



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

Appeal Number: PA/00528/2020

**THE IMMIGRATION ACTS**

**Heard at Field House  
by Microsoft Teams  
On 22 March 2022**

**Decision & Reasons Promulgated  
On 27 April 2022**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE HUTCHINSON**

**Between**

**TMNK  
[ANONYMITY DIRECTION MADE]**

Appellant

**and**

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

Respondent

Representation:

For the appellant: Mr M Phillips of Counsel, instructed by Andrew Storch solicitors

For the respondent: Ms Ahmed, Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Anonymity**

*Pursuant to rule 13(1)(b) of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014, until this appeal is finally determined the appellant is granted anonymity.*

*No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant.*

***Failure to comply with this order could amount to a contempt of court.***

## **Decision and reasons**

1. The appellant appeals with permission from the decision of the First-tier Tribunal dismissing her appeal against the respondent's decision on 8 January 2020 to refuse the appellant's protection claim. The appellant is a citizen of Egypt.
2. The hearing took place remotely by Microsoft Teams. There were no technical difficulties during the hearing. I am satisfied that all parties were in a quiet and private place and that the hearing was completed fairly, with the cooperation of both representatives.

## **Background**

3. The appellant is a citizen of Egypt born on 20 July 1984. The appellant worked in a bank in Egypt which was taken over by the Abu Dhabi Islamic bank and claims that in the office she was moved to she was the only Christian out of a staff of 40. The appellant claims that her manager asked her to increase a credit limit for a customer and then 2 weeks later she was investigated for this. She was then asked to repay the credit or convert to Islam. The appellant claims that, under duress, she was forced to convert to Islam, on 6 October 2018. She did not tell her family or change her behaviour and she was given a new ID card. The appellant converted back to Christianity and tried to get her old ID card by using a copy of her old ID. On 22 September 2018 the appellant's daughter's school bus was intercepted by men in motorcycles who called out to her, but they ran off after an altercation with the driver. On 11 January 2019 an attempt was made to kidnap the appellant. The appellant then told her husband about her problems.
4. The appellant and her husband and daughter obtained visitor visas for the UK, valid from 28 October 2018, and arrived on 22 January 2019 and claimed asylum on 19 February 2019. The respondent refused that application on 8 January 2020; although the respondent accepted the appellant's nationality and that she is a Christian, it was not accepted that the appellant converted to Islam. Therefore it was not accepted that any of the other claimed events occurred.

## **First-tier Tribunal decision**

5. Judge of the First-tier Tribunal Chohan dismissed the appellant's appeal on all grounds in a decision promulgated on 25 May 2021. The Judge did not accept that the appellant's account of forced conversion to Islam was credible and therefore her claims of attempting to convert back to Christianity and the attempted abductions never happened.

## **Permission to appeal**

6. Permission to appeal against that decision was sought by the appellant on the grounds that the judge arguably erred in law by making findings on issues not before the Tribunal and by failing to make findings on various

documents lodged in support of the appellant's case. The judge's findings were irrational including that they were based on the judge's views of the inherent probabilities with no record of his assessment of the witnesses or of the documentary evidence. Permission was granted in the First-tier Tribunal on 13 July 2021.

### **Rule 24 Reply**

7. The respondent's 6 September 2021 Rule 24 response submitted that Judge Chohan directed himself appropriately and gave adequate reasons for his findings. Having rejected the appellant's claim to have been forced to convert to Islam the judge gave adequate reasons for finding that the appellant would not be at risk on return to Egypt as a Coptic Christian.

### **Upper Tribunal hearing**

8. That is the basis on which this appeal came before the Upper Tribunal.
9. Mr Phillips relied and expanded upon the grounds of appeal, submitting that the judge had failed to consider the evidence before him; although it was open to the judge to accept or reject the evidence before him, he had to provide reasoning, including in relation to why the documentary evidence provided was rejected (as the respondent had in the refusal letter). There was a significant amount of documents before the First-tier Tribunal which the judge did not address. He submitted that this was a case characterised by very little cross examination and forensic points made by the judge were not put to the appellant. There were explanations in response to the judge's approach, including that he found aspects of her claim incredible but did not put this to her. The judge's only forensic examination came at paragraph 27, in relation to the dates around the appellant's application to come to the UK and it was submitted that the judge had erred in his approach to the appellant's evidence on the threats to her, which had been ongoing from 19 September 2018 and there had been no inconsistency in her evidence. If it was the judge's finding that the conversion never happened, then it must follow that all of the documents the appellant produced relating to those incidents must be forgeries, but the judge makes no findings. The judge did not have sufficient grasp of the detail: at paragraphs 44-48 he indicates that there was a witness statement from Dr Parsons dated 8 May 2021 at the second hearing, whereas this was from Dr Ackerly including in relation to a claim that the appellant's conversion certificate had been tampered with, it was alleged, by the respondent. Despite adjourning to allow the respondent to address this issue the respondent failed to do so and the judge provides no valid reasons for stating he can make no findings on this claim. It was argued that grounds 1 and 2 were made out, that the decision was perverse on the basis of ground 4 and that the additional documents the appellant sought to rely on under ground 3 should be admitted for consideration by the Upper Tribunal.

