



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

Appeal Number: HU/16849/2018

THE IMMIGRATION ACTS

**Heard at Manchester CJC (via Microsoft
Teams)
On 26 October 2021**

**Decision & Reasons
promulgated
On 25 February 2022**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

VG

(Anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Chakmakjian instructed by Reiss Edwards Solicitors.
For the Respondent: Mr Tan, a Senior Home Office Presenting Officer.

DECISION AND REASONS

1. By a decision promulgated on the 28 May 2021 the Upper Tribunal found an error of law in the decision of the First-tier Tribunal for the following reasons:

19. What gave rise to the challenge by the Secretary of State is that having identified matters that amounted to 'hardship' the only factors the Judge appeared to have added into the assessment from [VG]'s point of view, was the fact that his partner would have to pay the mortgage and that

her hopes of conceiving with him would be diminished, which are said to be insufficient to warrant a finding that the higher threshold of 'undue hardship' had been met.

20. Whilst I accept it is a cumulative assessment the Judge fails to provide any additional assistance in the body of the determination to establish why [VG]'s partner paying the mortgage would be sufficient to amount to 'undue hardship' alone or cumulatively with other factors. Many live in single occupancy households meeting their housing costs themselves. It is not clear in the decision whether the partner would have any financial problems meeting the mortgage or if she could not, what the consequences of the same would be. It was not made out, even if the property had to be sold, that the partner would be homeless.
 21. In relation to the inability to conceive, the Judge fails to set out any legal authority indicating that there is an inalienable right to have a child, even if this is what [VG] and his partner would like to do. There is no discussion in the body of the determination as to the impact upon [VG]'s partner over and above that mentioned at [45] in the assessment of the harshness of the decision.
 22. Whilst it is accepted, as noted above, that there is no objectively measurable standard as to what constitutes undue harshness, I find that the Secretary of State has established legal error in the decision of the Judge for the reasons set out in the grounds.
 23. In relation to the materiality of the decision, it cannot be established at this stage that the outcome will be the same. It may be that with a full and proper examination of the evidence against the guidance provided in HA (Iraq) the decision may be that the appeal is allowed, but until such an exercise has been conducted it cannot be said the error is not material to the decision to allow the appeal. It is not made out the Judge's decision to allow the appeal for the reasons given is within the range of findings reasonably open to the Judge at this stage.
2. The matter returns to the Upper Tribunal today to enable a more detailed consideration of the relevant issues and for it to make findings upon the claim that the effect of the appellants deportation from the UK will be unduly harsh upon his partner B.

Background

3. VG (also referred to as 'V') is a citizen of Albania, who was born on 12 December 1985 and who, following his conviction on 2 February 2018 of one count of conspiracy to conceal, disguise, convert, transfer or remove criminal property, was sentenced to 12 months imprisonment.
4. The appellant was arrested when a vehicle in which he was travelling was stopped by the police as a result of surveillance activity and found to contain £173,000 in cash which was criminal property.
5. In his witness statement dated 12 October 2021 VG writes:
 1. I am an Albanian national, born on 12 December 1985.
 2. I have resided in the UK continuously since 29 September 2011. On 11 November 2013 I was granted Indefinite Leave to Remain in the UK, on which basis I have resided in the UK since.
 3. I have a permanent employment with [-] as a site Supervisor, and I continuously try to improve and develop myself and my career through

various trainings and qualifications. In the past few years, I have completed several courses to allow me to supervise and manage different building projects and sub-construction teams. I have been afforded Key Worker Status by the City of Westminster and I am considered a Critical Transport Worker. Additionally, I have obtained a Certification for Site Management Safety Training.

