

Appeal Number: HX46690-2001
AV (IFA-Mixed Ethnicity Relationship-Russia/Chechen) Russia CG [2002] UKIAT
05260

IMMIGRATION APPEAL TRIBUNAL

Heard at: Field House
on: 26 September 2002
Dictated: 11 October 2002

Determination Promulgated
15 November 2002
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Before:

Mr J R A Fox – Vice President
Mr A Smith

between

Anna VARVARINA

Appellant

and

The Secretary of State for the Home Department

Respondent

DETERMINATION AND REASONS

1. The Appellant a citizen of Russia, has been given leave to appeal to the Tribunal against the determination of an Adjudicator (Mr Nicholas Paul) dismissing her appeal against the refusal of the Respondent to grant her asylum and her claim under the Human Rights Act.
2. At the hearing the Appellant was represented by Mr Adler and the Respondent by Miss Prendergast of the Home Office.
3. The history of the matter is that the Appellant is a citizen of Russia born on 29 August 1950. She arrived in the United Kingdom on or about 27 September 1999 and claimed asylum on 29 September 1999. On 13 July 2001 the Respondent decided to refuse her application the decision was made to give directions for her removal.
4. The basis of the Appellant's case is that she was born an orphan and grew up in the city of Stavropol which borders the province of Chechnya. From 1990 onwards she had started her own business which was a small food shop. Her boyfriend at the

time was a Chechen national. The Adjudicator put it it is well known that that part of the world has been beset with problems for many years. The Chechen war started in 1994 and because of her association with a Chechen national she began to be ostracised by her fellow Russians. It became so bad that she was afraid to leave her home. Her boyfriend would occasionally travel away on other businesses which were not explained to her. She became increasingly isolated from the people in her local community. In due course she was compelled to move from the city and live with him in a small converted wagon from a train. Some time in August 1999 the wagon which she had been sharing with her boyfriend was burnt down and everything in it was destroyed. She tried to explain to the police who attended what had happened but instead was beaten. She was severely criticised and abused by virtue of her relationship with a Chechen national. She returned to the town of Stavropol and went to the local police station but was similarly treated in the sense that she was not given any help. At or about this time her boyfriend disappeared and she subsequently discovered from what she had been told by his brother that he had been killed. Or as the Adjudicator put it at least this is what she was led to believe. She was at this time staying with an old woman in a flat in town. Her boyfriend's relatives then threatened her because they claimed she had betrayed him to the authorities. It was as a result of the pressure coming from these two sources that she decided to flee. She had some \$3000 which she had kept hidden in a small flat that she had maintained in the city. In her previous business she got to know various lorry drivers and with this money and with the assistance of one of those drivers she was brought to the United Kingdom. When she arrived she was very ill and subsequently admitted to Northwick Park Hospital where according to her evidence she was given treatment and indeed operated on because of stones in her liver which she claimed was caused by the beating she had received. Again there was no place for her to live in Russia as she fears persecution as the Chechen nationals want her blood.

5. The Adjudicator recorded that in evidence she had amplified matters and gave details of the abuse which he found was clearly shocking.
6. The Respondent did not believe that she was at risk from Chechen nationals anywhere in Russia.
7. In reviewing the objective evidence the Adjudicator found that problems did exist in the part of Russia that she came from namely the neighbouring Stavropol regions became magnets for refugees and also subsequently to the most ethnically discriminating provinces of the Russian federation where xenophobia is particularly apparent. He records the IND Report further indicates that the Russian ministry has real problems in trying to eliminate the flaws in ethnic policies. Furthermore the police and other security forces here and in other parts of the country have continued to harass citizens from the Caucasus and darker skinned persons as obviously the appellant's boyfriend/partner.
8. The Adjudicator found her evidence credible and compelling and he accepted the evidence that she had given at her screening interview, she had never held a passport.
9. She also gave evidence everything in the trailer was burnt. She gave evidence of hiding at the homes of acquaintances no one wanted her to stay for a long time.

10. She also at her interview gave evidence that she had a lot of friends in Rostov.
11. At interview she also said that she had had a passport it was not with her it probably had been burnt when the trailer was burned.
12. The Adjudicator quite properly found that she had a well-founded fear of persecution for a Convention reason in the area in which she had been living.
13. He noted her lack of documentation and lack of community ties but did not accept that wherever she goes in Russia she will be tracked down by the Chechens. He found that it was not unrealistic for her to relocate to another part of Russia. We declined to make a recommendation.
14. In submissions Mr Adler submitted that the question of the internal protection alternative is "can a refugee claimant genuinely access domestic protection which is meaningful. More specifically it asked is the proposed sight of internal protection one in which there is no real chance of persecution or of other particularly serious harms of the kind that might give rise to the risk of return to a place of origin.
15. He pointed out that the Appellant had no internal passport and no travel documents. She would need an internal passport if she was to relocate in Russia and he referred us to the relevant parts of the CIPU Report.
16. He also pointed out that even if she was returned to Russia she faced enormous difficulties in registering. ... he claimed that there would be a physical danger in travelling he also pointed out that the CIPU revealed that the quality of protection was lacking and particularly if she was found to be a forced migrant.
17. He pointed out that she was an orphan and had no family and her partner had been killed. She had no home and in his submission it was unduly harsh to expect her to relocate. The Russian federation had put laws in place to prevent relocation.
18. Miss Prendergast submitted that whilst it was exactly that the Appellant did not have an internal passport there was no evidence that she could not obtain one. She pointed out that the Appellant could obtain an external passport in the United Kingdom then obtain an internal passport.
19. Paragraph 6.15 showed that there were at least 500,000 displaced persons in the Russian federation whom around 100,000 mostly ethnic Russians who left the northern caucasus during the first Chechen conflict between 1994 and 1996 and currently registered by the federal authorities as forced migrants which entitles them to assistance to facilitate their resettlement elsewhere in the Russian federation.
20. In this appeal the relevant Rule is paragraph 336 of HC 395. The Appellant has to demonstrate a reasonable likelihood that she will be persecuted for a Convention reason if returned to Russia.
21. In making that assessment the Tribunal has regard to the guidelines as set out in **Sivakumaran** and the majority decision in **Kaja**.