10. Ms Ahmed relied on the Rule 24 response and submitted that it was open to the judge to place weight on adverse evidence and to reject or accept material facts. The grounds were no more than a disagreement with sound reasoning and the judge makes it clear at paragraph 9 that even if he has not referred to material, it does not mean that he has not considered it. It is well settled that the judge does not need to give reasons for everything. Ms Ahmed accepted that the judge's consideration of the appellant's evidence of her conversion could have been more detailed but submitted that the judge did make findings on the conversion certificate at paragraph 44-47. It was submitted that the judge considered the evidence, including from the appellant's Egyptian lawyer and found it incredible. Even if not with her on that point, Ms Ahmed submitted that any error was not material given the other adverse findings. She submitted that the judge gave reasons why points did 'not make sense' and it was a matter for the judge as to what he finds to be plausible. The grounds of appeal relied on inapplicable authorities. It was not raised that the documents were forgeries, rather the judge was considering whether the documents were reliable, although she accepted there was no specific reference to the *Tanveer Ahmed* guidance. The judge considered the documents at paragraphs 44-47. In respect of the appellant's ground that the judge made findings on points not put to the relevant witnesses, Ms Ahmed submitted that although in some circumstances the Tribunal may be required to put inconsistency to an appellant, that is not always the case. It was open to the judge to reach the findings that he did including that elements of the appellant's account were incredible. This was not speculation but based on the evidence. The judge brought 'all the strands together' and made a holistic finding about the conversion. In relation to the additional documents sought to be relied on before the Upper Tribunal Ms Ahmed opposed that application, indicating that no Rule 15 application had been made and that the **Ladd v Marshall** test was not met. In relation to ground 4, perversity/irrationality is a high threshold which is not met. The judge addressed all the evidence and reached balanced conclusions.
11. In reply Mr Phillips submitted that paragraph 23 of the judgement crystallises the issues with the judge's decision: the judge considers the lawyer's letter which shows the muddled manner of the judgement; on the one hand there is a wholesale rejection of the appellant's forced conversion from Christianity to Islam, and therefore the lawyer's letter must be false. At the same time the judge relies on it, finding it incredible that the lawyer would have taken the matter to court. It was not that the judge did not mention any documents, rather that there was no adequate analysis of those that he had and he had not considered many of the documents.

## Analysis

12. I am satisfied for the reasons below that the judge's decision discloses a material error of law.

13. The proper approach to considering the plausibility of an asylum claim is clear. The Court of Appeal held that a judge is not required to accept at face value an asylum seeker's account, no matter how contrary to common sense it might be. In conducting such an evaluation, however, the judge is required to consider the plausibility of the claim through the lens of the country information before him: **Y v SSHD [2006] EWCA Civ 1223, at [25]-[26]**, Keene LJ.
14. In concluding, essentially as Judge Chohan did, that the appellant's account was inherently implausible, the judge in this appeal failed to have any demonstrable regard to the country information in the form of expert evidence before the Tribunal. Whilst the judge referenced on occasion the expert reports, he failed to give adequate reasoning for rejecting that evidence, instead making findings on the basis of his own speculative view of what was plausible.
15. The Judge also failed to give adequate reasons for rejecting all the documentary evidence before him, the judge appearing to put the cart before the horse, including in finding at paragraph 47 that any findings on whether the appellant's conversion certificate was tampered with were 'somewhat academic' given her adverse credibility findings, rather than making findings on the reliability of the documents before him in the round, in line with **Tanveer Ahmed [2002] UKIAT 439**.
16. Although the judge refers to credibility in his findings, there was no assessment of the truthfulness of the witnesses before him or that they were otherwise unreliable. There were no adequate reasons given for the rejection of that evidence, other than finding that her account did not 'make sense'/'made little sense' and repeatedly finding the appellant's claimed account of events to be 'incredible'/'quite incredible'. Whilst the judge accepted the expert evidence before her from Dr Parsons, that forced conversions to Islam do take place, the judge's reasons for rejecting the appellant's explanation of how this occurred in her case, are unsustainable and amount to no more than speculation on the judge's part.
17. Whilst the findings need not rehearse every detail or issue raised in the case (see including **Budhathoki (reasons for decisions) [2014] UKUT 00341 (IAC)**) it was incumbent upon the judge to give adequate reasons for rejecting the evidence that he did not accept, including the documentary evidence. The judge made no reference to the majority of the documents before him and no findings on those documents, including the record of the Egyptian police interview with the bus driver who reported the attempted armed abduction of the appellant's daughter; the record of the Egyptian police interview with the appellant on 11 January 2019; the application by the appellant's Egyptian lawyer to the Court of Administrative Justice dated 8 November 2018, in relation to the refusal to change the appellant's name and religion on her ID card (which the grounds submit is a detailed corroboration of the appellant's account); and

the Confirmation from the Egyptian lawyer that he has obtained an official extract confirming the appellant's conversion.