4. In June 2015, I met the love of my life B and in January 2016 we started living together. We have been together ever since and love each other dearly and truly. B suffers from severe and major depression and anxiety. This is due to the abuse that she subjected prior to meeting me but unfortunately lately her condition has deteriorated again. Since meeting with B, I have wanted nothing more than making her happy and help her gain her lost confidence. Being so close to her, I have watched B grow in her life and career.
5. I care for B, and I love her more than myself and I always wanted to protect and safeguard her. However, I feel as if I am letting her down by being in this difficult situation. When our relationship started, B's mental health improved significantly, but unfortunately now, she is deteriorating, and her anxiety has worsened due to my ongoing deportation case. She is tearful every day and her suicidal thoughts have significantly increased. B always tells me that she cannot even think about going back to Albania as it will be the end of her life. She is extremely worried that we will be separated again as she was very fragile when I went to prison. I cannot even think what might happen if we were to be forced to separate, both of our lives would be destroyed as I can't imagine my life without B as well.
6. B is a generous, kind and loving person and seeing her so unwell is unbearable. Without the support she is used to I fear she will break. She is already showing signs of extreme distress, including poor sleep, anxiety, inability to concentrate and memory difficulties. B experiences panic attacks whenever she is overwhelmed by the thoughts of what might happen with us. I am always here to support her, but I am frightened that one day I might not be, and this thought is killing me. This makes me feel terrible and I know I will never do anything to jeopardise my partner's health again. I would never in life want to put her in a situation like this. B is my life and the idea of us being separated terrifies me too.
7. We are trying for a baby but due to the ongoing distress that we are going through the doctors are saying that B is unable to conceive. We want and ask for a second chance to start our family in the UK with my immigration situation resolved. B and I had our first round of IVF treatment, but this was unsuccessful and now we are waiting for a second chance. All this process in itself is mortifying for us, and now more than ever we have to be near to each other.
8. I cannot imagine my life without B and I ask that you to please allow me to remain in the UK. If I am compelled to return to Albania, we will not be able to have our baby and I am certain B will end up self-harming and I will always feel responsible. I cannot see her hurt, she is the love of my life and I want to always look out for her, protect and love her. I am certain it will be extremely difficult for me to return to Albania but for B this is impossible, let alone unduly harsh. B associates Albania with deep trauma and fear to her life. She cannot recall any positive experiences in there; the thought makes her anxious and only brings back painful memories and nightmares.

9. Thinking that the love of my life will have to go through the suffering she endured in Albania again because of a mistake I made has had a massive impact on me. I am certain that B, in her frail mental state, will not be able to cope with this and I fear it will set off suicidal tendencies as she often talks about them. All these situations that we are going through is making me worried and I fear for B's life and mental health.
10. I am extremely remorseful for what I have done and I wish I could take back what I did. But I cannot and I can't apologise enough. Every day I work hard to become a better person and someone that B and my loved ones can be proud of. I know that I have let everyone down: B, my friends, my family and my community. I am deeply regretful, and have exerted all effort in becoming rehabilitated and return to the community. I am sincerely putting all my effort to become a better man and one day be a role model for B and our children.
11. My only wish is to settle in the UK with B, at our new home that we purchased together in November 2020, and hopefully, be blessed with a child very soon. As a couple, we are extremely hardworking and I believe with time I will be able to prove myself as an asset to those close to me and the UK society as a whole. I promise to all of you that if you give us a second chance, I will be an example for good and will never again disappoint anyone around me.
12. In light of the above, I kindly request I am granted leave to remain in the UK with the love of my life, B. This would enable us to be happy and have the family we always wished for.

6. In her witness statement, also dated 12 October 2021, B writes:

1. I am an Albanian national, born on 8th May 1990. I came to the UK on 8 June 2014 and was granted leave to remain as a refugee on 20 March 2015, I have resided in the UK since. I have been granted Indefinite Leave to Remain in the United Kingdom.
2. I initially claimed asylum as I am a victim of trafficking by the hands of my ex partner, Mr B A. He was sexually and physically abusive towards me and he had planned to abduct me and make me work as a prostitute in Milan. Eventually, I contacted a friend and managed to enter the UK on 8 June 2014. Upon arrival, I was detained and a referral was made for me as a potential victim of trafficking. I claimed asylum on 20 June 2014 and was granted refugee status in the UK following an allowed appeal.
3. Due to the trauma and abuse sustained from my ex-partner, and the continues distress from V's deportation matter, I suffer from various medical conditions, including but not limited to: - Mental health issues - PTSD - Panic attacks - Severe major depressive disorder - Suicidal tendencies - Separation anxiety disorder - Difficulties concentrating - Dissociation associated with CPTSD
4. The first few years in the UK were extremely painful and difficult for me. I was taking antidepressants and suffered from insomnia and disturbed sleep with nightmares (which I still do sometimes). I used to think about what I had been through which made me feel profoundly anxious and worried to be found. I felt vulnerable, frightened and depressed. I was provided with specialist support from Sandwell Women's Aid who confirmed the traumatic experiences had negative psychological effects as I became very upset and advised me to seek support to discuss my PTSD. I have also been under the care of my GP, Dr Maha Hijazi since August 2018 who recorded that I had been suffering from mental health

