



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/00187/2019

THE IMMIGRATION ACTS

Heard at Field House
On 10 February 2021

Decision & Reasons Promulgated
On 10 March 2021

Before

UPPER TRIBUNAL JUDGE PITT

Between

M P
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Azmi, Counsel, instructed by French & Company

For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer

DECISION AND REASONS

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.

1. This is an appeal against the decision issued on 10 March 2020 of First-tier Tribunal Judge Law which refused the asylum and human rights claim brought by the appellant.
2. The appellant is a national of Albania and was born in 1991. She came to the UK on 8 February 2016, claiming asylum on arrival. On 23 October 2018 the National Referral Mechanism (NRM) found that she had been a victim of trafficking. On 27 December 2018 the respondent refused her asylum and human rights claim.
3. The appellant appealed against the refusal and in a decision issued on 21 May 2019, First-tier Tribunal Judge Fox refused her appeal on all grounds. However, in a decision dated 13 September 2019, Deputy Upper Tribunal Judge Chamberlain found an error of law in the decision of the First-tier Tribunal such that it had to be set aside to be re-made *de novo*. The appeal therefore came before First-tier Tribunal Judge Law on 28 February 2020 with the decision refusing the appeal on all grounds following on 10 March 2020. Permission to appeal to the Upper Tribunal was granted on 11 August 2020.
4. The appellant's asylum claim maintained that after she married she went to live with her husband's family and had a baby on 18 August 2011. In the same year her husband left and she has not known his whereabouts since then. The appellant remained living with her husband's family until 2015. In 2015 she met a man, M, on a bus. This man gained her trust and she agreed to travel to Italy with him and her child. Once in Italy she was forced by M to work as a prostitute. An Albanian client eventually agreed to help her leave and she travelled via Rome to Gran Canaria from where she flew to the UK on 8 February 2016.
5. The First-tier Tribunal set out the basis of the appellant's appeal paragraph 11 of the decision:
 - "11. The appellant adopted her witness statement dated 5 March 2019 and was tended for cross-examination. I note from paragraph 6 of her statement that the appellant does not believe that the police in Albania could protect her from M as they are corrupt and M is a very powerful businessman. She also says that she fears her brother will want to find her and take action against her for the dishonour she has brought to her family. She says that she would not feel safe in a shelter and would be without any support if she had to return to Albania. Her brother could find her as Albania is a very small country and she would have to travel to her home area to obtain ID documents in order to register elsewhere. Employers would not want to give her a job once they discovered she was a single mother with a young child. She says that she had not been able to describe her medical condition during the screening interview as she had only just arrived in the UK and not yet seen a doctor to discuss her symptoms; she had since been prescribed anti-depressant medication and had attended counselling sessions, but those sessions had now stopped as funding for an interpreter was not currently available. She says that having attended school in [K] her family then moved to [D] where she worked as a seamstress and she lived in [M] with her husband which was half an hour's drive from [K]. The family now lived in various parts of Albania, ([M], [L] and [K]) and her youngest brother who she

feared the most was living in Tirana with his wife and children as explained in her Home Office interview.”

6. The First-tier Tribunal Judge noted in paragraph 24 of her decision that the respondent accepted that the appellant had been a victim of trafficking and had a subjective fear of mistreatment on return to Albania. The judge identified in that paragraph:

“There are outstanding issues about whether that fear is objectively well-founded both in her home area and in the rest of Albania, and whether, if there is a part of Albania where the appellant would be safe, it would be reasonable for her and her child to go there.”

7. In paragraphs 25 to 30 of the decision the judge considered the evidence on the appellant’s mental health. She had been referred by her GP for counselling and, at various times during her period of stay in the UK, had been on anti-depressants. At the time of the hearing she was awaiting assessment and counselling from Nottingham Sexual Violence Support Services (NSVSS). The judge concluded in paragraph 30:

“30. There is no psychiatric report in this case, but based primarily on the GP’s letter I am satisfied that the appellant suffers from depressed mood and is being treated with sertraline. She has been assessed as someone who might benefit from counselling, but that has not yet taken place, through no fault of hers.”

8. In paragraph 34 the judge accepted that the undisputed facts before her were that the appellant would not be able to live with her own family or with her husband’s family on return. The crux of the case was, therefore, whether it was reasonable to expect the appellant to access sufficient protection on return in a shelter for victims of trafficking.

9. The judge went on in paragraphs 31 to 37 to consider the country guidance case of TD and AD (trafficked women) (Albania) CG [2016] UKUT 0092 (IAC) and set out the submissions made for the appellant and respondent.

