



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

Appeal Number: AA/06216/2015

THE IMMIGRATION ACTS

Heard at Bradford Phoenix House

**Decision &
Promulgated**

Reasons

On 20 April 2016

On 25 April 2016

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

[K K]

(~~NO ANONYMITY ORDER MADE~~)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Greer a Solicitor

For the Respondent: Mr Diwnycz a Home Office Presenting Officer

DECISION AND REASONS

Background

1. The Respondent notified the Appellant on 24 March 2015 of her decision to refuse to grant asylum or ancillary protection. The appeal against that decision was dismissed by First-tier Tribunal Judge Batiste ("the Judge") following a hearing on 15 June 2015. This is an appeal against that decision. It is not necessary for me to provide any factual detail of the claim.

2. First-tier Judge Baker granted permission to appeal on 15 July 2015 as it was arguable that the Judge had erred in rejecting claims that the Appellant's deceased husband had been recognised as a refugee in Belgium as there was no evidence to that effect.
3. Mr Diwnycz conceded, despite the rule 24 notice, that the Judge had materially erred in law in that there did appear to have been some evidence he had in fact been recognised in Belgium a refugee.
4. Mr Greer agreed with Mr Diwnycz.
5. So did I. The Judge had her husband's birth certificate which was issued by the Commissioner General for Refugees, a Belgian Residence Permit issued on 1 September 2008, and an untranslated document said to be the letter confirming the grant of entitled to be recognised as a refugee by the competent authority in Belgium. It was noted that the Appellant was not represented then but had been previously. Whilst the Judge cannot be criticised for not placing weight on a document that had not been translated, there was force in the argument that the other documents are unlikely to have been issued if he had not in fact been entitled to be recognised as a refugee.
6. Both representatives submitted that this material error of law affected the decision to such an extent that the decision could not stand and the matter would need to be remitted for a de novo hearing with no facts being preserved. I agreed that this was the most appropriate course of action.

Decision

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision.

The matter shall be remitted to the First-tier Tribunal for a de novo hearing before a Judge other than Judge Batiste. The time estimate is 3 hours and a Tamil speaking interpreter is required.

Deputy Upper Tribunal Judge Saffer
21 April 2016