issues including anxiety and depression and was regularly reviewed by the mental health team. To date, I suffer with poor mental health and my condition is very much dependant on the environment I am in. I am usually able to complete daily tasks when in a stable or settled setting, but I always rely on V's support even on a good day. My mood is impacted by anxiety and I am often prone to panic attacks. It is very difficult for me to concentrate and I always struggle to remember things.

5. I can confirm I first met V in June 2015 and we moved in together in January 2016. We continue to love each other and be in a genuine relationship. V has transformed my life. When we started to settle together, everything seemed normal again. I kind of even forgot what had happened to me. Life has more meaning and I can't imagine living my life without him. I am reliant on him emotionally and physically. The fear of losing V is breaking me. With him into my life, my mental health issues stabilised but since he is at risk of deportation, I have greatly exacerbated and I often consider self-harming. Without him I can't live and I am scared of what I would do to myself if V is not part of my life and next to me. V is everything I have and if he is not with me to support, I would kill myself.
6. I cannot move to Albania with V to start our family life in there due to my life being at risk and my previous trauma and abuse in there. I fear risk of persecution and risk of being trafficked upon return to Albania. The thought of being compelled to return there with V, aggravates my PTSD and depressive disorder, and if I am forced to return there, I am sure I am gone die or kill myself. Further to this, the prospect of losing my freedom, stability, job, mental health support and treatment in the UK is extremely disturbing and causes additional distress.
7. I continue to suffer from anxiety, depression and panic attacks and in the last few months, my mood has considerably deteriorated as a result of the thought of V being deported. The Home Office have suggested that we can continue our relationship in distance, however, to me and in my condition this is not possible. We have our family life settled in the UK and want to create our family here as this is my home.
8. Without V, I will kill myself. Without him I am nothing. He is the only person that I can trust everything in my life and he is the one who provides me with the support that I daily need. Colleagues and friends are not my family. They do not even know that I am refugee because I am embarrassed to tell them. They can't be a sort of support on my condition.
9. V is my best friend, he is my best therapy. Without him, I am definitely lost. The Home Office said that I have support from my GP and the mental health services but this is not 24/7 care. They do not live with me. They are not there when I need them, when I am home alone and have panic attacks, when I feel that life has no meaning, when I cry for just how unfair our life is, when I feel worthless, but V no, he is always there to care for me, to love me, to hug me, to give me peace - no one else is. Not even my family.
10. V is a wonderful, kind and loving man. I know he made a mistake but we all have at list once in our life. I made the biggest mistake of falling for my ex and ended up abused and almost being trafficked. I know V better than anyone else and he is amazing. Everyone loves him. Everyone knows what a wonderful person he is and how hard he works to improve himself every day.

