



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

Appeal Number: VA/03974/2014

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 15 July 2015**

**Decision & Reasons**

**Promulgated**

**On 20 July 2015**

**Before**

**UPPER TRIBUNAL JUDGE FRANCES**

**Between**

**MRS SALIME ABDINE**  
(ANONYMITY DIRECTION NOT MADE)

Appellant

**and**

**ENTRY CLEARANCE OFFICER - BEIRUT**

Respondent

**Representation:**

For the Appellant: Mr M Hashim, Counsel instructed by Zahra Ahmed Solicitors

For the Respondent: Mr I Jarvis, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant is a citizen of Lebanon born on 1<sup>st</sup> January 1925. She appeals against the decision of First-tier Tribunal Judge H Clark dated 25<sup>th</sup> February 2015 dismissing her appeal against the refusal of entry clearance as a visitor on Article 8 grounds.

2. Permission to appeal was granted by First-tier Tribunal Judge Hollingworth on 4<sup>th</sup> June 2015 on the grounds that it was arguable the judge had erred in law in her assessment of proportionality in that it was unclear what weight had been attached to the various factors relevant to such an assessment.
3. In the Rule 24 response the Respondent stated that the findings at paragraph 19 of the decision were entirely open to the judge and the final sentence of paragraph 21 “simply reassert that the cost and delay involved in making a further application are not factors as to make the circumstances of the instant case such that the wider aspects of Article 8 are engaged and hence require findings”.

### Submissions

4. Mr Hashim, for the Appellant, submitted that having found that family life existed between the Appellant and the Sponsor, the judge had failed to go on to consider proportionality and had failed to give adequate reasons for doing so. Paragraph 28 was an inadequate assessment of Article 8 given the judge’s previous findings that the Appellant satisfied paragraph 41 of the Immigration Rules.
5. In response Mr Jarvis submitted that at paragraph 19 the judge had found that, whilst there was family life the relationship did not go beyond what would normally subsist between a parent and adult child and therefore, having found that family life was not sufficient to engage Article 8, the judge was not required to consider the protection under Article 8(1). Mr Jarvis submitted that this was supported by the case of Mostafa (Article 8 in entry clearance) [2015] UKUT 00112 which was relied on in the grounds of appeal. The Appellant and Sponsor had not visited each other for twenty years and the judge’s finding that the nature of family life was not such that Article 8 was engaged was open to him on the evidence.

### Discussion and conclusions

6. The judge found that the Appellant was a genuine visitor and satisfied all the requirements of paragraph 41 of the Immigration Rules. However, the appeal was limited to human rights and racial discrimination following the coming into force, on 25<sup>th</sup> June 2013, of the amendments to Section 88A of the Nationality, Immigration and Asylum Act 2002 effected by Section 52 of the Crime and Courts Act 2013. Accordingly, the Appellant’s only ground of appeal was Article 8.
7. The judge made the following findings at paragraphs 19 to 21:  

“19. The Appellant and the Sponsor, her daughter, clearly have a loving and supportive relationship. However, there was no evidence to suggest that the nature and quality of the relationship was anything beyond that which would normally

subsist between a parent and adult child. They clearly have a family life however. They pursue it while the daughter is in the UK and the Appellant is in Lebanon. They have chosen to pursue their family life in this manner for some years. The refusal of entry clearance to the Appellant to visit her daughter is an interference with her family life. She visited her daughter when her husband was alive and her daughter visits her in Lebanon.

20. Although the Appellant has been found to meet the requirements of paragraph 41 of the Immigration Rules I do not find the refusal of entry clearance in the circumstances of the Appellant and her daughter is a sufficiently serious interference with her family life as to engage the United Kingdom's obligations under Article 8 to respect the family life of the Appellant and her daughter. Whilst it might well be more convenient for the Appellant to visit her daughter, particularly given her daughter's limited leave from her job, there is nothing to prevent her daughter, as she has in the past, visiting the Appellant in Lebanon.
  21. The Appellant could apply again for entry clearance and this time she would have the benefit of my findings of fact. The additional cost and delay are not matters which are sufficiently serious to engage the state's obligations under Article 8. It is not therefore necessary to address whether the interference with the Appellant's family life is proportionate to the legitimate public end of the maintenance of effective immigration controls."
8. These findings were open to the judge on the evidence before him. He did not go on to assess proportionality because he found that the consequences of the interference were not so serious so as to prevent family life from continuing as it had done in the past. He accepted that it was more convenient for the Appellant to be able to visit the Sponsor but it did not prevent them from exercising their right to family and private life.
  9. Accordingly, there was no need for the judge to go on and consider proportionality. The judge had properly directed himself in accordance with the steps set out in Razgar and his reasons for not going on to assess proportionality were adequately set out in the determination.
  10. I find that there was no error of law in the First-tier Tribunal's decision and the Appellant's appeal is dismissed. The decision of 25<sup>th</sup> February 2015 shall stand.

### **Notice of Decision**

**Appeal dismissed.**

**No anonymity direction is made.**

Signed

Date 20<sup>th</sup> July 2015

Upper Tribunal Judge Frances

**TO THE RESPONDENT**  
**FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 20<sup>th</sup> July 2015

Upper Tribunal Judge Frances