[2019] IEHC 897

THE HIGH COURT

[2019 No. 273 JR]

IN THE MATTER OF SECTION 5 OF THE ILLEGAL IMMIGRAMNTS (TRAFFICKING) ACT 2000 (AS AMENDED) AND IN THE MATTER OF THE INTERNATIONAL PROTECTION ACT 2015

BETWEEN

EI AND OI (A MINOR SUING BY HIS MOTHER AND NEXT FRIEND EI)

APPLICANTS

– AND –

THE INTERNATIONAL PROTECTION APPEALS TRIBUNAL, THE MINISTER FOR JUSTICE AND EQUALITY, THE ATTORNEY GENERAL AND IRELAND

RESPONDENTS

JUDGMENT of Mr Justice Max Barrett delivered on 12th December, 2019.

1. Introduction

1. Ms I is a national of Nigeria who has sought international protection in Ireland by reference to certain claimed (and feared) violence allegedly suffered (or to be suffered) at the hands or instigation of her husband's family in Nigeria. The following chronological summary is of use in understanding the application at hand:

04.05.2017.	Ms I applies for international protection.
07.09.2017.	Letter of this date advises that application unsuccessful.
26.09.2017.	Notice of Appeal submitted to the International Protection Appeals Tribunal ("IPAT").
18.07.2018.	IPAT hears oral appeal against the International Protection Office ("IPO") decision.
11.12.2018.	IPAT letter raises some additional issues.
17.12.2018.	IPAT queries addressed by lawyers for Ms I.
28.03.2019.	Letter of this date indicates that IPAT affirmed the IPO decision.

2. Two criticisms are made of the IPAT appeal decision, *viz*. that (1) the IPAT, when rejecting the applicants' application, failed to provide reasons that were cogent and related to the substantive basis of the claim, and (2) that the IPAT failed to consider particular Country of Origin Information ("COI") provided.

2. The Credibility Point

3. As to the first point, this turned largely on the observations of Charleton J. in *M.A.R.A. (Nigeria) (an infant) v. Minister for Justice & Equality* [2015] 1 IR 561, at p. 575, concerning the nature of an appeal, *viz.* that it represents "*a complete opportunity to present on behalf of the applicant…any new facts or arguments; to reargue the points appealed; to call new evidence for or against the status of the applicant; and to plead the case afresh or in full"*. When it comes to:

- the approximate dates of the violence alleged already to have occurred, Ms I gave new information on appeal regarding the approximate dates of same. The IPAT found that Ms I had not explained why she had not been able to give approximate dates at her interview and concluded that this undermined her credibility. There is nothing unlawful in the IPAT reaching the conclusion that it did.

- the head injury allegedly suffered by Ms I's son during one of the alleged instances of violence already suffered, the IPAT did not accept as credible the explanations offered by Ms I for not mentioning this injury previously. There is nothing unlawful in the IPAT reaching the conclusion that it did.

- the alleged hospital attendance by Ms I following an alleged instance of violence on 31.12.2016, it was open to the IPAT lawfully to conclude that Ms I had provided inconsistent evidence in relation to medical attention provided to her, with her stating at one point that she had not received medical attention and then later conflating hospital attendances by herself and her son. There is nothing unlawful in the IPAT reaching the conclusion that it did.

- the reporting of the claimed violence to the police, Ms I indicated that she had not reported same to the police but also that the police had taken a certain stance regarding the possibility of making complaint. It was open to the IPAT lawfully to conclude that Ms I's account as to whether she had made a report to the police was internally inconsistent. There is nothing unlawful in the IPAT reaching the conclusion that it did.

4. Other minor adverse credibility findings were reached that would likely not have been determinative had they occurred by themselves but which the IPAT was entitled to make and to factor into its reasoning.

5. When it comes to the credibility assessment, the court does not see any issue to present for the reasons stated, or indeed by reference to the test as to adequacy of reasons identified by Mac Eochaidh J. in *R.O. v. Minister for Justice & Equality* [2012] IEHC 573, at para. 30.

3. The COI Point

6. It is alleged that the IPAT acted in breach of s.28(4) of the International Protection Act 2015 ("Act of 2015"). A number of points might usefully be made in this regard:

(i) It is clear from the IPAT's decision as a whole that all relevant facts and circumstances relating to Ms I's appeal were considered and understood by the IPAT.

(ii) The court has been referred by IPAT's counsel to the decisions in, *inter alia*, *Imafu v. Minister for Justice, Equality & Law Reform* [2005] IEHC 416, *V.O. v. Minister for Justice, Equality & Law Reform* [2009] IEHC 21 and *R.A. v. Refugee Appeals Tribunal* [2017] IECA 297. Though not concerned with s.28(4) of the Act of 2015, R.A., a relatively recent decision of the Court of Appeal which considers *Imafu* and

V.O., is concerned with very similar wording in the European Communities (Eligibility for Protection) Regulations 2006 (S.I. No. 518 of 2006), and it seems to the court that the reasoning in same is eminently transferable to the legislative context at hand. In this regard, the court notes that Hogan J., in *R.A*., places some emphasis, at para. 31 of his judgment, on the constraining effect of the word "*relevant*". The word "*relevant*" has like significance in the context of these proceedings: the IPAT is required under s.28(4)(a) to consider only "*relevant facts as they relate to the country of origin*", so 'relevance' provides an immediate constraint on the extent to which the IPAT must go in its considerations. Hogan J., also adds in *R.A.,* effectively affirming the *Imafu-V.O.* line of other authorities, that *"[t]here is no need for the decisionmaker to consult…COI in a ritualised or mechanistic fashion in every single case, regardless of the personal circumstances of the applicant or the nature of the claim made by the applicant".*

(iii) Although the IPAT might, in the interest of clarity, have expressly referred to (a) the fact that it was relying upon the just-mentioned line of authorities and/or (b) saw no need to engage in a narrative consideration/discussion of COI when determining the veracity of Ms I's account of events, any fair-minded reading of the IPAT decision could only yield the conclusion that Ms I's perceived fundamental lack of credibility relieved the IPAT from engaging in such a narrative consideration/discussion; no legal error presents in this regard. Having regard to the COI in question, the court respectfully does not see that any disadvantage was occasioned to Ms I by the manner in which the IPAT proceeded.

4. Conclusion

7. For the reasons stated above, all the reliefs sought are respectfully refused.