



**IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER**

Case No: UI-2022-006572

First-tier Tribunal No:
HU/53333/2021 & IA/08823/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 23rd of April 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE SYMES

Between

KZ
(Anonymity order made)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms H Foot
For the Respondent: Mr D Clarke

Heard at Field House on 7 August 2023 and 7 February 2024

DECISION AND REASONS

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

Introduction

1. This is the appeal of KZ, a citizen of Azerbaijan, against the decision of the First-tier Tribunal of 3 November 2022, itself brought against the refusal of her human rights claim on 22 June 2021. This decision should be read alongside my decision of 7 August 2023 as to error of law.

2. The Appellant's case is essentially that as a person who has spent most of her life outside Azerbaijan living primarily in the UK and Turkey and who holds differing views to the prevailing consensus in the country, she would be seen as an outsider whose independence and attitudes would not be seen as acceptable there; she would be unable to work other than for minimal pay and opportunities as a young graduate without work experience were very limited. She relied on expert evidence from Dr Turaeva-Hoehne to such effect; the expert also opined that she would be a "complete outsider" and it would be "highly inadvisable" for her to live alone and remain unmarried. If she lived independently she was likely to be seen as promiscuous and thus at risk of violence, stigma and ostracism.

Witness statement evidence

3. The Appellant's history as set out in her statements is that her family left Azerbaijan because of her father's opposition to the regime there in 1994. They lived in Turkey until October 2005 where she attended school and was taught in Turkish; she had the vaguest memories of visiting Azerbaijan on two or three occasions over that period. She, her mother and siblings came to the UK, and the Appellant was granted leave as a student until 15 August 2008, and then until 31 August 2009, after a brief overstay. She had to care for her younger brother and her sister as her mother had to return abroad periodically to renew her own student visa, until an error in one of her mother's applications foreclosed further grants of student leave to her; ever since her mother could subsequently return to the UK only as a visitor.
4. The Appellant was granted leave to remain from October 2009 until 1 October 2013 over which period she studied at St Andrews University graduating with a general degree in BSc Mathematics and Economics in 2013. Having held student leave from October 2014 until 1 December 2017, she made a series of unsuccessful human rights and statelessness applications, most recently on 26 October 2020, resulting in the refusal against which this appeal is brought.
5. Her only returns to Azerbaijan since leaving the country had been for periods of a few months at a time to make entry clearance applications to come to the UK, during which period she would stay at a one-bedroomed apartment in Baku owned by her father; her grandmother who lived in a remote village with her own son sometimes stayed there, but the Appellant had no real relationship with her and focussed on obtaining documents for her visas during these trips. She had no ongoing right to reside in Turkey as that route was not open to an adult child, and in 2017 realised she had two options: to return to Azerbaijan where she had not lived for any significant period since the age of five, or to try and remain in the UK, the country where she had by now lived for some twelve years. As she and her siblings had spent the summer holidays abroad, usually in Turkey, she had accumulated too many days of absence to make a successful application under the ten year long

residence route. Although she had always sought to make timely applications before her visas expired, the application of December 2017 was rejected as invalid in April 2018, meaning its re-submission was treated as an application by an overstayer.

6. Her sister Saida studied in Oxford and at Essex University, reading Politics and International Relations, returning to Turkey to live with their parents from 2012. She now freelanced in Turkey residing there with temporary visas. Her brother Rafet studied at Warwick and Imperial Universities, leaving the UK in August 2020; he now lived in Albania having briefly resided in Turkey, without the ability to work. Her sister Natavan resided on such visas in Turkey and had to wait long periods for their renewal.
7. The Appellant felt it would be more difficult now for her to reconnect with new communities and had never previously relocated to a country where she did not speak the language. She was very worried about returning to live in an authoritarian state having lived in an open democracy for many years; the crackdown on freedom of expression would impact on her ability to pursue her career and women could not organise themselves to advocate for their rights. She did not suggest that the ensuing discrimination amounted to persecution, simply that one would have to be familiar with the system in order to navigate the intricacies of living under an authoritarian regime, to negotiate the pervasive corruption there and to avoid prosecution for overstepping the acceptable discourse in public having been used to expressing her own voice publicly; she would find it completely strange to live under those constraints and felt her career would be constrained by accepting autocracy as employers had to maintain good relations with the government. She would have to learn either Azeri or Russian to communicate properly and it would be difficult to reach a reasonable threshold now she was in her mid-thirties, which was all the more of a problem given doing so would be the necessary first step to securing employment. She lacked the financial resources to fund any such courses.
8. She had no links with her extended family there and most of her friends from Azerbaijan lived abroad, and the only friend remaining there was in the course of emigrating. The only family she had left in Azerbaijan were her grandmother, and aunts and uncles with whom she had no relationship to speak of. She only saw her grandmother once during her brief visits to the country, and it was hard to form any connection with her as they had nothing in common. One reason for this was that she felt unable to openly express herself with her relatives, another was that, having grown up abroad, she had grown up with completely different values to them.
9. The Appellant's sister Saida provided a witness statement setting out that their father had always asserted his respect for democratic values and instilled those same values in his children. As a media editor she