10. In paragraph 39 the judge made the following findings concerning the appellant’s mental state and how this would impact on her on return to Albania:

“39. There is no psychiatric evidence in this case to suggest that the appellant’s health would deteriorate on return. While she was diagnosed by her GP as being depressed and prescribed medication accordingly, it is also clear from his letter that the appellant has been able to come off the medication at times. She has also been attending College at some stage. I am without expert evidence as to the cause of her depression, whether it is caused solely by her sexual exploitation or whether it is also attributable to the uncertainty which asylum seekers face while their claim is being considered; in this case, the appellant still faces the uncertainty which began when she claimed asylum almost four years ago. I find that the appellant’s depressed moods do not result in physical symptoms and that it has not been shown that she requires counselling; however, it would be available on return as the current language barrier would not be a problem.”

11. In paragraphs 40 to 42 the judge considered the degree of seriousness of the mental state of the appellants in TD and AD, reminding herself that each case had to be considered on its merits. The judge concluded in paragraph 43 that the appellant would be able to return to a shelter for trafficked women for up to two years or possibly more. She would be without family support but would have basic day-to-day assistance. It was likely that she would have access to counselling and would be offered vocational training. Nothing suggested she would be unable to access that support or work because of her mental health problems. The judge concluded that the appellant would access counselling as she had expressed a wish to do so whilst in the UK. The judge found in paragraph 44 that the appellant's anti-depressant would be available to her in Albania as would other medical care and would receive assistance to pay her rent after leaving the shelter.
12. The judge addressed the risk from M and the appellant's brothers in paragraph 45 of the decision. The judge found:
 - "45. I am not satisfied that the appellant would be at risk from re-trafficking by M since she does not believe him to be connected to the police or politics and it is not likely that "a construction businessman" would have sufficient inside knowledge to be able to access registration records or find out from others that she had returned to Albania and registered. Likewise, I am not satisfied that she would be at risk from her family; she said that her youngest brother whom she fears is not connected to the police or politics and the only occupation she knows about for him is working in a café. She has never suggested that she is at risk from her estranged husband's family. There is the possibility of re-trafficking by a different person, but her age means that she is not in the target group and I am not satisfied that re-trafficking is reasonably likely in her circumstances."
13. The judge therefore concluded that the appellant was not at risk on return from her family or M and would be able to access sufficiency of protection in a shelter and that it was reasonable for her to do so.
14. The first ground, set out in paragraphs 2 to 5 of the written grounds, contends that the judge did not "give due weight to the evidence of the Appellant's mental health". The letter from NSVSS dated 20 February 2020 showed that the appellant needed specialist counselling as her needs were "too complex" for more mainstream counselling. A letter from Let's Talk Well Being dated 4 October 2019 also set out that the appellant's treatment plan was for "specialist long term counselling".
15. It is not my view that the First-tier Tribunal failed to assess correctly the appellant's evidence concerning her mental health. The judge accepted that the appellant had mental health problems and noted that she had been referred for counselling; see paragraphs 30, 39, 43 and 44. She was entitled to find that there was no formal psychiatric evidence or detail of the reasons for the appellant's difficulties or any evidence suggesting that her condition would deteriorate on return to Albania; see paragraphs 30, 39 and 43. There is no dispute that appropriate medication would be available, as found in paragraph 44.

16. Further, the country material showed that specialist counselling for victims of trafficking was available in the shelters and after leaving the shelters. The US Department of State 2019 Trafficking in Persons Report: Albania (USDSR) indicated that the shelters provided a variety of support including medical care, free healthcare and counselling. The report indicates on page 4 of 6 that “observers reported professional staff and good quality of care at shelters”. The respondent’s Country Policy and Information Note (CPIN) Albania: People Trafficking dated March 2019 indicates in paragraph 2.4.11:

“Victims of trafficking are provided with free healthcare; this includes mental healthcare outside shelters. In addition, shelters usually have a psychiatrist. The HO FFT were told by one interlocutor that there are few opportunities for long-term mental health support but by another that a greater level of psycho-social support is offered to those leaving shelters and that this is provided for as long as it is needed.”

Paragraph 11.5.1 sets out that:

“Every person who approaches the shelters is subject to a mental health assessment and a report is produced. Depending on the level of treatment required and severity, it can be dealt with in either the shelter or the person can be sent to a specific centre.

The director of the NRCVHT spoke of a specific example of a person who had mental health issues, and they have been undergoing treatment in the centre for two years now.

Normally, the shelters are equipped with a psychiatrist.”

The report goes on in paragraph 11.5.1 to state:

“The head of mental health and addictology at the Ministry of Health said psycho-social support is offered to people who come out of shelters, they will get more support than others and there is no time limit on how long they are monitored in the community – it depends on the diagnosis.”