18. Whilst Ms Ahmed conceded that the judge's consideration of the documentary evidence might have been more detailed, her submission that any error is not material is misconceived, particularly seen in the context of the judge's inadequate reasoning for rejecting the appellant's account which was based on speculation and her own view of how parties might have been expected to act in particular circumstances (at paragraphs 13, 14, 15, 16, 17, 19, 20, 21, 23, 24, 25 and 28) going on to find each of the appellant's claims which were considered, to be incredible.
19. Whilst it was open to the judge to reject the appellant's account and to not find the appellant credible, those findings needed to be based on more than the judge's own view of what was plausible (and although the appellant relied on expert evidence from Dr Parsons detailing the context of the country conditions, the judge failed to give adequate, if any, reasons for rejecting the expert's reasoned account including of the context and plausibility of the appellant's claim).
20. For example, the judge states at paragraph 13, in relation to the timing of the forced conversion, that they: 'find it difficult to make sense of the fact that her managers would have waited such a period of time before making their move to convert her to Islam. I do find that had the appellant's managers had a real intention to convert the appellant they would have done so far sooner than September 2018'. The judge seeks to justify this finding by stating that it 'is not speculation on my part', because the steps taken to convert the appellant meant that it 'does seem that the managers were religious zealots'. However there is a total absence of reasoning for the judge's conclusion, which I do find to be speculative, that religious zealots would have converted the appellant sooner than September 2018. The judge also makes no reference to, and provides no reasoning for rejecting (if it was rejected), the expert's view, at paragraph 26 of his report (page 31 of the Appellant's Bundle) which goes some way to explaining the timeline of the appellant's conversion: 'the pattern that the appellant has described of being first invited to voluntarily embrace Islam, then following her rejection of this, being coerced into converting, exactly parallels the pattern set out in shari'a described in s16 above, although I would not assume that an Egyptian Christian would necessarily know this level of detail of shari'a'.
21. It is clear that the judge fell into the error identified in Y, at paragraph 25 where it is stated:

"the fundamental (approach to this principle) is that (a judge) should be cautious before finding an account to be inherently incredible, because there is a considerable risk that he will be over influenced by his own views on what is or is not plausible, and those views will have inevitably been influenced by Zen background in this country and by the customs and ways are in society. It is therefore important that he should seek to

view it appellant's account of events, as Mr Singh rightly argues, in the context of conditions in the country from which the appellant comes."\_


22. I take into account that the only claimed inconsistency in the appellant's evidence is set out by the judge at paragraph 27 in relation to the timing of the appellant's visa application. Whilst there was no specific challenge to those findings in the grounds (although Mr Phillips sought to introduce one at the hearing) given the nature and extent of the judge's error, it cannot be safely said that this finding is not infected by the error of law.
23. Whilst the judge purports to reject, at paragraph 47, the appellant's conversion certificate, there is again a failure of adequate reasoning and as noted, this appears to be solely on the basis of the adverse credibility findings already made, rather than considering this and the remaining documents in context and in the round. It was also incumbent on the judge to make findings on the appellant's evidence in relation to the claim that the original certificate provided by the appellant to the respondent had been tampered with. It is unclear why the judge concluded that he could not make a finding on this issue.
24. As such, I consider the appellant's grounds 1 and 2 to be made out. In relation to ground 4, the judge's findings do reach the high threshold of irrationality as the rejection of the appellant's claim is based almost entirely on the judge's view of inherent probabilities without any background evidence context given to those findings.
25. As grounds 1, 2 and 4 are made out on the basis of the evidence that was before the First-tier Tribunal, I need not make any findings on the ground 3 application to admit further evidence to the Upper Tribunal, although it may well be that such may be relevant to the First-tier Tribunal's consideration of the matter de novo. That is a matter for the appellant and the First-tier Tribunal (given the nature and extent of the fact finding required).

## **DECISION**

26. The making of the previous decision involved the making of an error on a point of law.

I set aside the previous decision in its entirety. The appeal is remitted to the first-tier Tribunal pursuant to section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Statement 7.2(b), to be heard before any judge other than Judge Chohan.

Signed



Date: 30 March 2022

Deputy Upper Tribunal Judge Hutchinson