considered it essential to provide objective and accurate information to her readers and valued living in a democratic country. The Appellant's situation could not be equated with that of other expatriates who had parents with established lives in Azerbaijan providing a foundation for them to re-establish themselves. Their father had invested some two million pounds in their education, something of which the UK should take advantage as the Appellant would be an asset to the country. The Appellant's brother Rafet provided a statement to similar effect, emphasising the difficulties of getting by in Azerbaijan without having participated in the education system there and knowing only basic words in the local language. It would be cruel to expect her to relocate there given the strong relationships she had in the UK with people including Ms Duvnjak with whom she lived here. He could not remember the last time that the Appellant had spoken to their grandmother who was nearly ninety-years old.

10. Professor Victor Truesdale provided a witness statement explaining that in his view the Appellant was in her present predicament through a combination of a strong belief in British fairness, decency, and correctness, and an earlier understandable naivety before she realised the importance of proper legal advice for a case of this complexity. She had been under sustained psychological pressure for many years; he had witnessed her unwavering belief that she had no future in Azerbaijan, which he believed to be a visceral reaction to her situation. He had had unusually deep and wide conversations with her when pursuing his own interest in Communist history and thus understood her lack of connection to any relatives there; indeed she had never mentioned any until recently when the matter arose during her immigration proceedings. Her mind-set was that of a Western academic, and as a competent mathematician she would be invaluable in a banking situation, or a teaching role; he had witnessed her teaching maths to Ms Duvnjak's grandchildren.
11. Ms Duvnjak provided a witness statement. She saw the Appellant like an adopted niece or daughter and she had become like a sibling to her own children. It was only natural the Appellant had come to live with her on an extended basis. The Appellant was a lovely young woman who would be an asset to any family, organisation and particularly to this country. To relocate her to Azerbaijan, a country where Ms Duvnjak knew she had no relatives with whom she ever communicated, would be akin to sending her to Mars. She was aware that the Appellant's father had never been able to return there because of the dangers he faced from the political elite. She was aware that the Appellant's Azerbaijani was almost non-existent and that her skills were on the mathematical not the language side of things which would greatly hinder her integration into the culture there. She dreaded to think of how the Appellant would manage there and would miss her immeasurably.

12. The Appellant's friend Mara Lone wrote a supporting letter with respect to how close she had become to her over the years; she had found her a great support in her own abusive marriage and the Appellant had stood by her when the relationship became more toxic and she saw her as a sister; her own daughter had confided some matters to the Appellant which she had not even shared with Mara. A number of other friends wrote of the Appellant's degree of assimilation here and of how close she was to their own families.

