussed on issues relevant to internal relocation.
11. The appellant also relied upon country background evidence on Algeria and two country expert reports from Professor Joffe - the supplementary report is dated 3 March 2019 ('the second Joffe report'). The respondent relied upon a CPIN on Algeria dated August 2017.
12. Mrs Pettersen invited me to find that the appellant could safely and reasonably internally relocate. Ms Mair relied upon a helpful skeleton argument. After hearing submissions from both representatives, I reserved my decision, which I now provide with reasons.

## Findings

13. My findings have been reached having considered all the evidence in the round and having applied the lower standard of proof to both past events and future risk.

### *Risk in home area*

14. The FTT accepted that the appellant is at risk from H's family members in her home area but omitted to make any findings on the appellant's claim that she is at risk from her own brother, B, who has had longstanding links to H's family.
15. The appellant's relationship with her brother has been strained for a lengthy period. I accept her evidence that he has used illicit drugs, and has been abusive toward her. She has not spoken to him since 2001. B maintained his friendship with H throughout the abusive marriage. B has been threatening toward the appellant on behalf of H's family in the past. The appellant has consistently articulated that her fears extend beyond H's family and to her own brother – see questions 75-81 and 99-104 of the asylum interview and [5] and [18] of her statement dated 5 March 2018. This evidence is consistent and credible.
16. I am satisfied that the appellant faces a real risk of serious harm from B as well as H's family in her home area.

### *Safety of internal relocation*

17. Mrs Pettersen did not dispute the cogency of Professor Joffe's evidence in so far as it is based on his expertise, as opposed to the appellant's own assertions. There are inconsistencies within that evidence but when considered alongside the other country background evidence, I am prepared to accept those aspects which find some independent support in the other country background evidence.
18. I do not accept that it is reasonably likely that the appellant will be detained upon arrival as asserted in the second Joffe report at [5] to [11]. This is because there is insufficient cogent evidence that the authorities will treat her adversely:
  - (a) She departed Algeria by normal channels;
  - (b) Her own evidence before the FTT (as summarised at [25] of the FTT's decision) is that the authorities have taken no further action beyond dismissal, having accepted that she deserted her post as a police officer;

- (c) She did not breach any Algerian law by taking her child abroad as she retained custody and guardianship. In any event, H was in prison and could not feasibly insist on visitation rights.
19. The appellant will find it difficult to make a new life for herself and her child in a city like Algiers. The appellant has consistently maintained that even after her divorce from H she had no choice but to live within his family's compound. She has credibly explained that she was unable to live on her own in her home area because she could not afford to do so, even on the salary of a police officer, and in any event was unable to do so because of the discrimination related to her status as a single divorced woman with a child. In other words, life continued to be difficult for her, even when she had paid employment and accommodation in her home area. I accept Professor Joffe's evidence that divorced women with children face difficult circumstances in Algeria because of the shame and reduced opportunities associated with being a divorced woman, and this is made worse, if they are unable to rely upon their family. The difficulties are felt vis a vis housing, forming a new relationship, unwanted sexual attention and abuse. Professor Joffe's evidence in this regard is consistent with other country background evidence, including a report from the Immigration and Refugee Board of Canada, albeit that date backs to August 2015.
20. These difficulties are such that in the absence of any other contact, it is reasonably likely that the appellant will feel compelled to turn to her family in her home area for emotional and financial support. The appellant has maintained phone contact with her sister, S, since leaving her home area. S lives in the family home with her elderly parents and B. Although this contact takes place clandestinely and when B is not around, sooner or later, it is reasonably likely that B will discover that the appellant is in Algeria and will track her down or give information to H's family for them to track her down. It is to be noted from the appellant's answer to question 99 of the asylum interview that B has already discovered sensitive information regarding the appellant as a result of S maintaining contact with her over the phone. In addition to this, there is cogent evidence that the appellant may have to return to her home area to obtain or replace her national biometric identity card - see the first Joffe report at [70] to [71].
21. Although there is corruption in the police, I do not accept that B and H's family have sufficiently firm connections with the police to enable the appellant to be located with ease. However, when all the relevant considerations are viewed cumulatively it is reasonably likely that B and / or H's family would be able to locate the appellant even if she relocates to a large city such as Algiers. In so finding, I take the following into account:

