



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/04247/2019**

THE IMMIGRATION ACTS

**Heard at Bradford (via Microsoft
Teams)
On 1 October 2021**

**Decision & Reasons
promulgated
On 12 November 2021**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

FK

(Anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Collins instructed by Sentinel Solicitors.

For the Respondent: Mr Diwnycz, a Senior Home Office Presenting Officer

ERROR OF LAW FINDING AND REASONS

- 1.** The appellant appeals with permission a decision of First-tier Tribunal Judge Mensah ('the Judge') promulgated on the 3 July 2019 in which the Judge dismissed the appellants appeal on all grounds.

Background

- 2.** The appellant is a citizen of Albania born on the 2 May 1990. She claimed to have arrived in the United Kingdom in 2016, claimed asylum

on 27 February 2017, which was refused on the 17 April 2019, against which the appellant appealed.

3. The Judge records the appellant stating she was born in Klos, Burrel in Albania although in question 7 of her asylum interview, referred to by Mr Collins, the appellant states she is from Fullqet which is a town located in Albania about 18 miles or 30KM north-east of Tirana.
4. Mr Collins also referred to the reply to question 1.9 of the screening interview in which the appellant when asked of details of her Country and town of birth claimed it was Klos, Burrel, Albania.
5. Klos is a municipality in eastern Albania which lies about 28.5 KM from Tirana and 14 KM from Burrel which is a small town in northern Albania 91 KM from Tirana in the Municipality of Matt.
6. Permission to appeal was refused by another judge of the First-tier Tribunal but granted on a renewed application by the Upper Tribunal, the operative part of the grant being in the following terms:

6. I have considered whether the grounds of appeal are such that permission ought to be granted, despite the delay. The appellant relied on *AM and BM (trafficked women) Albania CG* [2010] UKUT 80 (IAC) and *TD and AD (trafficked women) CG* [2016] UKUT 00092 (IAC). The grounds of appeal argue that having accepted that she did not marry while in Albania, it was not open to the First-tier Judge to find at [40] that she was not satisfied that the appellant remained an unmarried woman. She maintains her contention that she would be returned to Albania as the single mother of an illegitimate child, who could not return to her family as she would be perceived to be 'kurva'.

7. I have considered the judges reasoning. The judge found the appellant to be an unsatisfactory witness. However, it is at least arguable that the judge erred in finding that she was not a single head of household and thus at risk for the reasons set out in *AM and BM and TD and AD*.

Error of law

7. It is important to consider all the findings made by the Judge as a whole and not to only focus on the finding at [40] in isolation.
8. It is also important to bear in mind that the burden of showing an entitlement to international protection lies upon the appellant.
9. The appellant's case is summarised by the Judge at [3] in the following terms:

3. The appellant claims that she is an Albanian national born in Klos, Burrel Albania, who entered into a relationship with a man called [BG] after meeting him at a wedding she attended with her family. [BG] asked her family for permission to marry her but they refused. The appellant says her father then decided to arrange a marriage for her to a man called [A] who she says was a Police officer in Macedonia in March 2016. The appellant refused and says her father became angry and hit her. On 21 April 2016 the appellant fled to Tirana with [BG]. They took a plane to Belgium and stayed with people [BG] knew. [BG] took a labourers job. In August 2016 the appellant found out she was pregnant and initially [BG] appeared happy about this but this changed and he became angry and violent. He told her she needed to move and she was going to Britain. [BG] told the appellant someone would pick them up and so a taxi arrived and they went with the driver. He drove for about 40 minutes to an area with a small mountain and trees. 3 men confronted them and told her to get into their vehicle. She refused but was forced into their vehicle and told her to keep quiet otherwise they would kill her and [BG]. The men indicated they

knew her family and where she was from. On route she was forced to drink coffee and fell asleep. She awoke in a property with another woman and was forced into prostitution. The woman helped the appellant escape the house when she said she was feeling unwell and couldn't feel her baby move. The woman unlocked a door or window and the appellant fled. The appellant says she walked for 30 minutes to a shopping centre and asked for help using the mobile phone of someone she stopped to communicate. This woman took the appellant to her house and the next day the appellant went to the police station.

4. The appellant fears those that sexually exploited her, her family and [BG].
- 10.** The Judge's findings are set out from [13] of the decision under challenge. Having had the benefit of being able to consider not only the documentary but also the oral evidence and submissions the Judge comprehensively rejected the credibility of the appellant's claim.
- 11.** The Judge specifically finds the appellant's claim as to how she acquired her Albanian passport was a clear lie which seriously damaged her credibility. The account was found to be "entirely inconsistent with the evidence from the Albanian authorities".
- 12.** The appellant claimed that [BG] and she had flown out of Albania on 20 April 2016 to Belgium. The Judge refers to a letter from the British Embassy in Tirana in which [BG] had been identified and which confirmed evidence showing that [BG] had left Albania by land on 12 February 2016 and travelled to Greece, returned to Albania on 26 February 2016, and left Albania on 15 April 2017 by land to Greece returning to Albania by aeroplane on 26 May 2017. The significance of this evidence is that there was no record of [BG] flying out of Albania on 20 April 2016 to Belgium as the appellant claimed.
- 13.** The appellant claimed she met [BG] in December 2016 in reply to a question put to her in cross examination which was inconsistent with other aspects of the claim. At [27] the Judge writes:
 27. I consider the appellant's claim to have met [BG] at a wedding in December 2016 entirely lacking in credibility given it is clear she flew out of Albania on 20 April 2016 and claims she left Albania with [BG]. There is no record of [BG] flying out of Albania on 20 April 2016 and the appellant's evidence is they flew out of Tirana airport to Belgium together. The appellant's evidence is she met him at a wedding in the December 2016. This is what she said in the interview and I note there was no attempt to amend or correct that answer. This is what she maintained at the hearing. This, in my view, is an appellant who has sought to learn a script she cannot deviate from and who has been caught out and could not explain this inconsistency despite being given ample opportunity. I have considered whether it is simply a mistake as to the year and perhaps she left met him in December 2015 but given her already damaged credibility I consider this yet another example of a story that simply does not add up because it is not true.
- 14.** The Judge refers to further evidence from the Embassy that checks with the Albanian authorities revealed the appellant had been working at the Diplomatic Hotel in Tirana as a receptionist and then progressing to a manager, such employment commencing in February 2016 until she left in December 2016, making the claim to have flown to Belgium in April 2016 and then to the UK later impossible.
- 15.** The Judge notes evidence showing the appellant gave birth to a daughter on 8 February 2017 which fits in with conception around August