Expert evidence

13. Dr Turaeva-Hoehne provided an expert report. The Azerbaijan regime had become increasingly authoritarian and violent towards any kind of democratic activity or political engagement since the country's independence, and business and society was organised via a clan system leaving no space for freedom of thinking, human rights and security. Members of the ruling elite were rent-seeking and systematically misused their public positions to siphon off oil and gas revenues.
14. Family and kinship systems functioned according to old patriarchal Islamic principles where women were not considered to be important at least until they became elders, usually after they had had grandchildren. There were serious human rights violations committed against young people amongst whom suicide rates were reported to be increasing. Women in Azerbaijan, especially the young ones, had no real social status, either in their families (both immediate and extended), within their neighbourhood community or society in general. This caused difficulties for any woman wishing to become independent and live her own life without family support even in the capital city, and achieving further associations outside a family unit for reasons of employment, memberships or any other societal engagement was very difficult. Since the independence of the country re-emergence of traditional, patriarchal beliefs and practices had continued. Women were seen above all as mothers, nurturers, kind, obedient, caring and inferior. Violence and honour killings were prevalent in rural areas and there was a high female homicide rate in Baku; a majority of victims of abuse would not seek help.
15. There were reports into young people leaving the country because of the misfit between modern and traditional values. There was a mandatory health insurance system which required insurance premiums to be paid by all Azerbaijani nationals.
16. The Appellant's dressing style, liberal views, and critical reflections about gender roles amongst other factors would make her a complete outsider in society there. The very fact that her relatives had briefly visited her in the family's flat in the capital during her brief visits to collect the paperwork for future UK visa applications showed that it was unacceptable for a single unmarried woman to live alone for any

extended period. The expert did not believe that her father's difficulties with the ruling elite would have any ongoing implications for her. The difficulty was her value system and the importance of being perceived as a "decent young Muslim woman". To live alone and remain unmarried was unadvisable; she would be expected to have family members to take care of her and even to oversee the way she dressed. Societal and familial expectations of women were also focussed on keeping the family's honour through complying with all religious and traditional norms, and obeying one's elders and male relatives was essential; one would have to fully accept the patriarchal power system, show respect for Islam, and exhibit good skills in domestic work such as cooking and cleaning, which defined female members of the society. Men had to be the head of the household and to hold authority and women's careers had to reflect this, as was reflected in a UN report regarding attitudes to employment. Observing gender and generational deference, acting with modesty and shame and most of all observing sexual honour, were all considered important markers of being Azer; the highly developed traditions of hospitality focussed on this and within that women's domestic responsibilities afforded them key roles in the conduct of social relations.

17. Women living alone without a family around them could be seen as sexually promiscuous, putting them at risk of violence and stigma, and distanced from the rest of society. She would be likely to face social isolation because of her values. In provincial towns women's presence was confined to the indoor life of the home, and their place of work or study, as the streets and catering establishments were largely male domains. In Baku, there was a more diverse social environment, although the community of neighbours and relatives might still be observant of any aberrations from gender norms - it was also the case in Baku that women were more likely to endorse acceptance of wife beating if a woman went out without telling her husband.
18. She would need to register for healthcare and state services in Baku given the family owned a flat there. The Appellant might find employment within foreign firms or international organisations where conversational Azeri language would suffice since the working language might be Russian and English. She would face difficulties given that family and personal networks were the major arena for unofficial dealing, as her family came from a rural area. Barriers to career progression included the burden of unpaid domestic labour, poor qualifications, gender stereotypes as to appropriate women's work, age and appearance-based discrimination, and fear of harassment, all of which pushed women away from better-paying private sector jobs or limited them to informal and unstable employment. In the professional world outside of family networks one could expect difficulties because of the prevalence of nepotism, friendly contacts in business, and the likelihood of cheating and unfulfilled contracts. The Appellant would be more likely to find work in the international sector where traditional values were less important.

19. The expert's conclusion was that

“In the best case she will find a job within an international organisation and will avoid any social contacts with local people outside of her work and marries someone who shares her values. Without an early marriage, the Appellant will be at risk of becoming a target for sexual abuse and physical violence which stems from the male grievance that local young women not complying with the social norms need to be punished in order to stop bad examples for their own daughters and sisters at home ... As soon as it will be clear that the Appellant returns to the country permanently, there the expectations from her as a family member will be newly negotiated and also enforced in order to maintain the status of the family. This will have direct implications for the Appellant's marriage plans for instance, besides other requirements such as gaining skills women are expected to possess such as cooking, cleaning and other norms.”