11. When he went prison, for the first 3 months, I was suicidal every single day. I did not eat, sleep or meet anyone. I could not focus on my life. The only thing that kept me going was that he would be out soon and we would be together again and continue our marital life. I knew he would come home soon to protect me, care for me and love me as he always did. However, following the potential deportation against him, I am completely shattered. It is killing me and no one is noticing its impact. This is killing me slowly and I am now at the edge.
 12. My mental health is deteriorating. It is very hard for me to concentrate on things, especially in the last 2 years. Things are getting worse and worse and nothing is getting better. I think I am coming to a stage where I cannot cope anymore. Even at work it takes me a very long time to concentrate on tasks that I have to do. It is very hard for me to socialise and continue having a normal life.
 13. V and I are in a genuine relationship and we are trying to have our own family. We have been trying to have a baby for over two and a half years and that's not happening because of the ongoing stress and instability caused by V's deportation matter. We completed our first round of IVF in June-July 2021, which unfortunately and sadly was unsuccessful and we are now on the waiting list for our second round. Throughout the whole treatment/procedure and experience V has been extra caring and loving, he also did all my injections and ensured that I am not distressed and well looked after. Unfortunately, my brain works only on one thing and that is for V not to be deported and far from me.
 14. I can not return back to Albania. I consider England my home and here is where I feel safe. In November 2020, we also purchased our first home together and hopefully soon we will have our first baby. I started volunteering for the NHS in 2014 before becoming a full-time member of staff. I now work in a more senior position within the Integrated Care Team at University College London Hospitals and I am passionate for what I do and most importantly, my patients. Unfortunately, this situation and what we are going through is not allowing me to focus and provide the care that I would like to.
 15. From the bottom of my heart I ask you to please allow V and me to be together, have our family and settle here in the UK. I cannot imagine my life without V and for the reasons outlined above; I request he is granted leave to remain in the UK.
7. It is accepted that the appellants deportation will be harsh upon B leaving the question in issue being whether it is unduly harsh.

The law

8. The appellant is a 'medium level' offender having been sentenced to between 12 months and 4 years imprisonment.
9. The correct approach to the deportation of foreign criminals is prescribed by Part 5A of the Nationality Asylum and Immigration Act 2002, which was introduced by the Immigration Act 2014, and more particularly section 117C which states:

117C Article 8: additional considerations in cases involving foreign criminals

- (1) The deportation of foreign criminals is in the public interest.
 - (2) The more serious the offence committed by a foreign criminal, the greater is the public interest in deportation of the criminal.
 - (3) In the case of a foreign criminal (“C”) who has not been sentenced to a period of imprisonment of four years or more, the public interest requires C's deportation unless Exception 1 or Exception 2 applies.
 - (4) Exception 1 applies where—
 - (a) C has been lawfully resident in the United Kingdom for most of C's life,
 - (b) C is socially and culturally integrated in the United Kingdom, and
 - (c) there would be very significant obstacles to C's integration into the country to which C is proposed to be deported.
 - (5) Exception 2 applies where C has a genuine and subsisting relationship with a qualifying partner, or a genuine and subsisting parental relationship with a qualifying child, and the effect of C's deportation on the partner or child would be unduly harsh.
 - (6) In the case of a foreign criminal who has been sentenced to a period of imprisonment of at least four years, the public interest requires deportation unless there are very compelling circumstances, over and above those described in Exceptions 1 and 2.
 - (7) The considerations in subsections (1) to (6) are to be taken into account where a court or tribunal is considering a decision to deport a foreign criminal only to the extent that the reason for the decision was the offence or offences for which the criminal has been convicted.
- 10.** The statutory provisions are reflected in Part 13 of the Immigration Rules as considered in *NA (Pakistan) v Secretary of State for the Home Department* [2016] EWCA Civ 662, and *HA (Iraq) v Secretary of State for the Home Department* [2020] EWCA Civ 1176.
 - 11.** The appellant has been sentenced to less than four years' imprisonment and so falls within the category of being a "medium offender". He asserts that that his deportation will involve a breach of article 8 of the European Convention on Human Rights, relying on Exception 2, on the basis he has a genuine and subsisting relationship with a qualifying partner in the UK and that the effect of his deportation will be unduly harsh upon his partner.
 - 12.** The focus of the submissions made by the advocates during the hearing was on this point for if it is found Exception 2 is satisfied the

Secretary of State's own assessment of the proportionality of any interference would mean the appellant's removal not being proportionate to any interference in his protected family life he has with his partner.

- 13.** In MK (Sierra Leone) v Secretary of State for the Home Department [2015] UKUT 223 (IAC) the Upper Tribunal directed itself as follows (at para. 46):

"... 'Unduly harsh' does not equate with uncomfortable, inconvenient, undesirable or merely difficult. Rather, it poses a considerably more elevated threshold. 'Harsh' in this context denotes something severe, or bleak. It is the antithesis of pleasant or comfortable. Furthermore, the addition of the adverb 'unduly' raises an already elevated standard still higher."