17. The evidence before the First-tier Tribunal was therefore that the appellant would be offered specialist counselling on return for an extended period of time and that she would be able to access that support. On that basis, it was open to the judge to find that this aspect of the evidence indicated that the appellant could be expected to return and access the support provided in the system of shelters that had been established for trafficked women in Albania. Given the clear acceptance of the appellant’s mental health problems, including the referral for counselling and the examination of the evidence on whether she could access treatment on return, it is odd that the judge stated in the final sentence of paragraph 39 that “it has not been shown that she requires counselling”. That statement is clearly incorrect but that is not material given that elsewhere the decision identifies, correctly, that the appellant can receive the specialist counselling that she needs on return and thereafter.
18. The second ground of appeal maintained that the First-tier Tribunal judge erred in her assessment of whether the appellant faced a risk on return from her in-laws, her brothers and M. The grounds took issue with the judge’s failure to give weight to the letter from her mother dated 13 November 2019 which maintained that the

appellant would be at risk from her violent brothers on return, both having criminal records, and would come under pressure from her husband's family as, according to Albanian culture, they should have control of her daughter and were in a position to decide who she should marry at the age of 14.

19. I did not find that this ground had merit. In paragraph 34 of the decision the judge indicates that it was accepted by the respondent that the appellant could not live with her own family or with her husband's family. The judge did not go behind this concession but found that the appellant could relocate because of the support available in shelters for victims of trafficking. The grounds do not dispute the appellant's evidence that "neither her brother nor M had links to the police or politics in Albania"; see paragraphs 34 and 45 of the decision. The judge was therefore entitled to find in paragraph 45 that this meant that it was not shown that the appellant's brothers or M would be able to find her or harm her on return given that she could access support from the shelter system.
20. Further, the grounds do not dispute that the appellant herself had never suggested that she was at risk from her estranged husband's family. The judge was entitled to rely on this in paragraph 45 even if the letter from the appellant's mother set out her concern that the appellant and her daughter could be pressurised or harmed by her in-laws. Also, as before, the judge reached a lawful conclusion in finding that the appellant could relocate and be protected in the shelter system. Nothing in the materials provided suggested that her in-laws had contacts that would enable them to trace or harm her. The CPIN indicates in paragraph 9.12.2 that police provide armed security for the state shelters and private security companies provide security for the NGO run shelters. The same paragraph identifies:

"The victim's civil registration is the NGOs' office address rather than the shelter address so that even a corrupt or unprofessional police officer with access to the civil registration system cannot compromise the victim's location."

Paragraph 2.4.8 of the CPIN indicates:

"By law, the police have a duty to ensure the confidentiality of data related to trafficking victims. The database is secure, data is entered by a designated person, and only the Responsible Authority has access to it. Sources spoken to by the HO FFT were in agreement that unauthorised access would be difficult and is unlikely."

21. It is therefore my conclusion that the First-tier Tribunal's findings on no risk arising from the appellant's brothers or M on return was lawful. The appellant did not claim to be at risk from her in-laws. Even were such a fear made out objectively, the conclusions on support and protection being available in the shelters applied equally to any potential pressure or threats from the appellant's in-laws.
22. I also did not find that the third ground challenging the judge's approach to the country evidence was made out. The grounds maintained that the judge erred in the assessment of the country evidence, placing too much weight on the CPIN and insufficient weight on the US Department of State Report (USDSR) for 2019. The US DSR provided more up to date information than the CPIN. It identified on page 3 of

6 that there had been a reduction in some of the funding from the Albanian government to the specialised shelters, specifically, that in 2018, in contrast to 2017, “The government did not transfer resources to a fund of seized criminal assets for support services, compared to 4.7 million *leks* (\$43,900) in 2017.”

23. It is not my view that the information about this aspect of the funding for shelters in the UDDSR is sufficient to show that the judge erred in placing weight on the CPIN when considering what support would be available for the appellant on return. The USDSR referred to some difficulties in funding but set out clearly that the shelters continued to offer support to victims of trafficking. Immediately after the comment about the change to the transfer of seized criminal assets into the funding for victims of trafficking, the UDSR indicates that “Funding for NGO-run shelters steadily increased over the past four years” and went to state that there was a “good quality of care at the shelters” and wide range of services available to victims of trafficking notwithstanding these issues. In paragraph 9.3.1 the CPIN sets out that the USDSR for 2018 showed that funds seized from criminal assets was used for the first time in 2017 so it was not that a long-standing or main part of financial support for the shelters had changed when this did not happen in later years.
24. It was therefore my view that the change in financial support identified in the USDSR relied on for the appellant did not show that the judge erred in placing weight on the CPIN and when finding that sufficient support was available in the shelters for the appellant such that it was reasonable for her to relocate .
25. For all of these reasons, it is my conclusion that the decision of the First-tier Tribunal was lawful and does not disclose an error on a point of law.

Notice of Decision

26. The decision of the First-tier Tribunal does not disclose an error on a point of law and shall stand.

Signed: *S Pitt*
Upper Tribunal Judge Pitt

Date: 8 March 2021