The hearing before me

20. The Appellant gave evidence. In chief she stated that her mother, one sister and her brother presently resided in Istanbul. She knew some Russian words but could not speak the language in any meaningful sense.
21. Cross examined she said that she had uncles and aunts living in villages in Azerbaijan and at one time had an uncle and an aunt living in the capital, Baku. She did not know if the aunt still lived there; she had previously met that aunt at her family's apartment in Baku when that aunt visited the Appellant's grandmother during the latter's visit from the countryside. The Appellant would not say that these family members visited because they were looking out for her or taking care of her in any meaningful sense. Her elderly grandmother was sometimes in the flat with her and because of the latter's age and the language barrier between them there was no meaningful relationship between them: whilst in Azerbaijan she shopped and made her visa arrangements alone. She felt that her English had let her down when she had previously tried to explain these arrangements. Although she had the aunt's phone number she would never call her to discuss anything important, the aunt might contact her to wish her happy birthday but she had no personal relationship with her.
22. It was put to her that it was surprising her parents had not contacted their relatives in Azerbaijan with a view to seeing if they would support her in the future. She said that she had a limited relationship with her father because he mainly conversed in Russian; that was also the language in which he spoke to relatives on his side of the family. She knew a few Russian words, and could speak a few Azerbaijani words, whereas she could understand a reasonable amount of Azerbaijani when it was spoken to her. She would need to use Turkish to get by in Azerbaijan and she had never been naturally good at languages. It was

put to her that she had said she had said that she could communicate in Azerbaijani in her witness statement without referring to Turkish being her medium of communication, to which she replied that she understood some of the words but not the grammar. In summary she could communicate by a mixture of Turkish and Azerbaijani which was how she got by when staying there to obtain a visa. It was put to her that as her father spoke mostly Russian presumably she would have become familiar with the language; she said that in recent times he had seldom been present in her life. It was put to her that she was seeking to bolster her case by resiling from her language facility to exaggerate the difficulties she would face in Azerbaijan, though she denied this.

23. It was put to her that her family was wealthy. She denied this – they were unable to support to her any significant extent. She paid no rent to live with Ms Duvnjak, and ate with her. Whilst her father had sent her money occasionally, since 2015-2016 he had had financial problems notwithstanding that he had spent £2 million on his childrens' education. They were from a background where education meant everything and her parents had spent everything they had on their childrens' schooling; they did not even own property in Azerbaijan, the Baku apartment aside. Asked whether her relatives in Azerbaijan were as progressive as her parents, she said that her father was the only student from his village to study in St Petersburg, and had made his way in life without his family's support. Asked why her parents had provided no witness statements, she said her father did not want his name on court documents as he feared it might put him in danger (which was why his name was anonymised at all stages of the proceedings).
24. She had been politically active during her UK studies at St Andrews though not via social media. For her freedom meant knowing that if she conducted certain activities she would be safe. It was put to her that there was no likelihood of her carrying out political activities in Azerbaijan; she replied that she would feel that people lacked rights and would be unable to ever speak without carefully watching what they said, and she feared that she might cause her family problems if she spoke freely there. She had not claimed asylum because she did not consider that her life would be at risk. Her concern was that she could not live freely. It was put to her that there were high profile women in Azerbaijan, she replied that they were part of the extended family which formed the government and their roles had been advanced by their family for their own purposes. She did not doubt that if she happened to marry into the ruling family everything would be fine for her. It was put to her that their achievements nevertheless undermined the expert witness's opinion that women would be left to do the work that men didn't wish to do. She quoted Animal Farm: in Azerbaijan everyone was equal but some were more equal than others.
25. Asked whether she had sought employment in Azerbaijan and what evidence was available of any such efforts, she replied that her sister

had gone back for a few months but even with her degrees from Essex and Oxford Brookes Universities she could not find work. Given the gap in her own CV whereby she had been unable to work since 2022 she would not get through the screening process for work in Azerbaijan. International companies would not be interested in someone without work experience in the last two or three years.

26. Diane Duvnjak gave evidence. Cross examined she said she was aware that the Appellant spoke to her relatives in Turkish, for example the Appellant had borrowed her phone to do so and had typed messages in that language. Professor Victor Truesdale gave evidence. Cross examined he said that it seemed to him that the Appellant's life was very focussed on her parents rather than upon any other more extended family members.