- 14.** That self-direction was followed in the later case of MAB (USA) v Secretary of State for the Home Department [2015] UKUT 435 and was quoted with approval by Lord Carnwath in his judgment in KO (Nigeria) v Secretary of State for the Home Department [2018] UKSC 53; but which must now be read as being subject to two passages from the judgment in HA (Iraq).

First, at paras. 51-52 which read:

"51. The essential point is that the criterion of undue harshness sets a bar which is 'elevated' and carries a 'much stronger emphasis' than mere undesirability: see para. 27 of Lord Carnwath's judgment, approving the UT's self-direction in MK (Sierra Leone), and para. 35. The UT's self-direction uses a battery of synonyms and antonyms: although these should not be allowed to become a substitute for the statutory language, tribunals may find them of some assistance as a reminder of the elevated nature of the test. The reason why some degree of harshness is acceptable is that there is a strong public interest in the deportation of foreign criminals (including medium offenders): see para. 23. The underlying question for tribunals is whether the harshness which the deportation will cause for the partner and/or child is of a sufficiently elevated degree to outweigh that public interest.

52. However, while recognising the 'elevated' nature of the statutory test, it is important not to lose sight of the fact that the hurdle which it sets is not as high as that set by the test of 'very compelling circumstances' in section 117C (6). As Lord Carnwath points out in the second part of para. 23 of his judgment, disapproving IT (Jamaica), if that were so the position of medium offenders and their families would be no better than that of serious offenders. It follows that the observations in the case-law to the effect that it will be rare for the test of 'very compelling circumstances' to be satisfied have no application in this context ... The statutory intention is evidently that the

hurdle representing the unacceptable impact on a partner or child should be set somewhere between the (low) level applying in the case of persons who are liable to ordinary immigration removal (see Lord Carnwath's reference to section 117B (6) at the start of para. 23) and the (very high) level applying to serious offenders."

Second, at para. 55, the Court of Appeal cautioned against treating KO (Nigeria) as having established a touchstone of whether the degree of harshness goes beyond "that which is ordinarily expected by the deportation of a parent".

15. In this paragraph the Court also stated:

"As explained above, the test under section 117C (5) does indeed require an appellant to establish a degree of harshness going beyond a threshold 'acceptable' level. It is not necessarily wrong to describe that as an 'ordinary' level of harshness, and I note that Lord Carnwath did not jib at UTJ Southern's use of that term. However, I think the Appellants are right to point out that it may be misleading if used incautiously. There seem to me to be two (related) risks. First, 'ordinary' is capable of being understood as meaning anything which is not exceptional, or in any event rare. That is not the correct approach: see para. 52 above. There is no reason in principle why cases of 'undue' harshness may not occur quite commonly. Secondly, if tribunals treat the essential question as being 'is this level of harshness out of the ordinary?' they may be tempted to find that Exception 2 does not apply simply on the basis that the situation fits into some commonly-encountered pattern. That would be dangerous. How a child will be affected by a parent's deportation will depend on an almost infinitely variable range of circumstances and it is not possible to identify a baseline of 'ordinariness'. Simply by way of example, the degree of harshness of the impact may be affected by the child's age; by whether the parent lives with them (NB that a divorced or separated father may still have a genuine and subsisting relationship with a child who lives with the mother); by the degree of the child's emotional dependence on the parent; by the financial consequences of his deportation; by the availability of emotional and financial support from a remaining parent and other family members; by the practicability of maintaining a relationship with the deported parent; and of course by all the individual characteristics of the child."

16. The above cases involved children. This case involves an adult, but it has not been shown the legal principles in relation to the assessment of undue harshness are equally applicable. It is, at the end of the day, a question of fact.

17. To answer the underlying question identified by the Court of Appeal it is necessary to identify the harshness that it is found would result

from the appellant's deportation and to consider why that harshness fell outside the range of 'acceptable harshness'.

- 18.** It is also necessary, having identified the degree of harshness, to provide adequate reasons for why that harshness is of a sufficiently elevated degree to outweigh the public interest.

