



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: AA/03655/2014**

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On March 26, 2015**

**Determination Promulgated  
On March 27, 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ALIS**

**Between**

**MISS GB  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Miss Mair, Counsel, instructed by Greater Manchester Immigration Unit

For the Respondent: Mr McVeety (Home Office Presenting Officer)

**DETERMINATION AND REASONS**

1. The Appellant is a citizen of Albania. She claimed to have entered the United Kingdom on October 16, 2013 and claimed asylum on October 18, 2013. The respondent refused her application on May 14, 2014 under paragraph 336 HC 395 and on May 16, 2014 a decision was taken to remove her as an illegal entrant from the United Kingdom by way of directions under paragraphs 8-10 of schedule 3 to the Immigration Act 1971.

2. The Appellant appealed to the First-tier Tribunal under Section 82(1) Nationality, Immigration and Asylum Act 2002 (hereinafter called the 2002 Act), as amended. The matter came before Judge of the First-tier Tribunal Fox (hereinafter called "the FtTJ") on October 8, 2014 and he refused her appeal in a determination promulgated on November 5, 2014.
3. The appellant lodged grounds of appeal on November 18, 2014. Permission to appeal was granted Judge of the First-tier Tribunal Deans on December 4, 2014.
4. The matter came before me on the date set out above. The appellant was in attendance and represented by his counsel.

### **PRELIMINARY ISSUE**

5. I asked Mr McVeety for his views on the two grounds raised in the grounds of appeal. He accepted the FtTJ's credibility findings had been made without any apparent reference to the medical and expert evidence that had been adduced on the appellant's behalf and he also conceded that findings had been made on matters that had not been put to the appellant. He accepted there was an error in law.
6. Miss Mair invited me to remit the matter back to the First-tier Tribunal for a fresh hearing, as full findings of fact would be required. Mr McVeety did not disagree with this approach.
7. I considered Part 3, Section 7.1 to 7.3 of the Practice Statement.
8. Part 3, Section 7.1 to 7.3 of the Practice Statement states:

"Where under section 12(1) of the Tribunals, Courts and Enforcement Act 2007 (proceedings on appeal to the Upper Tribunal) the Upper Tribunal finds that the making of the decision concerned involved the making of an error on a point of law, the Upper Tribunal may set aside the decision and, if it does so, must either remit the case to the First-tier Tribunal under section 12(2)(b) (i) or proceed (in accordance with relevant Practice Directions) to re-make the decision under section 12(2)(b)(ii).

The Upper Tribunal is likely on each such occasion to proceed to re-make the decision, instead of remitting the case to the First-tier Tribunal, unless the Upper Tribunal is satisfied that:

- (a) the effect of the error has been to deprive a party before the First-tier Tribunal of a fair hearing or other opportunity for that party's case to be put to and considered by the First-tier Tribunal; or
- (b) the nature or extent of any judicial fact finding which is necessary in order for the decision in the appeal to be re-made is such that, having regard to the overriding objective in rule 2, it is appropriate to remit the case to the First-tier Tribunal.

Remaking rather than remitting will nevertheless constitute the normal approach to determining appeals where an error of law is found, even if some further fact finding is necessary.”

9. In light of the Practice Direction I agreed the case should be remitted to the First-tier Tribunal for a full hearing on the appellant’s asylum claim. The issue would be whether the appellant’s account was credible. Mr McVeety indicated, as had his predecessor, that if her account was credible then her claim would succeed.
10. I directed that the appellant’s representatives serve by June 2, 2015 any additional evidence in a paginated index and where appropriate a key passage index for any country evidence should be enclosed.
11. The parties should ensure compliance with any directions issued in light of the fact the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 will apply to this appeal from hereon.

**Decision**

12. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law. I have set aside the decision.
13. The appeal is remitted back to the First-tier Tribunal for a fresh appeal hearing under Section 12 of the Tribunals, Courts and Enforcement Act 2007.
14. Under Rule 14(1) The Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended) the appellant can be granted anonymity throughout these proceedings, unless and until a tribunal or court directs otherwise. In light of the fact this is a trafficking case I direct that an order be made.

Date: **March 26, 2015**

DEPUTY UPPER TRIBUNAL JUDGE ALIS  
IMMIGRATION AND ASYLUM CHAMBER

