



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

Appeal Number: PA/07670/2017

THE IMMIGRATION ACTS

Heard at Newport

Decision & Reasons

On 10 December 2018

Promulgated

On 11 January 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE L J MURRAY

Between

**C N S C
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Fenney, NLS Solicitors

For the Respondent: Mr Howells, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Cameroon. The Respondent refused her application for asylum and humanitarian protection in a decision letter dated 3 August 2017. The Respondent also decided that she failed to meet the requirements of the Immigration Rules for leave to remain on the basis of her private life in the United Kingdom.
2. The Appellant appealed the Respondent's decision and her appeal came before First-tier Tribunal Judge Holder, who in a Decision and Reasons promulgated on 18 December 2017 dismissed her appeal on all grounds.

3. The Appellant sought permission to appeal against the decision of Judge Holder and permission was granted by Upper Tribunal Judge Kebede, who concluded that it was arguable that the Judge's findings at paragraph 29 (x) of the decision failed to take account of the Appellant's evidence at paragraph 22 of her witness statement in regard to her intention to carry on her political activities in Cameroon and that arguably infected his findings on risk on return as the grounds asserted. Whilst there was less merit in the ground regarding delay in determining the appeal, that ground was not excluded.
4. The appeal came before me on 19 September 2018 in order to determine whether there was an error of law in the decision of Judge Holder and if so whether to set that decision aside. I found that there was a material error of law in the Judge's conclusion at paragraph 29 (x) where he found:

"It is not suggested (and nor do I find) that she would continue to voice her political beliefs on social media or elsewhere on return to Cameroon; ..."
5. The Appellant had stated in her witness statement at paragraph 22:

"If I were to return to Cameroon, I would carry on with my political activity. The current situation in Cameroon is not fair. Cameroon is such that no matter what you do, even stay quiet, there is always the risk of being in trouble. This was the case even before the current political situation. There is no benefit in my staying quiet."
6. The Appellant clearly therefore voiced her intention to continue with her political activity and I found that the Judge was required to assess the credibility of this claim as it was accepted that if she were politically active in Cameroon she would be at risk. I found that there was a material misapprehension of the Appellant's claim as to future risk and the alternative finding wholly lacked reasoning.
7. The parties agreed at the hearing that the matter could be remitted to Judge Holder for him to deal with the aspect of the case related to his findings in paragraph 29 (x) with other findings preserved. However, I subsequently ascertained that Judge Holder would not be available to sit in the First-tier Tribunal in the near future. In the circumstances I determined that given that limited fact finding was required the matter should be retained in the Upper Tribunal with all findings save for that at paragraph 29 (x) preserved. I therefore set aside the decision of the First-tier Tribunal with all findings of fact preserved save for those at paragraph 29 (x).

The Resumed Hearing

8. The Appellant adopted her witness statement in the bundle submitted for the resumed hearing. She was cross-examined by Mr Howells. I do not set out her evidence here which is in the record of proceedings on the Court file. I refer to it where relevant in my findings and reasons. I heard

submissions from both representatives. Mr Howells said that the issue was whether the Appellant's claim that she would carry on her political activity was credible. The Respondent submitted that it was not. The Appellant's evidence had been that she became interested in politics as a teenager at around the age of 13 and yet she was not involved in politics in Cameroon in the 10 years before she left for the UK. When she entered the UK she entered a country where there were freedoms to express political activity openly, yet she did not begin any political activity until November 2016 and when she did it was in the knowledge that her visa was expiring in a few months. Even in that political activity she used various pseudonyms and the evidence before Judge Holder that it was on social media. There was no documentary evidence to show that she had attended meetings and she did not attend a protest in Cameroon despite the movement being operational for decades. She did not immediately exercise freedoms here and she was involved in social media only. Her claim that she would engage lacked credibility and she was not a risk on return.

9. Ms Fenney submitted that Judge Holder found the Appellant to be credible and she asked me to agree with that. This situation that Cameroon now found itself in did not exist when she left. She was a minor when she left. She had not exaggerated and had been entirely honest and gave clear reasons that she would continue. She asked me to believe her and allow the appeal.

The Re-making of the decision

10. Judge Holder made a number of findings of fact which, with the agreement of the parties, I preserved. He found at paragraph 29 of his decision that the Appellant was from Southern Cameroon, a minority English-speaking area. He further found that not all persons from the minority English-speaking area of Cameroon were at real risk of persecution or serious harm as a consequence of being a member of such group alone but that that persons from this part of Cameroon who are politically active against the government of Cameroon's perceived marginalisation of Southern Cameroonians are at risk of persecution. This was apparent from the objective evidence at page 974 onwards of her bundle.
11. It was the Appellant's case that she had not come to the adverse attention of the Cameroonian authorities whilst living in that country. Her evidence was that it was only from November 2016 that she became politically active and this was when she was in the United Kingdom. The First-tier Tribunal Judge concluded that she had been politically active on social media and that the Cameroonian government monitored the use of social media, but, due to her use of various pseudonyms she would not be identified by the Cameroonian government by virtue of using social media on return. Judge Holder accepted that she had used social media to create a WhatsApp group called "Southern Cam Women" and other organisations. She had shared "The Consortiums Groups" communications on her Facebook account. This group was a consortium of trade unions in

Cameroon. He found that she had not come to the adverse attention of the Cameroonian authorities.