The medical evidence

- 19.** The appellant has provided a very detailed report relating to B written by Dr Roxane Agnew-Davies Clinical Psychologist specialising in violence against women dated 2 August 2021, relevant part of which are as follows (reference to paragraph numbers in brackets is to other sections of the report which is in the appellants bundle if required. The name of VG's partner has been changed to 'B'. Bar this the passages below are as they appear in the original document):

Section 4 My Opinion

4.1 B's mental health and capacity to function

- 4.1.1 Given the account of her history (2.1: 2-9) I assessed B for Post Traumatic Stress Disorder (PTSD) as defined by the new version of the European International Classification of Diseases (ICD-11; Appendix 2). PTSD is a disorder that may develop following exposure to an extremely threatening or horrific event or series of events. It is characterised by all of the following:

- 1) Re-experiencing the traumatic event or events in the present in the form of vivid intrusive memories, flashbacks, or nightmares. These are typically accompanied by strong or overwhelming emotions, particularly fear or horror, and strong physical sensations;
- 2) Avoidance of thoughts and memories of the event or events, or avoidance of activities, situations, or people reminiscent of the event or events; and
- 3) Persistent perceptions of heightened current threat, for example as indicated by hypervigilance or an enhanced startle reaction to stimuli such as unexpected noises. The symptoms must persist for at least several weeks and cause significant impairment in personal, family, social, educational, occupational or other important areas of functioning.

- 4.1.2 I assessed B's current symptoms against the criteria underlined, with the basis on which I drew my conclusions given in parentheses after specific points. Her account of being subjected to physical and sexual abuse (2.1: 4-7) in the context of threats to exploit her (2.1: 6-8) and kill her (2.1.11) would be regarded as a severely traumatic series of events.

- 4.1.3 B's ratings of Intrusions or re-experiencing of traumatic events were more severe than found in more than 99% of the population (3.7.29). She referred to having visions (3.2.15) when she sees what she experienced in the past (3.2.16) and that have happened over a long time (3.3.15). She has sudden disturbing memories and flashbacks very often (3.7: 4, 27). When pressed to describe specific memories that recurred, she referred to her ex-partner and the rape, although clearly found that distressing to acknowledge (3.3.16) and disclosed that her flashbacks not only cause her physical distress (3.4.10) but impact on her sleep (3.3.21). Nightmares in which she is trapped or running away are also highly consistent with this symptom cluster (3.5.9; 3.7.9). She also has images and dreams of her father, not unusual for people who have been bereaved (3.3.16; 3.7.21).