2016 at the time the appellant was working at the Diplomatic Hotel, which she left when she was four months pregnant.

- 16.** The Judge notes at [33] the evidence regarding the appellant's employment, which the Judge accepts as reliable, totally undermines the appellant's claim to have been kidnapped and effectively trafficked.
- 17.** The Judge also refers to problems arising concerning the appellant's account of her alleged escape recording at [33] that the appellant had given an entirely different account at the hearing from that recorded in the interview.
- 18.** The Judge found the appellant's evidence regarding [BG] lacking credibility.
- 19.** At [39] - [40] the Judge writes:

39. I do not accept she has shown even to the lower standard of proof her history is as claimed. I don't accept she has been kidnapped and trafficked as claimed. I don't accept her claimed relationship and separation from [BG] occurred in the way she has claimed or as claimed. I don't accept given the credibility issues she faces any risk from her family, traffickers or [BG]. Whilst it is feasible in some cases that parts of the story may be true whilst other parts untrue, there are simply too many issues in this case for me to conclude any part is true.

40. It is clear the appellant did not marry in Albania but given the absence of any positive findings regarding where she has been and the state of her relationship with [BG]. I am unable to find she remains unmarried. I accept she did not marry in Albania. I am unable to accept she is therefore a single unmarried woman or uneducated. I do not accept she has never worked.

- 20.** The Judge went on to consider the country guidance case of TD and AD from [41] noting difficulties woman found to have been a victim of trafficking may have in reintegrating into the home area on return, which could affect their ability to relocate internally, and also the Country Information and Guidance Report on Albania: People trafficking (December 2018).

- 21.** At [44] the Judge writes:

44. Taking into account the evidence in its totality I find the appellant has failed to demonstrate she meets any of the criteria above. She is a young woman appearing to care well for her daughter and in reasonable health. I do not accept she is vulnerable. I find she has failed to establish she cannot return to Albania and provide adequate care for her daughter.

- 22.** The adverse credibility findings, including the total rejection of the appellant's claim as there was nothing before the Judge to establish the truth of what was being claimed, are findings well within the range of those reasonably available to the Judge on the evidence.

- 23.** The Judge is criticised in the grounds for what is said to be an irrational and unreasoned finding that she was unable to conclude that the appellant remains unmarried. The alleged risk relied upon in the grounds seeking permission to appeal is based upon a claim the appellant will face having to reintegrate as a lone woman labelled as Kurva (which interprets as prostitute, whore, swag) and as a single mother of an illegitimate child. The grounds argue that in such circumstances she could not return to her family.

24. The reason the Judge was not able to make a clear finding that the appellant remained unmarried was that because the claims in this regard, and in relation to all other matters the appellant asserted, had not been shown to be true.
25. There was no evidence from the authorities in Albania that the appellant had married in Albania, which is likely to be the source of the finding by the Judge that it is clear that she had not married, but as nearly everything the appellant claimed from the moment she left Albania has been shown to be a lie the Judge was unable to make findings concerning the actual relationship the appellant had with [BG] which could have included that they had married outside Albania.
26. The Judge was unable to accept the appellant is a single unmarried woman or uneducated as the appellant had not proved she was any of these things.
27. Even if the appellant faced a real risk from her family in Albania the Judge went on to consider the country guidance decision of TD and AD. and the CPIN and the evidence contained therein of a general Horvath level sufficiency of protection in Albania, although whether such protection is available will be case specific. The Judge notes the Secretary of State's position that there was no evidence that those the appellant claims were involved with her would have any influence over the Albanian state. The Judge also notes the country information showing internal relocation is reasonable by reference to the availability of shelters for trafficked women and the ability of a lone woman to relocate to an urban area. It is only having considered this and the headnote of TD in AD at [43] that the Judge arrived at the finding set out at [44].
28. The reality of this appeal is that there was nothing before the Judge to support the claim the appellant will face a real risk on return. The Judge's findings are adequately reasoned. The Judge clearly considered the evidence with the required degree of anxious scrutiny. It is not made out those findings are outside the range of those reasonably available to the Judge on the evidence.
29. I find the appellant fails to establish legal error material to the decision to dismiss the appeal sufficient to enable the Upper Tribunal to interfere any further in this matter.

Decision

30. **There is no material error of law in the Immigration Judge's decision. The determination shall stand.**

Anonymity.

31. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed

Upper Tribunal Judge Hanson

Dated 8 October 2021