



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/12690/2019

**THE IMMIGRATION ACTS**

Heard at Field House  
via Microsoft Teams  
On 9 September 2021

Decision Promulgated  
On 11 October 2021

Before:

UPPER TRIBUNAL JUDGE GILL

Between

A P  
(ANONYMITY ORDER MADE)

Appellant

And

The Secretary of State for the Home Department

Respondent

**Anonymity**

I make an order under r.14(1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the original appellant. No report of these proceedings shall directly or indirectly identify him. This direction applies to both the appellant and to the respondent and all other persons. Failure to comply with this direction could lead to contempt of court proceedings.

The parties at liberty to apply to discharge this order, with reasons.

I make this order because the appellant is a victim of trafficking and also because this appeal relates to a protection claim.

**Representation:**

For the appellant: Mr A Eaton, of Counsel, instructed by Fadiga & Co.

For the respondent: Mr S Walker, Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Introduction and background facts:**

1. The appellant, a national of Albania born on 19 November 2001, appeals against a decision of Judge of the First-tier Tribunal George (hereafter the “judge”) who (following a hearing on 14 October 2020) dismissed his appeal on asylum grounds, humanitarian protection grounds and human rights grounds against a decision of the

respondent of 11 December 2019 to refuse his asylum and humanitarian protection claims and also to refuse leave to remain on the basis of his human rights.

2. Following a referral to the National Referral Mechanism, the appellant was accepted to be a victim of human rights trafficking. His father owed debts. His father handed him over to two people and he was forced to travel to Italy in the summer of 2017. He was stopped by police in Italy and placed in the care of social services for 8 months. In May 2018, he contacted his family and told them where he was. One week later, two people snatched him from the street. He believed his father had given them his address. He was taken to meet the trafficker who told him he had to start working for him to pay off his father's debts. He was made to look after cannabis plants for 2 to 3 weeks. He was then told that he would be taken to the United Kingdom to work for them there. On 13 June 2018, he was put on a lorry. He entered the United Kingdom travelling in the lorry. He subsequently escaped from the lorry and telephoned his brother to pick him up. He was 15 years old when he left Albania. He turned 16 whilst in Italy. As at the date of the hearing before the judge, he was 19 years of age.
3. The evidence before the judge included an expert report dated 24 January 2020 from Ms Miranda Vickers.
4. The issues before the judge were whether appellant was at real risk of being re-trafficked and, if so, whether there would be a sufficient protection for him and/or whether he would have a safe and reasonable internal flight option. The appellant's right to his private life under Article 8 of the ECHR was also relied upon.
5. The judge accepted the appellant's account as summarised at para 2 above, although it would be fair to say that she expressed doubts about certain aspects of his account at paras 137-140. It is not necessary to go into any detail about this, for the purposes of this decision.
6. At paras 149, 160 and 161 of her decision, the judge said:

"149. ... I accept that his fear is genuine. **I have also accepted that the Appellant was handed to the traffickers by his father on account of the latter's debt and I accept the Appellant's account of his father's lack of steady work which meant that the family was in a poor economic situation....**

160. There is then the question of risk of detection by the Appellant's family and the criminal gang. The objective evidence suggests that the prospects of finding employment are poor, given the economic situation in the country as a whole. **However, I am not persuaded that the Appellant would still be regarded as personally liable for his father's debt so long after the incidents relied upon such that the traffickers would be actively seeking him as an adult returnee.** Despite Ms Vickers' comment, in reality she has no substantial grounds for speculating that there is an actual outstanding debt owed by the Appellant's father for which he would be held liable.

161. In the Country Guidance case of BF (Tirana - gay men) Albania CG [2019] UKUT 00093 (IAC) it was held that there is only very limited evidence that an individual would be traced to Tirana by operation of either the registration system or criminal checks at the airport but it is plausible that a person might be traced via family or other connections being made on enquiry in Tirana. **It therefore seems plausible that the Appellant might be identified were he to live in Tirana** but I do not consider him to be at a particular risk because of his father's debt to the traffickers. In this regard, I consider Ms Vickers report at section 13 to take insufficient account of the Appellant's age on return. I accept that the Appellant has subjectively justifiable reasons for not seeking the protection of other members of his family but his married sisters would be options available to him; I see no reason to think

that his extended family would be unable to help him remain apart from the influence of his father and that this assistance will be available to him as well as that from NGOs.”

