



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/12728/2016

THE IMMIGRATION ACTS

Heard at The Royal Courts of Justice, Belfast  
On 16 May 2018

Decision & Reasons Promulgated  
On 30 May 2018

Before

UPPER TRIBUNAL JUDGE LANE

Between

EK  
(ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Lungley, instructed by Tim McQuoid Solicitors  
For the Respondent: Mr Duffy, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, EK, is a female citizen of Albania who was born in October 1989. Her application for international protection was refused by the respondent by a decision dated 27 October 2016. The respondent accepted the appellant is Albanian but otherwise rejected her claim as untrue. The appellant claimed that her husband in Albania owed money and because of this she was herself at risk. In March 2014, she claimed to have been abducted and sexually assaulted. A similar incident occurred in November 2014. She left Albania in December 2014 and travelled to the United

Kingdom with the assistance of an agent. In addition, the appellant claimed to have converted from Islam to Christianity. She claimed that her conversion would put her at risk in Albania.

2. The First-tier Tribunal (Judge Farrelly) in a decision promulgated on 26 July 2017, dismissed the appeal. The judge did not find the appellant to be a credible witness. The appellant has minor children with her in the United Kingdom. The judge considered the best interests of the children [51] and concluded that they would be able to adapt to living at home in Albania, the country of their nationality.
3. The grounds of appeal assert that the appeal had been “decided on the basis of adverse credibility findings rather than the evidence”. I am not entirely sure what that sentence means. However, the grounds are correct in observing that the judge heard from a “religious pastor” at the hearing but made no findings in respect to his evidence. Indeed, at [33] the judge makes a reference to the appellant’s claimed conversion in the context of the screening interview. He records that no reference was made to the conversion in that interview. Otherwise, save for simply recording that “I then heard from a religious pastor” at [22], the question of the appellant’s claimed conversion is not referred to again in the decision. Mr Duffy, for the Secretary of State, acknowledged that the judge had failed to make findings on the pastor’s evidence. However, he submitted that there were other separate and unconnected findings in the decision which would have led the judge in any event to reject the credibility of the appellant and, importantly, there had been no objective material put before the First-tier Tribunal which would indicate that a convert to Christianity from Islam would be at risk in Albania.
4. I have no doubt that the judge has erred by making no findings at all in relation to the evidence of the witness. However, what the judge says at [33] is not a bare denial of the appellant’s claim to have converted to Christianity, only an observation that she had made no reference to the conversion in her screening interview. If there had been before the First-tier Tribunal evidence to show that converts to Christianity may be at risk in Albania, then I have no doubt at all that the judge’s error would have been material. However, it is clear from the materials which were before the judge that Mr Duffy’s submission, namely that there is nothing to suggest that converts to Christianity are at risk in Albania, is a valid one. Mr Lungley, who appeared for the appellant, did not seek to contradict Mr Duffy. It follows that, even if the judge had made findings on the evidence of the pastor and even if he had found that the appellant was a genuine convert to Christianity, he would not have concluded that she would be at real risk for that reason in Albania. Therefore, I agree with Mr Duffy, that I should refrain from setting aside the decision notwithstanding the judge’s error.
5. The appellant challenges the judge’s decision on his treatment of photographic evidence produced by the appellant. However, I would agree with the judge that a photograph of a person whom the appellant simply indicates is her brother and whose face shows sign of facial bruising does little in itself to support the appellant’s claim. I conclude that the judge did not err by describing the photographs of “little probative value”.

6. The appellant complains that the judge failed to have proper regard to medical evidence. The judge properly directed himself to *JL (Medical reports – credibility) China* [2013] UKUT 00145 (IAC). The judge did not err by referring to the fact that the medical report dealing with the appellant’s mental condition had, to a very large extent, been based upon what the appellant herself had related to the doctor. As Mr Duffy pointed out, the judge did not reject the medical evidence out of hand but found, in the light of his other findings as regards the appellant’s credibility, the report should only be given limited weight. The appellant states that the doctors had no cause to question her version of events and that their reports should therefore not be criticised for having relied upon that account. That submission is without merit. Doctors are not to be criticised for relying upon what they are told by an appellant as the basis for their own opinion evidence but, equally, where that account is found to be lacking in credibility, the weight attaching to the expert opinion evidence is likely to be limited.
7. The appellant also complains that the judge made no findings on evidence from the school of the children of the appellant which indicated that the children would suffer harm if they were to be removed to Albania. It is not necessary for the judge to refer to each and every item of evidence in his decision. I have no reason to find that the judge did not consider all the evidence, including the school reports, when he concluded at [51] that the children would be able to adapt to life in Albania. There was nothing in the school reports which would put the judge on notice that the children would suffer significant or irreversible harm if they were removed from the United Kingdom. In very many cases, education professionals dealing with children will advise that their education may suffer harm if it is disrupted. It is necessary for the Tribunal, as it has in this case, to take such evidence into account but to carry out a wholistic assessment of all the evidence in reaching its determination. I am satisfied that that is what Judge Farrelly has done in this case.
8. Finally, the appellant complains that no weight has been given to the evidence of a community worker who had written to the Tribunal in support of the appellant’s appeal. I make the same point which I have made above regarding the school reports. I have no reason to suppose that the judge has ignored any of the evidence in reaching its determination.
9. Importantly, there are a number of significant findings regarding the appellant’s credibility which are not referred to in the grounds of appeal. The judge identified a number of internal inconsistencies in the appellant’s evidence, noting that her “claim has grown in the telling” [49]. I am reminded that the First-tier Tribunal Judge is required to carry out a robust assessment of the evidence and to make findings accordingly. In this instance, and for the reasons given above, I see no reason for the Upper Tribunal to interfere with his findings.

### **Notice of Decision**

10. This appeal is dismissed.

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 29 May 2018

Upper Tribunal Judge Lane