



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

Appeal Number: IA/21736/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 7 October 2014**

**Determination  
Promulgated  
On 13 October 2014**

**Before**

**DEPUTY JUDGE OF THE UPPER TRIBUNAL Ms G A BLACK**

**Between**

**CYNTHIA TAH AFOR**

Appellant

**and**

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

Respondent

NO ANONYMITY ORDER MADE

**Representation:**

For the Appellant: Mr Wainwright (Counsel instructed by Law Klinik LLP)  
For the Respondent: Mr Kandola (Home Office Presenting Officer)

**DETERMINATION AND REASONS**

1. The matter comes before me for consideration as to whether or not there is a material error of law in the determination before the First-tier Tribunal (Judge Haynes). The appeal was determined on the papers and promulgated on 7 August 2014. The Tribunal dismissed the appeal by the

appellant against a refusal of her application under Regulation 7 of the Immigration (EEA) Regulations 2006 (EEA Regs.).

2. The appellant, Cynthia Afor, whose date of birth is 19 February 1987. She is a citizen of Cameroon.

### **Grounds for permission**

3. The first ground argued that the judge erred by treating the marriage as a proxy marriage when it was not. The second ground was that the Judge failed to follow **Razgar** and did not conduct an Article 8 proportionality assessment.

### **Permission to appeal**

4. Permission was granted by First-tier Tribunal Judge Gibb in the following terms:

“The grounds, which were in time, complain that the judge erred in (1) treating the marriage as a customary one by proxy when it was not and (2) not conducting the Razgar steps and proportionality assessment in considering Article 8.”

5. He further stated

“The grounds are arguable. The appellant's representative should be prepared to say why the error in treating the marriage as a proxy one was material, in that the **Kareem** principle would arguably still have applied and there was no evidence of legal recognition of a non-proxy civil marriage in Cameroon (although this may be a simpler question for a non-proxy marriage). The judge's reasoning as to why human rights had 'no application' is arguably obscure.”

### **Hearing before me**

#### **Submissions**

6. I heard submissions this morning from Mr Wainwright and Mr Kandola. The respondent opposes the appeal. However, it was common ground that there was an error to the extent that the Tribunal treated the marriage as a “proxy” marriage [7] when it was in fact a customary marriage, and it is the appellant's claim that both she and her spouse attended the ceremony in Cameroon. The issue before me is materiality having in mind the Upper Tribunal decision in **Kareem** and **TA& others( Kareem explained) Ghana[2014]00316(IAC)**.
7. Mr Wainwright concedes that he faces some difficulty having regard to **Kareem(Proxy marriages - EU law[2014] UKUT 00024(IAC))**, and accepts that in the absence of evidence from the relevant EU state ( France) , the appellant cannot meet the evidential requirements. There is no evidence to show that the marriage is legally recognised in France. He

further submits that the Tribunal ought to have considered whether there was evidence of a durable relationship under Regulation 8(5) (EEA Regs) and considered Article 8.

### **Discussion & decision**

8. I find that the determination discloses no material error of law. There was an error by the Tribunal by finding incorrectly that the parties were married by proxy. The appellant's claim is that both parties attended the marriage ceremony in Cameroon and it was therefore not a proxy marriage, rather a customary marriage. Issue was taken as to the lawfulness of the marriage in the Cameroon as the respondent considered that the evidence in support of the marriage and the certificate were unreliable.
9. I am satisfied that the Tribunal correctly applied the principles in **Kareem**. There was no evidence to show that the customary marriage was legally recognised in France, the relevant EU State [7].
10. As regards the submissions made by Mr Wainwright on Regulation 8(5) (EEA Regs), this was not a matter that was argued in the grounds for permission, and no application for leave to amend was made. In any event I find that the Tribunal gave adequate consideration to the available evidence and concluded that there was unreliable and insufficient evidence to demonstrate that the parties were in a relationship at all. [8-10]
11. The second ground of appeal was the question of Article 8. I find no material error of law disclosed in the determination in this regard. There was clearly no evidential basis for founding an Article 8 claim and none has been put before me today.

### **Decision**

12. There was no material error of law in the determination.
13. The determination shall stand.

Signed

Date 10.10.2014

Deputy Upper Tribunal Judge G A Black

No fee award  
No anonymity order made.

Signed

Date 10.10.2014

Deputy Upper Tribunal Judge G A Black