12. The issue to be determined therefore is whether, the Appellant would, as she claimed at paragraph 22 of her witness statement before the First-tier Tribunal, carry on with her political activities in Cameroon or, whether she would not do so for fear of persecution (**HJ(Iran) & HT (Cameroon)** [2010] UKSC 31).
13. In **KB & AH (credibility-structured approach) Pakistan** [2017] UKUT 00491 (IAC) the Upper Tribunal held that the 'Credibility Indicators' identified in the Home Office Asylum Policy Instruction, Assessing credibility and refugee status Version 3.0, 6 January 2015 (which can be summarised as comprising sufficiency of detail; internal consistency; external consistency; and plausibility), provide a helpful framework within which to conduct a credibility assessment. However, they are merely indicators, not necessary conditions; they are not an exhaustive list; assessment of credibility being a highly fact-sensitive affair, their main role is to help make sure, where relevant, that the evidence is considered in a number of well-recognised respects; making use of these indicators is not a substitute for the requirement to consider the evidence as a whole or 'in the round'.
14. The approach for the assessment of future risk is a single stage process of evaluating all the evidence for what it is worth (**Karanakaran v Home Secretary** [2000] 3 All ER 449). The approach to the evidence as set out in that case does not entail the decision maker purporting to find "proved" facts, whether past or present about which it is not satisfied on the balance of probabilities, but means that it must not exclude any matters from its consideration when it is assessing the future unless it feels that it can safely discard them because it has no real doubt that they did in fact not occur.
15. According to her witness statement dated 6 December 2018 in the last 12 months she has lost an aunt and uncle as a direct result of the crisis in Cameroon. She says she has cousins that have been killed or have joined separatist groups. She states the reason that she is politically active is that she hopes that by speaking out and drawing attention to the crisis something will be done to end it. Currently, there is no outside intervention from the UN or other nations in assisting the people of Cameroon. She states that even if she tried to keep quiet in Cameroon she is not the sort of person who could sit back and watch what was happening and not say or do anything. She knew the risks but was not any more special than any other person who died in this crisis. She would rather die trying and sit back and watch. She adds that she was a youth leader before she left Cameroon. She wanted to inspire the youth and speak out and try to effect change and stop being afraid. She adds that if she were imprisoned in Cameroon she would have no access to the medication she needed as a diabetic and would die. She was not afraid of dying but did

not wish to give up the chance that she had to continue speaking out about the situation in Cameroon in the hope that she could make a difference.

16. First-tier Tribunal Judge Holder found that the Appellant was a credible witness as to past events. The Appellant set out in her witness statement before the First-tier Tribunal that she believed she would be arrested in Cameroon due to her social media activity. Judge Holder found that this fear was not objectively well-founded both due her use of pseudonyms and due to the fact that it had not been shown that any attempt at hacking her Facebook account and emails was linked to the government.
17. First-tier Tribunal Judge Holder did not take issue with the genuineness of her political beliefs or find that she had manufactured any part of her case. Her beliefs were set out in her witness statement and evidenced by the 600 pages of WhatsApp chats which supported the separatist movement. There is also evidence at E of the Respondent's bundle of her activities including letters from 'Southern Cameroons European Women' stating that the Appellant is an 'active, dynamic comrade and freedom fighter for the restoration of Southern Cameroon's Statehood'. The letter states that she has been a 'politically vibrant' participant as an assistant speaker and moderator for the Southern Cameroon European women (SCEW) on top social media concerns against the current regime. It is said that she is also a planner of fundraising programs for the humanitarian sector.
18. Mr Howells argued that the Appellant had only become active in voicing an opinion on social media after her arrival in the UK and after her visa expired, the suggestion being that this was to engineer a false asylum claim. This submission does not accord with Judge Holder's findings in relation to past events. Further, the Appellant gave a plausible explanation for having commenced her political activities after her arrival in the UK as a student in August 2015, namely that she did not take part in demonstrations or protests in Cameroon because at that time there were no protests or demonstrations. She had supported the independence of Cameroon but the movement was but only popular since 2016. This accords with the evidence at p12 of the Appellant's bundle which confirms that Cameroon has been troubled by unrest since separatists in two English-speaking regions in 2016 said they wished to form a new country.
19. Against this background evidence, I find that Judge Holder's finding that if she were politically active on return she would be at risk remains sound. I find that the Appellant has given evidence that is detailed, consistent with external evidence, internally consistent and plausible. Her political activities in the UK were accepted by Judge Holder and having heard evidence on her intentions to continue with such activities on return, I accept this is so. I accept that the strength of her convictions are such that she would feel compelled to speak out, and were she not to voice her beliefs it would be due to fear of persecution. I therefore find that there is

a reasonable degree of likelihood that she would face persecution on grounds of her political opinion on return.

Notice of Decision

I allow the appeal on asylum grounds and under Article 3 ECHR.

The appeal, in the alternative, against the refusal of the grant of humanitarian protection is dismissed.

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

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her 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.

Signed

Date 20 December 2018

A handwritten signature in black ink, appearing to be 'L J Murray', enclosed in a thin black rectangular box.

Deputy Upper Tribunal Judge L J Murray