



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

Appeal Number: PA/03844/2019

THE IMMIGRATION ACTS

**Heard at Field House
On 10th February 2020**

**Decision & Reasons Promulgated
On 3rd March 2020**

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

**X G
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms M Benitez, instructed by Kilby Jones Solicitors LLP
For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Albania born in 1996. She appeals against the decision of First-tier Tribunal Judge Carroll dated 27 September 2019 dismissing her appeal against the refusal of her protection claim on asylum, humanitarian protection and human rights grounds.
2. The Appellant applied for permission to appeal on three grounds:-
 - (1) the failure to consider the risk of trafficking on return to Albania;
 - (2) the failure to consider expert evidence; and
 - (3) unsafe findings of fact as to the Appellant's ability to return to Italy.

3. Permission to appeal was granted by Upper Tribunal Judge Finch on 16 December 2019 for the following reasons:-

“It is arguable that the Judge did not give sufficient consideration to the content of the expert report or case law relating to the risk of being trafficked from Albania as a young woman on her own with child dependents.

It is also arguable that the reasons given for finding that she could return to Italy were not sustainable as they were speculative. As a consequence, there were material errors of law in First-tier Tribunal Judge Courtney’s (sic) decision and it is appropriate to grant permission to appeal.”

Submissions

4. Ground 1: Ms Benitez submitted that although the Appellant did not claim to be a victim of trafficking her return as a single mother with two illegitimate children would expose her to a risk of trafficking and the judge erred in law in failing to consider that ground at all. The Appellant was 22 years old, a single mother with two children. She came from Northern Albania, lacked education and was suffering from depression. The judge failed to take into account her personal circumstances and the risk to her on return to Albania.
5. Ground 2: Ms Benitez submitted that the judge appeared to dismiss the expert report on the basis that there was an incorrect reference to the Appellant working as a prostitute. The judge failed to take into account the expert’s conclusion at page 38 of the report and the risk as a lone female returning to Albania.
6. Ground 3: Ms Benitez submitted the possibility that the Appellant could return to Italy, because she was in possession of an Italian residence card, was irrelevant to the consideration of whether she would be at risk on return to Albania. It was not clear from the judge’s decision how this conclusion had affected her reasoning.
7. Ms Everett submitted that at [15] the judge set out the Respondent’s view and was therefore aware of the Appellant’s claim to be identified or targeted in Albania on the basis of her status as a single woman. She also set out in summary the content of the expert report at [21] and [22]. Ms Everett submitted it was clear that the judge was well aware of the need to consider whether the Appellant was at risk on return as a single mother. However, the judge concluded that the Appellant had not been rejected by her family and therefore would not be returning to Albania without their support. There was also evidence that the Appellant could obtain protection and support from NGOs.

8. Ms Everett pointed out that the Appellant's negative credibility finding was not challenged. Accordingly, the Appellant would not be returning to Albania as a single mother without the support of her family and she would not be at risk following country guidance: TD and AD (Trafficked women) CG [2016] UKUT 92(IAC). The judge had found that the Appellant was not a credible witness and therefore she did not have the vulnerabilities that would bring her within the risk categories identified in TD and AD.
9. In response, Ms Benitez submitted that the judge's finding at paragraph 23(c) was inadequate to support the conclusion that her family had not rejected the Appellant. The judge should have made a positive finding that the Appellant would be returning to Albania with the support of her family. The judge had failed to do so. It was not possible to say that the error was immaterial because there was no clear finding on whether the Appellant would not have the support of her family on return to Albania and would therefore be vulnerable.
10. Further, the judge failed to give reasons for the weight she attached to the expert report and, since it was accepted that the Appellant's family was in Italy, their support in Albania was limited. The judge's implication that the Appellant could return to Italy had infected her findings on risk on return.

