



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: PA/01529/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 8<sup>th</sup> May 2019**

**Decision & Reasons  
Promulgated  
On 5<sup>th</sup> June 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE LEVER**

**Between**

**MISS E P  
(ANONYMITY RETAINED)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms F Clarke of Counsel

For the Respondent: Ms N Willocks-Briscoe, Home Office Presenting Officer

**DECISION AND REASONS**

**Introduction**

1. The Appellant, born on 2<sup>nd</sup> May 1996, is a citizen of Albania. The Appellant had made application for asylum. The Respondent had refused that application on 19<sup>th</sup> January 2018. The Appellant had appealed that decision to the First-tier Tribunal and her appeal was heard by Judge of the First-tier Tribunal Lucas sitting at Taylor House on 5<sup>th</sup> February 2019. The judge had dismissed the Appellant's appeal on all grounds.

2. Application for permission to appeal was made on the Appellant's behalf and was granted by the First-tier Tribunal on 2<sup>nd</sup> April 2019. It was found arguable that the First-tier Tribunal had erred in failing to give adequate weight to the country expert and medical report in assessing the credibility of the Appellant's account.

### **Submissions on behalf of the Appellant**

3. Ms Clarke made reference to the Grounds of Appeal submitted in this case to the Upper Tribunal. It was submitted that the judge had failed to properly consider or give adequate weight either to the country expert or the medical reports.

### **Submissions on behalf of the Respondent**

4. It was submitted that the judge had looked at the reports and indeed at paragraphs 18 to 20 had summarised the contents of the medical evidence. It was conceded thereafter the judge did not expressly return to the medical evidence when looking at credibility. It was further conceded that paragraph 36 of the decision may well have disclosed something of an error.
5. I reserved my decision to consider the documents and submissions made. I now provide my decision with reasons. The judge had within the papers before him a lengthy country expert report, medical evidence and a medico-legal report. On the face of it that report linked her problems in Albania with the symptoms found by the Professor which was of a complex psychiatric disorder.
6. It is clear that the judge had seen those reports and indeed made reference to the medical report at paragraph 19 and quoted verbatim the concluding paragraph of the country report at paragraph 22. That was contained within that part of the decision where the judge summarised the evidence in the case and submissions.
7. He began his findings or assessment of the evidence at paragraph 35. Having set out the burden and standard of proof in the next paragraph the judge stated "the Tribunal does not accept that the Appellant was a victim of human trafficking. It relies in part upon the decision made in this regard dated 24<sup>th</sup> August 2016". That decision was the NRM decision concluding the Appellant was not a victim of human trafficking. It would have been open to the judge, after considering all of the evidence to perhaps have agreed with the conclusions of the NRM report. However, that does not appear to be the case in this instance, rather the judge has relied upon that report in terms of reaching his decision.
8. Further, there is no point within the findings of fact and credibility any reference to the medical evidence. It was incumbent upon the judge to consider that evidence in the round when considering credibility. There is nothing within the decision that allows an inference that was done. Had

the judge not relied in part upon the NRM and had looked at the medical evidence in the round when assessing credibility, it is possible he may have reached a different conclusion and accordingly those failures amount to a material error of law in this case.

**Notice of Decision**

9. I find that a material error of law was made by the judge in this case and direct that the decision of the First-tier Tribunal is set aside and that a fresh decision needs to be made in the First-tier Tribunal before a judge other than Judge Lucas.

Anonymity retained.

**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 her or any member of her 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   
Deputy Upper Tribunal Judge Lever.

Date 4/6/19