27. For the Respondent Mr Clarke submitted that fair weight should to be given to the Immigration Rules. There had been a lack of candour by the Appellant and there was a lack of witness statements from potentially key witnesses, particularly the parents and the relatives in Azerbaijan. This gap had been highlighted by the Respondent's review. The expert's premise was that the Appellant would be a single lone female in Azerbaijan but there was no evidence from the extended family as to their outlook and the nature of their social networks. The Appellant's first exposition of her case had referred to her father having built up businesses in the former Soviet republics and her oral evidence that he no longer had any significant means was unheralded in the witness statements that had been provided. It was not plausible that applications to multinationals were pointless, and at least she could reasonably have been expected to research their general recruitment process and the kinds of applicant they expected to approach them. The expert's opinion as to the dangers faced by single women living alone in Azerbaijan was suspect: not only because the oral evidence invited the inference that family support was available, but given there was no evidence the Appellant would conduct herself, or wished to do so, inconsistently with the prevailing norms there, given her lack of any history of overt political expression. The expert's references were often of significant vintage. Whilst Azerbaijan might well be a repressive regime, and the Tribunal admittedly had to consider any serious harm she might face whether or not she had advanced an asylum claim, the expert evidence did not subsequently differentiate between urban and rural areas when cataloguing the more serious abuses, which were then used as a springboard for the conclusions drawn generally. Later in the report it was acknowledged that the situation was worse in provincial towns and that Baku was more diverse; yet the references to systematic abuse were not tied to any particular geographical location. There was no regional breakdown in the statistics given and as to how they might bite upon the Appellant's individual circumstances and the focus at times was upon the plight of women without significant qualifications; it could not be presumed that international companies would exhibit the attitudes of the broader populace. Whilst the

Appellant was financially independent she had limited private life in the UK which had been established on a precarious basis.

28. For the Appellant Ms Foot submitted it was unreasonable to expect overt evidence from family members with whom the Appellant had no meaningful relationship. The evidence as to needing to communicate in Azerbaijan via a mix of Azeri and Turkish was plausible and not inconsistent with her witness statement. There was no evidence contradicting the expert evidence which was written with sight of the Appellant's family circumstances including their access to a flat in Baku. Her limited language skills in Russian and Azeri would be a barrier to integration in the *Kamara* sense.

Decision and reasons

29. The issues in this appeal are whether the Appellant faces
- (a) Very significant obstacles to integration in Azerbaijan, the test posited by the Immigration Rules for an adult with her residence history in the UK (ie being someone who lacks ten years of lawful residence without excess absence, and not being a minor or aged between 18-25 having lived half her life here).
 - (b) A disproportionate interference with her private life established in the UK such as to render her expulsion unjustifiably harsh.
30. As stated by Sales LJ in Kamara [2016] EWCA Civ 813, the concept of integration
- “is not confined to the mere ability to find a job or to sustain life while living in the other country ... The idea of "integration" calls for a broad evaluative judgment to be made as to whether the individual will be enough of an insider in terms of understanding how life in the society in that other country is carried on and a capacity to participate in it, so as to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life.”
31. Whipple LJ in NC [2023] EWCA Civ 1379 reviewed Kamara and the subsequent decisions which build upon it, summarising their import thus:
- “It is not in doubt, based on these authorities, that (i) the decision-maker (or tribunal on appeal) must reach a broad evaluative judgment on the paragraph 276ADE(1)(vi) question (see Kamara at [14]), (ii) that judgment must focus on the obstacles to integration and their significance to the appellant (see Parveen at [9]) and (iii) the test is not subjective, in the sense of being limited to the appellant's own perception of the obstacles to reintegration, but extends to all aspects of the appellant's likely situation on return including objective evidence, and requires consideration of any

reasonable step that could be taken to avoid or mitigate the obstacles (see Lal at [36]-[37]).”

32. I should first make findings of fact. I was impressed by the evidence of the Appellant and her supporting witnesses, which was vivid and cogent. Save in two respects I accept the totality of the facts asserted. I believe that the Appellant has downplayed her family’s present financial circumstances: it seems to me very unlikely that a family with very significant income to allocate to their childrens’ education and with a background of success in business would be unable to offer some financial support were she to return to Azerbaijan. Indeed the contrary was not suggested in the witness statements and arose only under cross examination. Secondly, I conclude that given she has had some success in learning different languages in the past, and given that she remains relatively young, she would be able to make herself understood in so far as she had to negotiate daily life in Azerbaijan without great difficulty. I believe that on these issues she sought to burnish her case somewhat; but these are not matters of dishonesty or fabrication that cause me to have any doubts as to the facts she asserted more generally.
33. It is not suggested by the Respondent that the Appellant should be expected to relocate to Turkey, a country to which she would be admissible only on a short-term basis. The sole destination in issue is Azerbaijan and it is there on which my attention should focus.
34. It is useful to clear the ground to identify the gravamen of the respective submissions.
 - (a) The Respondent does not suggest the Appellant could be expected to integrate in a remote rural area such as the family’s ancestral home. His case is that parts of Azerbaijan are very different as to the degree of tolerance of a woman living and working independently and that she could reasonably be expected to live in Baku where her family has a flat; she previously survived there on her short trips back and it is to be presumed that her extended family would offer her some support, bolstered by the practical benefit of financial remittances from her parents and siblings in Turkey. In particular she could avoid the difficulties she might otherwise face in negotiating the local labour market by finding work with a multinational, where the environment would be more western in outlook.
 - (b) The Appellant contends that working with a multinational in Azerbaijan is indeed her only real option, but that is foreclosed to her because of her lack of recent work experience and given the advanced language skills required to seriously pursue such a career, or indeed to get hired in the first place. Outside such a company she would face significant barriers to integration, because she has only the most limited of relationships with her relatives there and they are culturally very different to her; without