22. Additionally the objective evidence has to be examined as at the date when the Appellant left Russia, the date of the decision and the date of the hearing.
23. The Adjudicator who had the benefit of hearing evidence from the Appellant had no doubt that she had experienced ill-treatment from both sides of the fence in Stavropol. He found the relatives of her disappeared boyfriend may well have sought to harass her partly perhaps with a view to gaining money or simply by virtue of the ethnic tensions that arise in that area. He comments it is plain from the attitudes of the local Russian community and in particular the police that they would provide no solace. He then went on to conclude that the state was not able and indeed unwilling to provide the sort of protection as envisaged in **Horvath**. Furthermore the agents of the state namely the local police force have also ill-treated her because of her known relationship with a Chechen. He found that she had a genuine and well-founded fear of persecution in the area of Stavropol. He then went on to find that she could internally relocate in Russia.
24. The Tribunal has obtained a copy of the UNHCR Background Paper on Refugees and Asylum Seekers from the Russian Federation prepared in November 2000. That paper is referred to in the CIPU Report. References in the CIPU Report reflects what is said in that paper.
25. The Appellant has stated that she had many friends Rostov which is the last point where she stayed in Russia before commencing her illegal journey to the United Kingdom. The question that arises is whether it would be unduly harsh for her to relocate in Rostov.
26. It has been submitted that the Appellant has no documents and the Adjudicator indeed found that she did not have a passport at the time when she entered the United Kingdom because in all probability it was burnt in the fire in her trailer.
27. The UNHCR Paper indicates that outside the country a passport is issued or renewed by the Russian Embassy or Consulate. The Appellant has not produced any evidence that she could not obtain a passport from the Russian Embassy in London.
28. Additionally the paper reveals it is possible to obtain an internal passport from the embassy, one matter that is quite clear is that the Appellant did have an internal passport prior to the fire. The paper also reveals that many of the restrictions that used to exist in nearly one third of the 89 subjects of the Russian Federation most of the regions have in the last two years i.e. 2000 amended their legislation to be in compliance with the constitution and the constitutional court's resolutions.
29. The report also reveals that the presidential commission on citizenship introduced positive changes to the rule applications for acquisition of citizenship need to be submitted at the place of permanent residence. That has been changed by a decision of 30 June 1998 which instructed the Ministry of Internal Affairs to accept applications for Russian citizenship submitted by former USSR citizens at the place of temporary registration in Russia in case they had cancelled their permanent registration in one of the successor's states. Moreover the presidential commission declared that refugees recognised as such under Russian refugee law can submit

applications for citizenship at their place of temporary registration not at the place of permanent registration.

30. It also reveals that Moscow has not implemented this provision and accordingly the Tribunal is of the view that the Appellant cannot be returned to Moscow where clearly she would face considerable difficulties in obtaining an internal passport.
31. The CIPU refers to people who have a well-founded fear of persecution from the local authorities in one of the regions of the Russian federation without the involvement or complicity of the Federal Authorities may in principle find effective protection elsewhere in Russia. It does however record that such an alternative may be limited due to the cost of moving the undeveloped housing market and above all by the enforcement of strict registration regulations practices in parts of the country. Despite constitutional protections for the freedom of movement the government places some limits on this right and some regional authorities most notably the city of Moscow restrict movement in particular by denying local residency permits to new settlers from other areas of the country. These restrictions although successfully challenged in court remain largely in force and are tolerated by the Federal Government.
32. One city that it cited as being one which is particularly difficult to obtain a registration permit is Stavropol from which the Appellant originates. The other cities are referred to as Krasnodar and St Petersburg.
33. There is no indication in the background papers before the Tribunal that it would not be possible for the Appellant to obtain a registration permit in Rostov where she says she has friends.
34. The Appellant referred to her having medical treatment following the beaten that she received in Stavropol. However there is no medical evidence before the Tribunal.
35. The only issue before the Tribunal is the question of internal relocation and the Tribunal applying the guidelines as referred to in **Robinson [1997] Imm AR 568** find that it would not be unduly harsh for the Appellant to relocate in the Rostov area. It is for the Appellant to make her case and she has not demonstrated that she cannot obtain an external passport from the Russian Embassy and an internal passport to live in Rostov from the embassy in the United Kingdom.
36. The Tribunal notes that the Adjudicator did not feel that he could make a recommendation on the facts of the case but he did comment that he urged the Appellant's solicitors to make representations in relation to the question of her being given exceptional leave to remain. Clearly her situation will change dramatically if she cannot obtain an external passport she may then fall in the category of being a stateless person.
37. There is no error of law in relation to the Adjudicator's findings.
38. The appeal is therefore dismissed.

J R A FOX
VICE PRESIDENT