



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

Appeal Number: PA/08148/2018

**THE IMMIGRATION ACTS**

**Heard at Manchester Civil Justice Centre  
On February 5, 2019**

**Decision & Reasons  
Promulgated  
On February 25, 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ALIS**

**Between**

**RABAR [M]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Brown, Counsel instructed by Adam Solicitors  
For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. On October 18, 2017 the appellant entered the United Kingdom illegally and claimed asylum. He had previously claimed asylum in Romania on August 14, 2017 but had left that country after seventeen days travelling through Austria, Germany and France where he stayed a total of 48 days. The respondent refused his application for protection on June 16, 2018 under paragraphs 336 and 339F HC 395.
2. The appellant appealed that decision on June 28, 2018 and his appeal came before Judge of the First-tier Tribunal Juss on August 3, 2018 and in

a decision promulgated on October 16, 2018 he dismissed the appellant's appeal on all grounds.

3. Permission to appeal was sought on October 30, 2018 on the basis the Judge had provided inadequate reasoning for his decision. Permission to appeal was granted by Judge of the First-tier Tribunal Buchanan on November 12, 2018 on the basis that it was arguable the Judge's conclusion failed to take into account evidence provided by the appellant which it was arguable was consistent with objective evidence.
4. No anonymity direction is made.

### **PRELIMINARY ISSUE**

5. The matter came before me on the above date and at that hearing Mr McVeety accepted there was a material error as that there had not been any real findings about the appellant's claim. Mr Brown further pointed out there had also been a factual error in paragraph 20 when the Judge had suggested that the appellant had claimed that Raymar had been captured when in fact he was the person who had introduced the person who was captured to him.
6. Having considered the content of the decision and the grounds of appeal together with the grant of permission I accept there is merit to the argument advanced in the grounds of appeal (as recognised by Mr McVeety) and consequently as the findings in respect of credibility are core to the issue of risk, I find there has been an error of law for the reasons given in the permission to appeal.
7. I considered whether to retain jurisdiction in this matter or to remit the matter back to the First-tier Tribunal. Bearing in mind full credibility findings and reasons will be required, it seems appropriate that this matter be remitted back to the First-tier Tribunal under Section 12(1) of the Tribunals, Courts and Enforcement Act 2007 to be heard by a Judge other than Judge Juss.

### **NOTICE OF DECISION**

8. I allow the appeal. I set aside the decision and remit the matter back to the First-tier Tribunal as set out above. No findings are retained.

Signed

Date 20 February 2019

Deputy Upper Tribunal Judge Alis