



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/09379/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at** North Shields  
**On** 31 August 2017

**Decision Reasons Promulgated  
On 6 September 2017**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DOYLE**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**And**

**FESTIME GURI  
(NO ANONYMITY DIRECTION)**

Respondent

**Representation:**

For the Appellant: Ms R Petterson, Senior Home Office Presenting Officer  
For the Respondent: Ms L Brakaj, Iris Law Firm

**DECISION AND REASONS**

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having considered all the circumstances and evidence I do not consider it necessary to make an anonymity direction.

2. The Secretary of State for the Home Department brings this appeal but to avoid confusion the parties are referred to as they were in the First-tier Tribunal. This is an appeal by the Secretary of State against a decision of First-tier Tribunal Judge J Hillis, promulgated on 22 February 2017 which allowed the Appellant's appeal against the respondent's decision to refuse her protection claim.

3. The Appellant was born on 13 September 1987 and is a national of Albania. On 19 August 2016, the Secretary of State refused the Appellant's protection claim.

### The Judge's Decision

4. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge J Hillis ("the Judge") allowed the appeal against the Respondent's decision on asylum grounds and on article 2 and 3 ECHR grounds.

5. Grounds of appeal were lodged and on 12 June 2017 Judge Woodcraft gave permission to appeal stating

The appellant, a citizen of Albania appealed against a decision to refuse to grant her asylum arguing that she would be at risk upon return because she would be disowned by her family having refused to enter a forced marriage and she would be re-trafficked. The very brief grounds of onwards appeal disagree with the Judge's factual conclusions and point to a typographical error at paragraph 47: *'The asylum appeal is admissible as the appellant has failed to show she faces a real risk of persecution on return.'* This is not the only such error, the determination begins at paragraph 1 describing the appellant as a male citizen of Albania. It is difficult however to say that these errors by themselves indicate such a lack of care in the determination as to undermine the Judge's conclusions.

More important is the complaint at paragraph 3 of the grounds that the Judge made findings against the evidence documented in the determination. The Judge indicated at paragraph 34 that he was following the country guidance case of TD [2016] UKUT 92 and found that the appellant could not be expected to relocate to the capital, Tirana. Arguably the Judge gave inadequate reasons for his findings at paragraphs 35 to 39 why what was described in TD as a reasonable degree of protection to the Horvath standard would not apply to this appellant. The latter ground may be argued.

### The Hearing

6. (a) For the respondent Mr Petterson moved the grounds of appeal. She took me to 41 of the decision where the Judge finds that the appellant is highly educated but has been exploited. She told me that nowhere in the decision does the Judge explain the manner in which the appellant fits the profile of the appellants in TD and AD (Trafficked women) CG [2016] UKUT 92 (IAC). She told me that the appellant was 29 years of age at the date of hearing, and so is not a young girl who could be misled by false

promises. She told me that the Judge's decision is infected by an assumption and that, although the Judge has quoted from relevant country guidance, he has failed to follow it.

(b) Ms Petterson told me that it is accepted that the appellant has been trafficked and exploited; it is accepted that the appellant has been disowned by her family, but argued that the appellant is not so vulnerable that she cannot safely internally relocate to Tirana. She told me that the correct reading of the country guidance case indicates that internal relocation is a viable alternative for this appellant. She urged me to set the decision aside.

7. For the appellant, Ms Brakaj told me that the focus in this case is on the question of internal relocation to Tirana. She told me that the Judge took account of the correct country guidance in referring to TD and AD (Trafficked women) CG [2016] UKUT 92 (IAC) and that between [34] and [39] the Judge carefully considers the appellant's profile in line with the guidance given in that case. Ms Brakaj took me through the appellant's medical records (contained in the appellant's bundle before the First-tier). She argued that the appellant falls within the risk categories detailed in the head notes to TD and AD, in part because of her mental health difficulties, her feelings of guilt and her desire to self-isolate. She told me that the decision does not contain an error, material or otherwise, and urged me to allow the decision to stand.

### Analysis

8. In TD and AD (Trafficked women) CG [2016] UKUT 92 (IAC) it was held that much of the guidance given in AM & BM (Trafficked women) Albania CG [2010] UKUT 80 (IAC) is maintained. Where that guidance has been amended or supplemented by this decision it is in italics: (i) It is not possible to set out a typical profile of trafficked women from Albania: trafficked women come from all areas of the country and from varied social backgrounds; (ii) Much of Albanian society is governed by a strict code of honour which not only means that trafficked women would have very considerable difficulty in reintegrating into their home areas on return but also will affect their ability to relocate internally. Those who have children outside marriage are particularly vulnerable. In extreme cases the close relatives of the trafficked woman may refuse to have the trafficked woman's child return with her and could force her to abandon the child; (iii) *Some women are lured to leave Albania with false promises of relationships or work. Others may seek out traffickers in order to facilitate their departure from Albania and their establishment in prostitution abroad. Although such women cannot be said to have left Albania against their will, where they have fallen under the control of traffickers for the purpose of exploitation there is likely to be considerable violence within the relationships and a lack of freedom: such women are victims of trafficking;* (iv) *In the past few years the Albanian government has made significant efforts to improve its response to trafficking. This includes*