- (i) It will be difficult for the appellant to terminate all contact with her family and her home area for the reasons set out above;
  - (ii) The appellant will have to register with the police and would therefore be traceable – see the first Joffe report at [64];
  - (iii) H has been convicted of serious drugs offences. H’s family and B have been involved in drugs for a long period. It is reasonably likely they have contacts with criminal groups who could assist in penetrating police systems – see the first Joffe report at [62];
  - (iv) B and H’s family have demonstrated a degree of determination to carry out very serious threats against the appellant. H’s brothers told the appellant that they were going to destroy her life and slit her and her daughter’s throats (see the answer to question 89 of the asylum interview). I accept Professor Joffe’s evidence that ‘honour-based’ violence remains prevalent but concealed in Algeria. This is a case in which perceptions of ‘honour’ are entangled in revenge, as a consequence of H’s conviction, as well as continued links to H through their child. The approach adopted by B and H’s family in the past are a good indicator of how they may act in the future, if they become aware that the appellant has returned to Algeria.
  - (v) The appellant will be more exposed and easier to find by reason of being a single woman with a child – see the first Joffe report at [72(iv)].
  - (vi) Algiers may be a large city of some 2.5 million but it is a relatively short distance (70km) from the appellant’s home area.
22. The FTT accepted (at [29] and [33] of its decision) the appellant’s evidence that she received threats since H’s conviction, because his family blamed her for this. This is likely to be viewed by the police as an internal family dispute and for that reason it is reasonably likely that as in the home area (see the answers to questions 91 to 92 of the asylum interview), the police will not provide sufficient protection in any other part of Algeria, in the particular circumstances of this case – see the first Joffe report at [72].
23. I therefore find it reasonably likely that B, H and H’s family continue to blame the appellant for H’s conviction and imprisonment and they are motivated to carry out their threats against her. It is reasonably likely that sooner or later they will track her down in Algiers or any other large city in Algeria, and she will not be able to obtain sufficient protection from the police.

*Reasonableness of internal relocation*

24. In the event that my assessment that the appellant faces a real risk of serious harm even if she relocates away from her home area, I have gone on to address the reasonableness of internal relocation.

25. When the appellant's particular circumstances are viewed holistically (see SSHHD v AH (Sudan) [2007] UKHL 49), I am satisfied that internal relocation would be unduly harsh. Each of the relevant factors is addressed discretely below but they are interlinked.
26. First, the appellant will be a single woman with a child to support without any direct family or other support. I accept the appellant's evidence that she would not be able to obtain anything other than very minimal financial support from S or any other family member. S cares for her elderly parents. Emotional support would be very limited as a result of reasonable fears that the appellant's whereabouts would then sooner or later become known to B and through him, H's family.
27. Second, the appellant is vulnerable and anxious as a result of many years of being abused and subjugated by H and B. Her resilience and confidence have been adversely impacted.
28. Third, the appellant's employment prospects are low. Although the appellant has held lengthy and stable employment in the past, this has been restricted to the police service. In addition to this, because she has deserted her post and has no contacts outside of her home area, she faces the additional problem of being unable to obtain a suitable reference. It is very difficult for women to obtain employment without specific qualifications or family support. She faces the additional stigma of being a divorced woman. She is therefore reasonably likely to be unemployed in Algiers with a child to support. She will have to face very difficult economic circumstances and will find it very difficult to obtain accommodation. Shelters are very limited, and it is difficult to see why this appellant would be prioritised, when she prima facie has family members to turn to for support.
29. When all the circumstances are considered in the round I do not accept that this appellant will be able to secure employment in Algiers and this will have the consequence of her not being able to afford adequate accommodation in the medium term, even with the assistance she will derive from any resettlement grant. She is reasonably likely to face destitution - living on the street and having no food security - whilst at the same time living with constant stigma as a consequence of being a divorced woman without family support, as well as anxiety as a result of her past ill-treatment and her fears that she will be found by H's family. In these circumstances, her living conditions will be unduly harsh.

#### *Convention reason*

30. The appellant faces a well-founded fear of persecution in Algeria for reasons relating to her being a woman, and this constitutes a 'particular social group' in Algeria. I do not need to address this in

more detail because Mrs Pettersen maintained the position in the respondent's decision letter at [33] that is the relevant Convention Reason.

*Para ADE(1)(vi) of the Immigration Rules*

31. Given my findings in relation to the appellant's claim for international protection, it is unnecessary for me to address the alternative submission under the Immigration Rules. Ms Mair did not make any discrete oral submissions in relation to this issue.

**Decision**

32. I remake the decision by allowing the appellant's appeal on asylum grounds and find that her removal would breach the Qualification Directive and Article 3 of the ECHR.

Signed: *UTJ Plimmer*

**Ms M. Plimmer**

**Judge of the Upper Tribunal**

Date: **26 June 2019**