(My emphasis)

7. The judge went on to find that there would be a sufficient protection available to the appellant at para 163 which reads:

“163. The US Department of State, Trafficking in Persons Report 2019: dated 20 June 2019 records that the Government of Albania does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so (AB page. 181). The failures involve fewer cases passing through the system leading to the "lowest level of reported law enforcement actions in four years" and the lack of proactive identification and enforcement as well as delayed funding for NGO-run shelters. Among other things, this evidences the availability of a reasonable system for protection of victims and potential victims.”
8. At paragraph 167, the judge said “*My judgment about sufficient protection means that internal relocation would be reasonable, should the appellant choose not to live in Tirana.*”
9. The judge therefore dismissed the asylum and humanitarian protection claims and found that the appellant would not face a real risk of a breach of Article 2 and 3 of the ECHR.
10. There is no challenge to the judge's decision that removal would not be in breach of the appellant's right to his private life.
11. The grounds challenge the judge's finding in the third sentence of para 160 (emboldened in the quote above) for the following reasons: (i) the judge gave no reasons for the finding; (ii) the reasons she gave contradicted her reasoning at para 149; (iii) her criticism at para 161 of the conclusion of Ms Vickers of the likelihood of the debt of the appellant's father being outstanding was unreasonable; and (iv) she gave no reasons for finding that the fact that the appellant had attained the age of majority had any impact on the risk of the appellant being pursued by the traffickers. The grounds also challenge the judge's findings regarding sufficiency of protection and internal relocation.
12. At the hearing before me, Mr Walker accepted that the judge had erred in law in reaching her finding at para 161 that there was no reasonable likelihood of the appellant still being regarded as personally liable for his father's debt for the following reasons: (i) the judge erred in relying upon the lapse of time given the short lapse of time; and (ii) the judge erred in relaying upon the appellant being an adult given that he was only 19 years of age at the date of the hearing. Mr Walker said that he could not see that the appellant's age would make a difference to the future risk.
13. I agree that the judge erred in law as follows:
  - (i) The judge did not make a clear finding, in terms, that the debt of the appellant's father was no longer outstanding. If she implicitly made such a finding, there was no evidential basis for it given her reasoning at para 149 (emboldened in the quote above) and the expert evidence of Ms Vickers.
  - (ii) I agree with Mr Eaton and Mr Walker that the judge erred in reaching her finding at para 161 that there was no reasonable likelihood of the appellant still being

regarded as personally liable for his father's debt. The lapse of time was not such as to justify the finding. Although the appellant was 19 years of age at the date of the hearing, there was no evidential basis for the finding that the fact that he was 19 years old made a material difference to the risk, especially given that it is known that victims of trafficking include young adults.

14. It is plain that the finding at para 161 was material to the outcome.
15. I therefore set aside the judge's decision to a limited extent: I set aside: (i) the finding at para 161 that there was no reasonable likelihood of the appellant still being regarded as personally liable for his father's debt; and (ii) the judge's assessment of the future risk, sufficiency of protection and internal relocation.
16. I proceed to re-make the decision on the appeal.
17. The judge found that there was a real risk of the appellant being identified in Tirana by the traffickers. Mr Walker accepted that Tirana is the place of relocation that is usually suggested by the respondent. Mr Walker accepted that the appellant was at real risk of being re-trafficked if returned to Tirana. He accepted that I should allow the appeal on that basis. It is therefore unnecessary to consider whether it would be reasonable for the appellant to internally relocate.
18. The decision letter states that there was no applicable Refugee Convention reason in the appellant's case. At para 147 of her decision, the judge said that there was no reason in principle why a male former victim of trafficking should not be capable of being regarded as a member of a particular social group by analogy with TD and AD (Albania) CG [2016] UKUT (IAC) 00092. She also said that the appellant's fear of being re-trafficked was linked to his status as a member of the particular social group of former victims of trafficking. No issue was taken before me regarding the judge's finding that there was an applicable Refugee Convention reason in this case.
19. I therefore allow the appeal on asylum grounds. Accordingly, he does not qualify for humanitarian protection grounds. His appeal is allowed on human rights grounds (Article 3 of the ECHR).

### **Decision**

The making of the decision of Judge of the First-tier Tribunal George involved the making of any error of law sufficient to require it to be set aside. The decision on the appellant's appeal is re-made as follows:

The appeal is allowed on asylum grounds.

The appeal is dismissed on humanitarian protection grounds.

The appeal is allowed on human rights grounds (Article 3 only).

*Upper Tribunal Judge Gill*

Date: 10 September 2021

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#### **NOTIFICATION OF APPEAL RIGHTS**

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:

2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. **A “working day” means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.**
6. **The date when the decision is “sent” is that appearing on the covering letter or covering email.**