widening the scope of legislation, publishing the Standard Operating Procedures, implementing an effective National Referral Mechanism, appointing a new Anti-trafficking Co-ordinator, and providing training to law enforcement officials. There is in general a Horvath-standard sufficiency of protection, but it will not be effective in every case. When considering whether or not there is a sufficiency of protection for a victim of trafficking her particular circumstances must be considered; (v) There is now in place a reception and reintegration programme for victims of trafficking. Returning victims of trafficking are able to stay in a shelter on arrival, and in 'heavy cases' may be able to stay there for up to 2 years. During this initial period after return victims of trafficking are supported and protected. Unless the individual has particular vulnerabilities such as physical or mental health issues, this option cannot generally be said to be unreasonable; whether it is must be determined on a case by case basis; (vi) Once asked to leave the shelter a victim of trafficking can live on her own. In doing so she will face significant challenges including, but not limited to, stigma, isolation, financial hardship and uncertainty, a sense of physical insecurity and the subjective fear of being found either by their families or former traffickers. Some women will have the capacity to negotiate these challenges without undue hardship. There will however be victims of trafficking with characteristics, such as mental illness or psychological scarring, for whom living alone in these circumstances would not be reasonable. Whether a particular appellant falls into that category will call for a careful assessment of all the circumstances; (vii) Re-trafficking is a reality. Whether that risk exists for an individual claimant will turn in part on the factors that led to the initial trafficking, and on her personal circumstances, including her background, age, and her willingness and ability to seek help from the authorities. For a proportion of victims of trafficking, their situations may mean that they are especially vulnerable to re-trafficking, or being forced into other exploitative situations; (viii) Trafficked women from Albania may well be members of a particular social group on that account alone. Whether they are at risk of persecution on account of such membership and whether they will be able to access sufficiency of protection from the authorities will depend upon their individual circumstances including but not limited to the following: (a) The social status and economic standing of her family (b) The level of education of the victim of trafficking or her family (c) The victim of trafficking's state of health, particularly her mental health (d) The presence of an illegitimate child (e) The area of origin (f) Age and (g) What support network will be available.

9. In this case the focus is entirely on internal relocation. The challenge that the respondent takes to the decision is that the Judge has failed to correctly follow country guidance.

10. The accepted facts in this case are that the appellant has been a victim of trafficking and exploitation. What has happened to the appellant has become known to her parents and they have disowned her. The appellant's parents had arranged a marriage for the appellant in Albania.

For her own reasons, the appellant rejected the arranged marriage. The rejection of the arranged marriage creates another reason for the appellant's parents to disown her. The appellant argues that with that profile she cannot be safe anywhere in Albania. The respondent argues that because the appellant is an educated woman, and because of her age, she can safely relocate to Tirana.

11. At [32] and [33] of the decision, the Judge considers the background materials and finds that there are "*significant shortcomings*" in protection offered by the state against trafficking in Albania and that limited progress has been made by the Albanian government in tackling trafficking. At [33] the Judge finds that the background materials indicate that there is a lack of adequate protection and a significant risk of re-trafficking.

12. At [34] the Judge clearly takes guidance from TD and AD (Trafficked women) CG [2016] UKUT 92 (IAC). Between [36] and [40] the Judge sets out his reasons for finding that in this case there is not a sufficiency of protection. Between [41] and [43] the Judge considers internal relocation and finds that, in the appellant's particular circumstances, internal relocation is not a viable option.

13. Permission to appeal was granted with a focus on paragraphs [35] to [39] of the decision because part of the finding in TD and AD is that there is a reasonable degree of protection to the Horvath standard in Albania. Headnote (iv) of TD and AD says

There is in general a Horvath-standard sufficiency of protection, but it will not be effective in every case. When considering whether or not there is a sufficiency of protection for a victim of trafficking her particular circumstances must be considered.

14. Between [34] and [43] the Judge considers the appellant's particular circumstances. Having considered her circumstances, the Judge finds that the appellant is a vulnerable woman with mental health difficulties stemming from her experience of being trafficked, and then disowned. He finds that the appellant is one of the group of women identified in TD and AD who will not be sufficiently resilient to deal with discrimination and social isolation, so that she falls within the profile set out in the latter part of headnote (vi) of TD and AD. The Judge finds that the background information indicates that re-trafficking is a realistic prospect.

15. The Judge manifestly takes guidance from the correct country guidance case. He carefully considers the appellant's own circumstances before finding that the appellant falls within a risk category identified in TD and AD. The Judge finds that because the appellant falls within a risk category, the appellant's case is one in which the Horvath standard sufficiency of protection which exists "*in general*" will not be effective for this appellant.

16. The Judge's findings between [34] and [43] are guided by and consistent with the country guidance case.

17. In Shizad (sufficiency of reasons: set aside) [2013] UKUT 85 (IAC) the Tribunal held that the Upper Tribunal would not normally set aside a decision of the First-tier Tribunal where there has been no misdirection of law, the fact-finding process cannot be criticised and the relevant Country Guidance has been taken into account, unless the conclusions the Judge draws from the primary data were not reasonably open to him or her.

18. In this case, there is no misdirection in law & the fact-finding exercise is beyond criticism. The decision is not tainted by a material error of law. The Judge's decision, when read as a whole, sets out findings that are sustainable and sufficiently detailed.

## **CONCLUSION**

**19. No errors of law have been established. The Judge's decision stands.**

## **DECISION**

**20. The appeal is dismissed. The decision of the First-tier Tribunal stands.**

Signed Paul Doyle  
September 2017  
Deputy Upper Tribunal Judge Doyle

Date 1