



IAC-AH-SAR-V1

**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/02759/2019**

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice Centre
via Skype for Business
On 23 December 2020**

**Decision & Reasons
Promulgated
On 06 January 2021**

Before

UPPER TRIBUNAL JUDGE LANE

Between

AMANAY OSMAN

(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: ,

For the Respondent: , Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, who is a citizen of the Palestinian Territories and who was born on 22 May 1974 in the United Arab Emirates (UAE), appealed to the First-tier Tribunal (Judge Thorne) against a decision of the Secretary of State dated 7 March 2019 refusing her claim for international protection. The First-tier Tribunal, in a decision promulgated on 28 February 2019, dismissed the appeal on asylum, humanitarian protection and Article 3 ECHR grounds but allowed it on Article 8 ECHR grounds. The appellant now appeals, with permission, to the Upper Tribunal whilst permission has been granted (out of time, but unopposed) to the respondent to appeal in respect of the decision to allow the appeal on Article 8 ECHR grounds.
2. The appellant entered the United Kingdom in July 2019 with her husband. Her ability to return to and live in the Palestinian Territories and access necessary services there turns upon her ability to produce the required identity documents upon arrival.
3. At the initial hearing at Manchester by Skype for Business on 23 December 2020, many of the outstanding issues were resolved by agreement by the parties. The position had been substantially clarified by the expert evidence which the appellant had obtained and served since directions were last issued by the Upper Tribunal during the summer of 2020. I notified the appellant of the outcome of the appeals at the end of the initial hearing and now briefly give my reasons.

Error of Law

4. The parties agree that the First-tier Tribunal erred in law. At [47], the judge relied on the country guidance case *MA (Palestinian Territories)* [2007] UKAIT 00017 in finding that the appellant would not be at risk of harm in the Palestinian Territories. Indeed, counsel at the First-tier Tribunal hearing agreed that the application could not succeed under the Refugee Convention or Article 3 ECHR, as the judge records. However, the facts of the country guidance case and the instant appeal are so different as to render the country guidance case irrelevant to the appeal and the judge's reliance upon it an error of law. The appellant in the instant appeal has never lived in the Palestinian Territories and would not in any event ever 'be suspected by the Israeli security forces of being involved in suicide bombing missions or terrorist activities against Israel or Israeli settlements' (*MA* at [121]). The appellant's claim is based not upon the threat of any person or state actively seeking to harm her but on the very different ground that, even if she were able to gain entry to the Palestinian Territories, her lack of an identity card or document would prevent her accessing any essential services. Mr Hussain, who appeared for the appellant, acknowledged that the appellant cannot succeed under the Refugee Convention since she does not meet the requirements of eligibility but the parties agree that he is right to argue that the reasons given by the First-tier Tribunal are wrong. I make no criticism of the judge given that counsel for the appellant told him that she accepted that the appellant could not succeed under the Refugee Convention or by way of

humanitarian protection [47-48]. However, I set aside the First-tier Tribunal decision.

Passport/Identity Documents

5. The parties agree that the position of the appellant may be summarised as follows: (i) although she has been registered as a UNRWA refugee, neither the appellant herself or her husband (or either's parents) have been registered as having any status in the Palestinian Territories under any census conducted by the Israeli government in the 1960's or subsequently; (ii) as accepted by the First-tier Tribunal judge, the appellant is not formally stateless, is not a citizen (or person with rights of residence) in either Jordan or the UAE, her state of birth; (iii) the appellant's passport is a 'zero zero' document (as detailed by the expert) which, whilst it may act as a *laissez passer* and provide her with the ability to travel between countries, does not operate as an identity document which would guarantee her admission to the Palestinian Territories or, even if it did admit her, the right when residing in the Palestinian Territories to access any state-provided services.
6. Mr McVeety, which appeared for the Secretary of State, helpfully drew my attention to the two passages from the CPIN for the Palestinian Territories 2018 which provide a background to the difficulties in which the appellant now finds herself:

18.1.2 The HRW report further stated, referencing other sources, that: 'Since 1967, the population registry has been central to Israel's administrative efforts to control the demographic composition of the occupied Palestinian territory, where Palestinians want to establish a state. Israel has used Palestinians' residency status as a tool to control their ability to reside in, move within, and travel abroad from the West Bank, as well as to travel from Gaza to Israel and the West Bank. A 2005 survey conducted on behalf of B'Tselem, an Israeli rights group, estimated that 17.2 percent of the Palestinians registered in the West Bank and Gaza, around 640,000 people, had a parent, child, sibling, or spouse whom Israeli military authorities had not registered as a resident.'

18.1 3 The same HRW report also noted that: 'Palestinians must be included in the population registry to get identification cards and passports. In the West Bank, Palestinians need identification cards to travel internally, including to schools, jobs, hospitals, and to visit family, because Israeli security forces manning checkpoints demand to see such cards before allowing passage. Israeli border officials, who control all entry and exit to the West Bank, also require Palestinians seeking to travel abroad to present an identification card or passport.'

7. In light of her current circumstances, is apparent that the appellant is entitled to a grant of humanitarian protection. As regards Article 8 ECHR, Mr McVeety confirmed that the only basis upon which the Secretary of State sought to challenge the First-tier Tribunal's decision no longer pertains. That basis was a statement in the appellant's travel document which appeared to indicate that the bearer of the document would be

admitted to the Palestinian Territories. He accepted that little weight should be given to that statement in the light of what is now known regarding the limitation on the appellant's right to enter and reside in her territory of nationality. Accordingly, the Secretary of State's appeal in respect of Article 8 ECHR should be dismissed.

8. Mr McVeety told me that the respondent is in the process of issuing the appellant with 2 years' Article 8 ECHR leave to remain as a consequence of the First-tier Tribunal's decision. He said that, as the appellant's humanitarian protection appeal would now be allowed, the period of leave to remain would be 5 years in accordance with current Home Office policy.

Notice of Decision

1. The Upper Tribunal remakes the decision. The appellant's appeal against the Secretary of State's decision dated 28 February 2019 is allowed on humanitarian protection grounds;
2. The appeal on asylum grounds is dismissed;
3. The Secretary of State's appeal against the decision of the First-tier Tribunal on Article 8 ECHR grounds is dismissed.

Signed
Upper Tribunal Judge Lane

Date 23 December 2020