



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

Appeal Number: PA/11691/2017

**THE IMMIGRATION ACT**

**Heard at Civil Justice Centre  
Manchester  
On 29<sup>th</sup> April 2019**

**Decision & Reasons  
Promulgated  
On 02<sup>nd</sup> May 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MCCLURE**

**Between**

**Ms Iulia [I]  
(NO ANONYMITY DIRECTION MADE)**

Appellant

**And**

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

Respondent

**Representation:**

For the Appellant: Ms Rutherford, Counsel instructed by Braitch Solicitors  
For the Respondent: Mr Tan,  
Senior Home Officer Presenting Officer

**DECISION AND REASONS**

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Bristow promulgated on the 1<sup>st</sup> November 2018 whereby the judge dismissed the appellant's appeal against the decision of the respondent to refuse the appellant's claims based on Asylum, Humanitarian Protection and Articles 2 and 3 of the ECHR.

2. I have considered whether or not it is appropriate to make an anonymity direction. Having considered all the circumstances I do not consider it necessary to do so.
3. Leave to appeal to the Upper Tribunal was granted by First-tier Tribunal Judge Blundell on 29<sup>th</sup> November 2018. Thus the case appeared before me to determine whether or not there was a material error of law in the decision.
4. The material part of the grant of leave provides:-

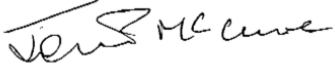
*“It is arguable that the judge overlooked the photograph on page 131 of the appellant’s consolidated bundle (20 September 2018) when he reached the conclusions at [31]-[33] that there was no independent evidence to show that the man who appears in the appellant’s wedding photographs (and is said to be her uncle) was indeed a prominent member of the Lugansk People’s Republic. Whether that error can be said to be material in light of the quality of the photograph on that page, is a matter which must be resolved by the Upper Tribunal.”*
5. Part of the appellant’s case is that she was previously active in the Communist Party; that her uncle is Mr [AT] ([Tx]); that her uncle was active in the Board of Recovery Management Centre of Lugansk People’s Republic; because of her activities for the Communist party and because of her uncle, the appellant claims that she is at risk from the Azov Battalion and the Aidar Battalion in the Ukraine.
6. To substantiate a connection between the appellant and Mr [T] the appellant had produced a number of photographs, the photographs had commentaries and translations connected to them. In effect the appellant was claiming to be related to Mr [T]; Mr [T] was purportedly pictured in the appellant’s wedding photos; and by comparing those photos with the public photographs of Mr [T], there was support for the appellant’s claim in evidence that she and Mr [T] were related.
7. At page 131 of the appellant’s bundle there was a photograph of Mr [T]. There is a commentary connected to that photograph and the translation of the commentary appears at page 125 of the appellant’s bundle, which does refer to Mr [T].
8. It was necessary to compare the wedding photographs with the photograph at page 131. The judge at paragraph 31 had stated that he did not have any photographs naming Mr [T] independently to compare with the wedding photos. Clearly given the commentary Mr [T] was identified in page 131.
9. It was conceded by the respondent’s representative that the judge on the face of the decision had failed to consider the photograph at page 131 and that that failure to consider evidence constituted an error of law. It was

conceded that that would impact upon the credibility of the appellant's whole account.

10. It was accepted by both representatives that the case should be remitted back to the First-tier Tribunal for hearing afresh.
11. In the circumstances I rule that there is a material error of law in the decision and that the decision is set aside. The case will have to be remitted back to the First-tier Tribunal for hearing afresh on all issues. None of the findings of fact are preserved

**Notice of Decision**

12. I allow the appeal to the extent that it is remitted back to the first-tier Tribunal for hearing afresh.

Signed 

Deputy Upper Tribunal Judge McClure  
2019

Date 29<sup>th</sup> April