established family or political connections only the most menial of jobs would be available to her.

35. Having considered the evidence with care, I do have real concerns as to whether the Appellant would be, in the words of Kamara, enough of an “insider ... to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life.” I accept that the only way in which she could enjoy normal inter-personal relationships would be to work within a multinational company or some other international agency. I do so because for her to pursue any real life outside of such an entity would be unrealistic given the expert evidence as to country conditions generally, and her own evidence and that of her witnesses about her personality and perspective on life. Having never lived for an extended period in Azerbaijan she would lack the insight to manage the daily challenges of life in an authoritarian regime whereby one could never, within the working environment, challenge authority or express a view contrary to the status quo without risking one’s livelihood. It is clear from the evidence of Professor Truesdale and Ms Duvnjak that she would find any such existence very difficult to negotiate. There is nothing in the evidence to suggest that the aunt who lives in Baku would have the social network to meaningfully assist her, given the evidence that the society is generally patriarchal and that women’s roles are significantly diminished; that there is no real relationship between them is shown by the lack of ongoing contact between them both when the Appellant stayed in Azerbaijan and more generally. I note Mr Clarke’s careful submissions regarding the possible differences between life in the capital and elsewhere, but it seems to me that the sources cited by the expert’s footnoted opinion evidence makes good the conclusion that attitudes there would not be very different for a person without a strong network of like-minded relatives to support them. Her lack of contact with her family in Azerbaijan, corroborated by her witnesses, strongly supports her account of having a very different value system from them. The more she was exposed to them the more she would be forced to conform to their traditional values.
36. In seeking to pursue an independent life from them she would be defying the general status quo. I have no doubt that were she allied to the ruling regime this would not be any great challenge. But her father’s disagreement with that regime and the family’s departure from the country many years ago rules out that possibility. Absent a network of support and allegiance by way of family or male sponsors she would risk the social censure identified by Dr Turaeva-Hoehne. Any work she found would have to avoid challenging the prevalent social structure and would be likely to be limited to domestic work such as cooking or cleaning, which is likely to involve tough and physically demanding tasks where subservience to one’s employer is essential. There is no evidence from which I can reasonably infer that she would quickly form

a relationship with a man who would either support her or facilitate her achieving independence in the workplace; the expert's evidence compels the inference that such partners would be relatively rare, and would be far more likely to expect her to conform to society's expectations.

