



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

Appeal Number: PA/06507/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 21 November 2018**

**Decision & Reasons Promulgated
On 12 December 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE HILL QC

Between

**ASIYE [B]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Panagiotopoulou of Counsel, Montague Solicitors LLP
For the Respondent: Ms N Willocks-Briscoe, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal from a decision of Designated Judge Manuell promulgated on 8 August 2018. The appellant is a Turkish national born on 3 August 1987. The claim related to refugee status under the UN Geneva Convention. The appeal was dismissed on asylum grounds, on humanitarian protection grounds and on human rights grounds.
2. Oral argument focused exclusively on the ground of appeal which related to paragraph 29, where the judge cited the country guidance on which he purported to place reliance.

“[29]Furthermore, **SSH and HR (illegal exit: failed asylum seekers) Turkey CG [2016] UKUT 00308** (IAC) provides the country guidance to the effect that failed asylum seekers are not at real risk on return to Turkey merely on account of illegal exit. In any event, the tribunal cannot find that the Appellant left Turkey unlawfully, as her evidence has not been credible to the lower standard and there is no reason to believe any of it save what has been properly conceded.”

3. As stated in the grounds, the correct citation for that refers to Iran, not Turkey. The decision of Upper Tribunal Judges Allen, Southern and Smith relates solely to Iran. Quite how the judge came to refer to it as a Country Guidance for Turkey case is far from certain. It seems to be a most unfortunate and regrettable aberration in the context of an otherwise clear decision by a judge with very considerable experience.
4. On behalf of the Secretary of State, it was argued that the decision is elsewhere clear in relation to findings of fact and credibility and that those parts can properly be preserved, with a fresh risk assessment being undertaken having regard to the appropriate country guidance and all other factors relevant to Turkey and not Iran.
5. Superficially attractive though that disposal might be, the concern of the Upper Tribunal is not merely doing justice but ensuring that justice is seen to be done openly, unambiguously and transparently. There would be an abiding sense of unease were any part of a decision to be upheld which contained an error so prominent and significant as citing and applying Country Guidance from completely the wrong country. It cannot be glossed over as a mere typographical slip. It goes to the very heart of the decision. It would be bold to assume that a decision with such a clear flaw was otherwise sound and I do not consider it proper to do so in the circumstances of this case.
6. The outcome of this appeal is of great importance to the appellant and her family members. The flaw is of such centrality that justice requires and demands that the decision of the First-tier Tribunal be set aside in its entirety, and that the appeal is remitted to be re-heard in its entirety by another judge. In the circumstances it is unnecessary for me to address any of the other grounds raised in the application for permission to appeal, upon which I chose not to hear oral submissions.

Notice of Decision

- (1) The decision of the First-tier Tribunal is set aside.
- (2) The appeal is remitted to the First-tier Tribunal at Hatton Cross to be heard afresh by a judge other than Designated Judge Manuell.
- (3) No findings of fact are preserved.
- (4) No anonymity direction is made.

Signed *Mark Hill*

Date 7 December 2018

Deputy Upper Tribunal Judge Hill QC