Conclusions and Reasons

11. The judge found at [25] that the Appellant was not credible as to the circumstances in which she claimed she was compelled to flee Italy or as to her claimed fear of return to Albania and she gave cogent reasons for coming to this conclusion at [23]. There was no challenge to the judge's credibility findings. Accordingly, the judge rejected the Appellant's claim to be at risk of domestic violence from her partner, ER. She rejected the claim that ER would be able to locate the Appellant in Albania. She rejected the claim that the Appellant did not have the support of her family and she found that the Appellant's overall credibility was undermined by her failure to claim asylum en route to the UK.

Ground 1

12. The Appellant did not claim she had been trafficked and she was not a victim of trafficking. Her case was not put forward on the basis that she had been trafficked or that it was in any way relevant to her presence in the UK. Ms Benitez argued that TD and AD applied and the Appellant would be at risk on return as a young single mother rendered vulnerable because of her lack of education and her depression. However, on the facts found by the judge the Appellant would not be returning as a single mother without family support. The judge rejected the Appellant's claim that her family had rejected her on the basis of her relationship with ER at [23(c)].

13. The letter produced in support of this part of the Appellant's claim was inconsistent with her evidence about her relationship with ER and her explanation for how she obtained the document was contradictory. The judge attached little weight to that evidence and, in view of the overall conclusion rejecting the Appellant's claim that she was compelled to flee Italy, the judge's conclusions at [23(c)] were sufficient to establish that the judge rejected the Appellant's claim to be lacking family support. Accordingly, the Appellant would not be returning to Albania without support from her family and she did not come within the risk categories identified in TD and AD.

Ground 2

14. At page 38 of the report, the expert was asked whether the Appellant, as a single woman, would be able to relocate within Albania and be able to access employment and support? He stated:

"On the issue of internal relocation within Albania, in order to avoid the risk of being located, the Appellant would face a number of difficulties. The absence of family support would make it harder for the Appellant to secure employment, which in turn would increase her vulnerability and increase the risk of her falling into the hands of criminal networks that operate in Albania.

...

Furthermore, in Albanian traditional culture single women would be considered as being in the charge of their fathers. Property owners or employers often demand to speak to the father, brother or other male relative of a woman before they will enter into any kind of agreement with her. Traditionally to enter into an agreement with a young woman without the intermediation of the men of that family may be considered to have dishonoured the family, a slight that can only be repaired by taking revenge against one of the men from that family that caused the dishonour."

15. The judge set out some of the passage quoted above at [21]. It is apparent from [24] and [25] that she considered the expert report in concluding that the Appellant was not a credible witness. She placed no reliance on one aspect of the expert report, which she referred to at [24], after seeking clarification from the Appellant that she had not been forced to work as a prostitute. There was no error of law in the judge's treatment of the expert report. Having found the Appellant's claim to be totally incredible, the Appellant has failed to show that she would be returning to Albania without family support.

Ground 3

16. Ms Benitez accepted that ground 3 was dependent on establishing the other two grounds. In any event, the Appellant's ability to return to Italy was not relevant to the judge's earlier sustainable findings that she was not credible and not at risk on return to Albania.

Conclusion

17. The Appellant's case was put forward at the appeal before the First-tier Tribunal on the basis that the Appellant was a victim of domestic violence. The judge concluded at [26] that, notwithstanding her negative credibility finding, there was sufficient protection. She found that there were organisations to assist the Appellant with housing, security, reintegration and who worked with Albanian social services to help women re-enter the community.
18. The judge appreciated the factual basis of the Appellant's claim and had taken into account the expert evidence. There was no material error of law in the judge's decision to dismiss the appeal on asylum, humanitarian protection and human rights grounds. Accordingly, I dismiss the Appellant's appeal to the Upper Tribunal.

Notice of Decision

Appeal 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 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.

J Frances

Signed

Date: 17 February 2020

Upper Tribunal Judge Frances

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

J Frances

Signed

Date: 17 February 2020

Upper Tribunal Judge Frances