37. So what of life in a multinational company or international agency? Here the first difficulty would be finding employment. I accept that her employment history given her lengthy overstay has precluded her from working is now somewhat chequered. The Appellant's ability to speak English and Turkish, but not Russian or Azerbaijani beyond the basics, would present real difficulty. The expert's opinion is that "the working language might be Russian *and* English" (my emphasis). So only a significant degree of aptitude in both languages would appear to suffice to render that career opportunity realistic. Whilst I believe she could make herself understood for the purpose of daily living, that is a very different matter to securing and holding down a job in a graduate environment. Absent strong language skills in both Russian and English it is very difficult to see that she could sustain a career, even if she was hired in the first place. I also accept that her lack of recent work experience will be a further obstacle to finding employment. And the second difficulty is that I do not see life confined to the environs of a multinational firm would really amount to integration in Azerbaijan society. It would in truth represent life in a bubble removed from any such society.
38. I should have regard to the statutory factors identified in NIAA 2002 s117B. immigration control is of course in the public interest. The Appellant speaks good English and is financially independent. Her private life has been formed over a period when her immigration status has been precarious and there is thus statutory mandate for giving it little weight. However Lord Wilson in *Rhuppiah* [2018] UKSC 58 §49 endorsed the approach of Sales LJ below §53 that "it is possible without violence to the language to say that such generalised normative guidance may be overridden in an exceptional case by particularly strong features of the private life in question ...". The fact that she would very significant obstacles to integration in Azerbaijan society is just such an exceptional circumstance.
39. So I conclude that the Appellant would face very significant obstacles to integration in Azerbaijan and her appeal succeeds on that basis.
40. As this is an unusual and relatively difficult case, I should go on to determine the appeal in the alternative. It is useful to take as a recent benchmark of the ambit of private life a relatively recent decision of the Strasbourg Court, Denisov v Ukraine (Application no. 76639/11, 25 September 2018), as it happens a case involving wrongful dismissal by a public authority, but nevertheless expressed in general terms reviewing the relevant jurisprudence. Consistent with its long-standing approach the Court holds that §95:

“The concept of 'private life' is a broad term not susceptible to exhaustive definition. It covers the physical and psychological integrity of a person. It can therefore embrace multiple aspects of the person's physical and social identity. Article 8 protects in addition a right to personal development, the right to establish and develop relationships with other human beings and the outside world ... “

Of private life in the working arena the Court went on §100:

“Whereas no general right to employment, ... or a right to choose a particular profession, can be derived from Article 8, the notion of 'private life', as a broad term, does not exclude in principle activities of a professional or business nature. It is, after all, in the course of their working lives that the majority of people have a significant opportunity to develop relationships with the outside world. ... Professional life is therefore part of the zone of interaction between a person and others which, even in a public context, may, under certain circumstances, fall within the scope of 'private life'.

...

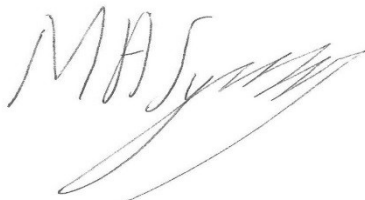
In cases falling into the above mentioned category [employment-related scenarios involving Article 8] the Court applies the concept of 'private life' on the basis of two different approaches: (a) identification of the 'private life' issue as the reason for the dispute (reasons-based approach) and (b) deriving the 'private life' issue from the consequences of the impugned measure (consequence-based approach).”

41. Denisov goes on to emphasise relevant considerations as the impact of the impugned measure on the individual's inner circle of acquaintance and on their opportunities to establish and develop relationships with others. Article 8 would bite only where these consequences “are very serious and affect his or her private life to a very significant degree”.
42. The evidence is that the Appellant's mode of dress, liberal views, and critical reflections about gender roles amongst other factors would make her a complete outsider in Azerbaijan society. As Professor Truesdale puts it, her mind-set is that of a Western academic. She comes from a family, as is clear from the statements of her siblings, that has a liberal outlook and values independence of thought. It is clear that this is absolutely central to her identity. Life in Azerbaijan would require her to change her way of thinking and her external conduct to fit in to avoid overstepping the mark. It is very difficult to see how she could pursue any meaningful career aside from within the very international organisations which are on balance of probabilities likely to be foreclosed to her given her limited language skills. In any event, life in such an organisation would effectively confine her to seeking a partner as well as pursuing her entire existence in a very restricted milieu of expatriates.

43. I believe these consequences, given her world view and her very limited life experience of Azerbaijan society, would indeed be a matter that is very serious and would affect her private life to a very significant degree. I have already addressed the s117B factors above. She has complied with immigration control to the best of her ability having consistently sought to regularise her immigration status and has very strong personal relationships with her friends in this country. Her own family does not live in her country of origin and so is not available to provide support to her there. The interference with her private life would be disproportionate to the public interest which the immigration decision aims to achieve.

Decision:

An error of law having been found at the original hearing, the appeal has now been fully reconsidered and is allowed.

A handwritten signature in black ink, appearing to read 'M.A. Symes', with a long, sweeping underline that extends to the left and then curves back under the signature.

Deputy Upper Tribunal Judge Symes
Immigration and Asylum Chamber

5 April 2024