



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Numbers: AA/03446/2014  
AA/03458/2014  
AA/03459/2014

## THE IMMIGRATION ACTS

Heard at Field House  
On 14 October 2014

Determination  
Promulgated  
On 27 October 2014

Before  
DEPUTY JUDGE DRABU CBE

Between  
S D  
K D  
K D

**ANONYMITY DIRECTION IS RETAINED**

**Appellants**

and

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**Respondent**

Representation:

For the Appellant: Mr Rizwan Ashiq of Counsel instructed by Malik & Malik, Solicitors  
For the Respondent: Mrs Alice Holmes, Senior Presenting Officer

## DECISION AND REASONS

1. The appellants are citizens of Albania. The principal appellant before the First Tier Tribunal was the mother born on 12 December 1982 and the two other appellants are her children born in July 2009 and October 2005 respectively. Their appeals against the Secretary of State's decision refusing to grant them asylum and leave to remain under Article 8 of the ECHR were allowed by Judge J H H Cooper following a hearing at Taylor House on 27 June 2014
2. The Secretary of State sought and was granted permission to appeal by Judge Foudy, a Judge of the First Tier Tribunal. In his decision dated 20 August 2014 the Judge said *inter alia* "The grounds of appeal complain that the Judge erred in failing to take account of background evidence relied upon by the respondent and gave inadequate reasons for concluding that the main appellant would be re-trafficked, having also found that a sufficiency of protection in Albania existed." Judge Foudy went on to say, " The issue of protection available to trafficked women returned to Albania was central to the appeal. The case of *AM & BM* was heard in 2009. The detailed material relied upon by the Respondent, dated 1 November 2013, is suggestive of considerable developments in the protection of such women. It is unclear from the Tribunal whether this information was taken into account or, if it was, why the provisions described in it were thought to leave the Appellant at risk."
3. At the hearing before me I heard submissions from Ms Holmes and from Mr Ashiq. Ms Holmes submitted that the Immigration Judge Cooper should have considered all the evidence and since he had not done so, there was a material error of law in the decision". She argued that the Immigration Judge had erred in placing too much weight on the evidence that there were special reasons why she could not seek protection of the police. When I asked what evidence had the Judge overlooked, Ms Holmes said "the objective evidence". However she could not point to any specific relevant objective evidence that the Judge had ignored. Mr Ashiq submitted that no evidence of any relevance had been ignored or overlooked. He pointed out that the criticism made by the Respondent of the decision made by Judge Foudy was misconceived and simply a disagreement on Judge Coopers' careful and well-reasoned decision. He argued that the Judge was perfectly entitled to find the evidence of the main appellant credible for the reasons given in paragraphs 25 and 26. According to Mr Ashiq, the Judge gave full and proper consideration to the respondent's case for rejecting the claim of the appellants as is evident from the contents of Paragraph 19 of the determination. Mr Ashiq produced a copy of what appeared to be an e-mail which seemingly supported the reasoning of the Judge for allowing the appeals on asylum grounds. I declined to admit this evidence as it was not before Judge Cooper and I was given no good reason why I should admit it at this stage – no notice in fairness having been given of it to the respondent too.
4. I have perused the determination of Judge Cooper with care and in the context of the criticisms made of it in the respondent's grounds of appeal and oral submissions. I am afraid I found none of the criticisms raised to be well founded. I have found the determination to be full and well reasoned. For the reasons given the Judge was entitled to make positive credibility findings in respect of the main appellants claim. He addressed the concerns raised by the respondent about credibility of the appellant but for very good reasons found those to be wrong. This is set out in paragraphs 25 and 26 of the determination. The Judge has given reasons for finding that the main appellant in her circumstances would not receive sufficient protection from the State. That is set out in paragraph 30 and the reasons why she cannot

avail of internal re-location are addressed in paragraph 31. The legal test applied is the correct one. I have not found any error in the decision of Judge Cooper as set out in the determination. It may be that a different Judge could have found differently but that is neither here nor there. The decision of Judge Cooper was evidence based, applying the correct legal tests for findings made and well reasoned.

5. This application for permission to appeal is refused as no material error of law has been found to exist in the decision of the First Tier Tribunal Judge Cooper allowing the appeal of the appellants.

K Drabu CBE  
Deputy Judge of the Upper Tribunal.  
22 October 2014