



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

Appeal Number: PA/11067/2018 (V)

THE IMMIGRATION ACTS

**Heard at Field House
On 10 March 2021 by *Skype***

**Decision & Reasons Promulgated
On 30 March 2021**

Before

UPPER TRIBUNAL JUDGE KOPIECZEK

Between

**KT
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A. Shattock, Counsel instructed by Ahmed Rahman Carr Solicitors

For the Respondent: Ms L. Kenny, Senior Home Office Presenting Officer

**DECISION PURSUANT TO RULE 40(3)(a) OF THE TRIBUNAL PROCEDURE
(UPPER TRIBUNAL) RULES 2008**

1. This was a hearing by way of Case Management Review (“CMR”).
2. The appellant, a citizen of Turkey, appealed to the First-tier Tribunal (“FtT”) against a decision dated 7 September 2018 to refuse a protection and human rights claim. The FtT dismissed the appellant’s appeal.

3. On appeal to the Upper Tribunal (“UT”), his appeal against the FtT’s decision was dismissed and permission to appeal to the Court of Appeal was refused by a judge of the UT.
4. The Court of Appeal, however, in a decision by consent, remitted the appeal to the UT for a fresh decision to be made on the appeal. Although the terms of the consent order are not free from ambiguity, it was agreed before me at the CMR, that the effect of the decision of the Court of Appeal is that the FtT’s decision is marred by error of law such as to require it to be set aside. That, indeed, was my view also. For the avoidance of doubt, the decision of the FtT is hereby set aside.
5. It was further agreed between the parties that at a future hearing the UT would have to consider whether to proceed to a re-making of the decision or to remit the appeal to the FtT.
6. Given that there needs to be a fresh consideration of the credibility of the appellant’s claim, it was also agreed that the appropriate course is for the appeal to be remitted to the FtT for a hearing *de novo*. I similarly agree with that course, having regard to paragraph 7.2 of the Practice Statement of the Senior President of Tribunals.
7. In the circumstances, the appeal is remitted to the FtT for a hearing *de novo*, on all grounds, before a judge other than First-tier Tribunal Judge Onoufriou or Manuell, **with no findings of fact preserved**.
8. The emphasis on the direction that no findings of fact are preserved reflects the fact that this was a matter that was canvassed at the CMR and was agreed between the parties.
9. Pursuant to rule 40(3)(a) of the Tribunal Procedure (Upper Tribunal) Rules 2008, no reasons (or further reasons) are required, the decision being made with the consent of the parties.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Because this is a protection claim, unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his 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.

A.M. Kopieczek

Upper Tribunal Judge Kopieczek

12/03/2021