



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/02149/2016

THE IMMIGRATION ACTS

Heard at Field House  
On 24 May 2017

Decision & Reasons Promulgated  
On 26 May 2017

Before

Deputy Upper Tribunal Judge MANUELL

Between

Miss REIMONDA DOCI  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Moriarty, Counsel  
(instructed by Luqmani Thompson & Partners, Solicitors)  
For the Respondent: Mr P Duffy, Home Office Presenting Officer

DETERMINATION AND REASONS

*Introduction*

1. The Appellant appealed with permission granted by First-tier Tribunal Judge Page on 10 April 2017 against the decision and reasons of First-tier Tribunal Judge Chana who had dismissed the Appellant's protection and human rights appeal. The decision and reasons was promulgated on 13 December 2016.
2. The Appellant is a national of Albania. She had been recognised a victim of modern slavery by the Respondent in the reasons for refusal letter dated 18 February 2016 but her protection claim had been refused on the basis that relocation was reasonable and/or there was a sufficiency of protection. The judge agreed.
3. Permission to appeal was granted by Judge Page because he considered that the judge had arguably erred by stating that the Respondent had doubts about the Appellant's credibility, which was not so.
4. Standard directions were made by the tribunal. A rule 24 notice accepting that there was a material error of law was filed by the Respondent, dated 5 May 2017.

*Submissions*

5. Mr Moriarty submitted that his appeal succeeded by concession, and asked that it be reheard *ab initio* in the First-tier Tribunal. There would be further matters which the Appellant might wish to raise and he was accordingly not in a position to proceed despite the tribunal's willingness to continue immediately.
6. Mr Duffy agreed that the appeal should be reheard in the First-tier Tribunal.

*Discussion – error of law*

7. To a significant extent the decision as to whether there is a material error of law is taken out of the Upper Tribunal's hands when a rule 24 notice conceding an appeal is filed by either party. When that concession is made by the Secretary of State, it is of particular significance, given that the tribunal's jurisdiction is one of public

law and that the Secretary of State retains inherent, extra-statutory powers. Although the tribunal would have preferred to have heard proper argument as to whether any of the First-tier Tribunal judge's alleged errors of law were material, such a course if insisted on may have been controversial, generating further costly and wasteful legal challenges.

8. Certainly the judge erred at [1] of her decision and reasons by referring to the Appellant as male, although that was quickly put right in the next paragraph. At [7] the judge stated that the Respondent had doubts about the Appellant's credibility. That was inaccurate and infelicitous wording at best, because (as noted above) it had been accepted by the Respondent that the Appellant was a victim of modern slavery. Again it can be seen that the error was firmly corrected at [32] and the judge proceeded thereafter to deal with the real issues (relocation/sufficiency of protection) in detail. Unfortunately, at [49] the judge's otherwise forceful critique of the medical report includes a statement that no mention was made by the doctor of the Appellant's working in the United Kingdom. That was a mistake, as mention of working was made in the long, abstruse and jargon laden report: see, e.g., §2.2.11. The judge probably meant to say that there was insufficient discussion by the doctor of the significance of the Appellant's ability to work, given the generally pessimistic tone of the report, although whether such a gloss is permissible would have to await argument. Obviously it is preferable for judges to state their intended meaning plainly.
9. The tribunal records these matters so that the next judge can avoid repeating such errors, whether or not they were truly material. It may well be that examination of the current objective and country background evidence will lead to the same outcome. That remains to be seen. Material errors of law having been conceded by the Respondent, the onwards appeal is allowed to that extent. No interpreter was available and it was not possible to proceed to a rehearing in the Upper Tribunal.

**DECISION**

The onwards appeal is allowed

The decision and reasons is set aside because of material error of law

The appeal must be reheard at Hatton Cross on the first available date by First-tier Tribunal judge (except Judge Chana)

**Signed**

**Dated 24 April 2017**

**Deputy Upper Tribunal Judge Manuell**