



**Upper Tribunal
(Immigration and Asylum Chamber)** Appeal Number: PA/08697/2018

THE IMMIGRATION ACTS

**Heard at Glasgow
on 15th March 2019**

**Decision and Reasons
Promulgated
On 01st April 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE DEANS

Between

**SHAMIL RAMAZANOV
(No anonymity direction made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr R Liakhat, Anderson Rizwan, Solicitors
For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This appeal is brought against a decision by Judge of the First-tier Tribunal David Clapham dismissing an appeal on protection and human rights grounds.
2. The appellant is a Russian national from Dagestan. His faith is Islam and he follows the teachings of Said Nursi. The Judge of the First-tier Tribunal accepted that the appellant has been detained

twice by the authorities in Dagestan. The judge did not accept, however, that the appellant was badly mistreated during his second detention and left for dead. The judge found the appellant had exaggerated the extent of his mistreatment. The judge noted that the appellant left Russia using his own passport and concluded that the authorities had no continuing interest in him. The judge found that the appellant did not have a well-founded fear of persecution.

Permission to appeal

3. The grant of permission to appeal was based on several grounds. The first of these was that the judge arguably erred by failing to address the issue of whether there was a sufficiency of protection for the appellant as a victim of violence at the hands of the authorities in Russia. The second ground was that the judge arguably erred by failing to consider whether the appellant's removal would result in "extreme consequences", in accordance with Cart [2011] UKSC 28, [2011] Imm AR 904. A third ground was raised in the application for permission to appeal. This was a contention that the judge failed to have proper regard to an expert report by Professor William Bowring. Although permission to appeal was not specifically granted on this ground it does not appear to have been expressly excluded from the grant. The grant of permission stated merely that the report was considered at the end of the decision.
4. The Judge of the First-tier Tribunal who granted permission to appeal added two additional grounds which were not specifically raised in the application. The first of these was that it was not clear why the appellant's account of his departure from Russia was not accepted by the First-tier Tribunal. The second, following from this, was that it was not clear why the First-tier Tribunal did not accept that the appellant was of ongoing interest to the authorities. Mr Govan questioned whether it was proper for the grant of permission to appeal to include matters which were not in the application. I pointed out that it was open to the judge granting permission to raise obvious points where the judge arguably erred. The parties had been given adequate notice of these in the grant of permission.
5. I raised a further point about the origin of the phrase "extreme consequences". This phrase was used as part of a test used in deciding whether to grant leave in an application for judicial review. It was not part of the substantive law on entitlement to international protection, where the proper test was one of "serious harm". The grant of permission to appeal should be read as if by the phrase "extreme consequences" was meant "serious harm". I did not consider that this correction to the terminology was material to the basis on which permission to appeal was granted.

Submissions

6. In the course of his submission Mr Liakhat said that the appellant's evidence, recorded at paragraphs 29-30 of the decision, was that when departing from Russia he was accompanied by an agent. Although there was a "watch list" in Dagestan the country information indicated that this was not a strictly legal process. It was possible the appellant left using his own passport. Although the appellant was likely to be on the watch list he had not been charged, unlike the leaders of his group. The appellant was subjected to pressure and harassment. The core of the appellant's claim was found to be credible. The respondent had suggested internal relocation but for cultural reasons the majority of Salafis in the Russian Federation live in Dagestan.
7. For the respondent Mr Govan relied upon a rule 24 response of 19th December 2018. The judge's approach to the issue of state protection, the first ground on which permission to appeal was granted, was correct. In relation to the second ground, the judge found the appellant had embellished his claim of ill-treatment in detention. The judge found the appellant was detained and questioned. The appellant's profile was not such as to make him of interest to the authorities in future.

Discussion

8. In my view the judge of the First-tier Tribunal who granted permission to appeal correctly identified the principal weakness in the decision. This was the finding at paragraphs 68-69 of the decision that because the appellant was able to leave his country using his own passport he was not of continuing interest to the authorities. In making this finding the judge referred only to the appellant's evidence that there was no warrant for his arrest. The judge neglected to refer to the appellant's evidence of the involvement of the agent who accompanied him when he left and the judge did not have regard to the relevant country information covering, for example, the legal status of the "watch list". In consequence there was inadequate reasoning in the judge's decision to support his finding that the appellant was not of continuing interest to the authorities. The judge's decision is accordingly set aside to be re-made on the issue of risk on return, taking into account the positive credibility findings made by the judge. The judge found that the appellant was detained twice, though he had not been ill-treated as severely as he claimed.
9. Having informed the parties of my decision on the question of whether the First-tier Tribunal erred in law, the parties agreed to return in the afternoon to make submissions on risk on return.
10. When the hearing resumed Mr Govan helpfully informed me that having read the country information and expert report, and having regard to the finding that the appellant had been detained

twice, the respondent would concede the appeal. The country information covered disappearances and the use of torture. Having been detained twice already the appellant would be at risk by reason of his religion.

11. I have had regard to the evidence to which Mr Govan referred. Professor Bowring is clear in his conclusion that if the appellant returns to any part of Russia he will be subject to persecution, as demonstrated by the arrest and sentencing of the appellant's friends, of which Professor Bowring has independent evidence. In Dagestan the appellant may have the benefit of a trial but this was not likely to be fair and there was a high likelihood of torture or inhuman and degrading treatment.
12. Professor Bowring refers to the banning by a Moscow court in 2007 of books by Said Nursi. The publication and circulation of these books was then made illegal. Followers of Said Nursi's teachings face prosecution in Dagestan. Dagestan is itself notorious for human rights abuses, among the victims of which are Salafi Muslims. Abuses include kidnapping, frequent detentions, destruction of houses, and the use of torture.
13. A Human Rights Watch report on Dagestan from 2015 refers to abduction-style detentions affecting the Salafi community. Detainees may be held incommunicado and subjected to torture. Such treatment is also described in a Human Rights Watch report from January 2016. Professor Bowring's report indicates that the situation has not improved.
14. Both Human Rights Watch and Professor Bowring refer to the unofficial "watch list" of Islamic insurgents and those whom the authorities suspect are associated with insurgents. Individuals on the watch list have been targeted by the police although they are not the subjects of any criminal complaints or investigations. Professor Bowring states that the authorities frequently detain and question those on the watch list. The authorities announced in 2017 that the list was cancelled but civil activists insist it still exists. Professor Bowring refers to a news report from July 2017 regarding someone with the appellant's name being on the watch list but Professor Bowring had no evidence to show this was the appellant. People can be on the list without their knowledge. Professor Bowring refers to a journalist regarded as a Salafi Muslim who was told he was on the list when he was detained but had no prior knowledge of this.
15. The report by Professor Bowring and the country information provide ample evidence to show that the appellant's fear is well-founded. Were he to return to Dagestan there is a real risk the appellant would face detention and torture. He has a well-founded

fear of persecution by reason of religion. His appeal succeeds on protection grounds under the Refugee Convention.

Conclusions

16. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.
17. The decision is set aside.
18. The decision is re-made allowing the appeal on protection grounds.

Anonymity

The first-tier Tribunal did not make an anonymity direction. I have not been asked to make such a direction and I see no reason of substance for doing so.

Fee Award

(N.B. This is not part of the decision)

No fee has been paid or is payable so no fee award is made.

M E Deans
27th March 2019
Deputy Upper Tribunal Judge