- 4.1.4 B exhibited more pronounced Defensive Avoidance than found in 99% of the population (3.7.29). She makes active efforts, albeit unsuccessfully, to avoid, suppress or forget distressing thoughts and feelings about the past (3.4.14; 3.7: 25, 27). She finds it very hard to refer to her flashbacks to the rape or even to say the word (3.3: 16-18), evident in her dislike of my questions during the assessment (3.4.15; 3.5.4). She does not wish even to accept that it happened and that the risk of sexual exploitation drove her away from her family and life as she knew it (3.3: 17, 18). She told her therapist she was not ready to work on the trauma, especially because she was trying to conceive and did not want to risk jeopardising the embryonic implantation (3.2: 16, 19; 3.7.25). She stopped doing many things, including socialising, to reduce her panic attacks (3.4.17; 3.7: 7, 16). She avoids places that remind her of trauma, especially returning to Albania and journeys associated with V's imprisonment (3.7: 16, 17).
- 4.1.5 Dissociation is an unconscious form of Avoidance, a subconscious attempt to distance the psyche from trauma, often associated with child abuse. B described more severe Dissociative symptoms on the TSI than found in 99% of people (3.7.29). Her pretence that her life is not her own, and that her brain is 'weird' as if she is watching her life as a film is highly characteristic of dissociative phenomena (3.4.14; 3.7.26). Her spontaneous descriptions of being there, but not there, of paralysis, and of her mind going blank are all highly characteristic of depersonalisation, a feature of dissociation in which the person feels outside of their body (3.4: 2, 13; 3.7: 5, 8, 9, 19). These overlap with her difficulties in concentration and can undermine her capacity to function; for instance, when crossing the road, losing things or going past her bus stop (3.5.15).
- 4.1.6 B presented with a very severe, persistent sense of heightened threat and fear. Her ratings on the TSI scale measuring anxiety and arousal were more severe than found in 99% of people (3.7.29), cross-validated by her ratings on a specialist measure of anxiety that placed her in the severe range (3.4.1). She lives in terror of her partner being deported and being separated from him (3.2.9; 3.3: 10, 25; 3.4: 5, 7) about which she is heavily preoccupied (3.3.23; 3.4: 6, 8). She has also struggled to control her fear of being found and harmed (2.2.16; 3.8.34) as well as her anxiety about her infertility (3.3.25; 3.4: 7, 8).
- 4.1.7 She reported experiencing panic attacks at least monthly and more frequently in the past (3.2.13 3.3.20; 3.4: 10, 16-20), and over-thinking, predominantly with anxiety provoking cognitions (3.3.22). She described a number of reactions typical of high anxiety, including chest pain and difficulty breathing (3.3.8; 3.4: 3, 4, 5, 10, 11, 12; 3.7: 12, 19); bad headaches (3.3.8; 3.4.5; 3.7.12), palpitations (3.4.10) and physical tension especially in her shoulders (3.3.12; 3.4.4; 3.7.12). Classic symptoms of anxiety she endorsed included shaking (3.4: 4, 7, 8, 11, 18; 3.7.5), dizziness (3.4: 5, 6, 9), feeling nervous and stressed (3.4: 7, 18; 3.7: 13, 14) abdominal discomfort with nausea (3.4.12) and sweating (3.4: 3, 9, 11, 12). I observed non-verbal indicators of anxiety over the course of the assessment (e.g. 3.2.11; 3.3: 14, 21, 22; 3.4: 3, 18; 3.7.5) and she mimed a startle response (3.7.27).
- 4.1.8 In summary, I found B to present with severe and chronic symptoms of all the symptom clusters of Post-Traumatic Stress Disorder. I concluded that she is suffering from PTSD with dissociative features. Her symptoms have a significant negative impact on her capacity to function in daily life (e.g. 3.2: 24, 28; 3.3: 7, 13, 14, 24, 30; 3.4: 18, 19; 3.5: 3, 13-16; 3.7: 6, 9, 13). Her experience of PTSD symptoms including re-living the past has been identified by her therapist (3.2.16) and other professionals (2.1.15).
- 4.1.9 However, B presented with many other symptoms that are not captured by a straightforward diagnosis of PTSD. It could be argued that she has an anxiety disorder, as diagnosed by her GP over her medical history (2.1: 13, 17-18). However, the condition developed after trauma and many of her

symptoms including panic attacks are stressor-related and in my opinion, it is more accurate to diagnose PTSD with panic attacks.

4.1.10 Experts in abuse (e.g. Mechanic, 2004; Zimmerman et al, 2006) have long advocated for a separate diagnosis to reflect the complexity of difficulties encountered by victims. The International Classification of Diseases (ICD-11) has revised their definition of Complex PTSD or Disorder of Extreme Stress Not Otherwise Specified (DESNOS) (e.g. Roth et al, 1997; Herman, 1998). The framework of 'Complex PTSD' came about as a result of widespread acknowledgment in the field that there were complications attached to a simple diagnosis of PTSD for victims of interpersonal abuse.

4.1.11 Complex Post-Traumatic Stress Disorder (Complex PTSD) is a disorder that may develop following exposure to an event or series of events of an extremely threatening or horrific nature, most commonly prolonged or repetitive events from which escape is difficult or impossible (e.g., torture, slavery, genocide campaigns, prolonged domestic violence, repeated childhood sexual or physical abuse). All diagnostic requirements for PTSD must be met. In addition, Complex PTSD is characterised by severe and persistent:

- 1) problems in affect regulation (controlling emotion);
- 2) beliefs about oneself as diminished, defeated or worthless, accompanied by feelings of shame, guilt or failure related to the traumatic event; and
- 3) difficulties in sustaining relationships and in feeling close to others. These symptoms must cause significant impairment in personal, family, social, educational, occupational or other important areas of functioning (World Health Organisation ICD-11 for Mortality and Morbidity Statistics 2019).

4.1.12 It is according to the model of Complex PTSD developed that I further reviewed B's presentation which exceeds the criteria for PTSD (4.1.8). She has reported physical and sexual abuse perpetrated by Mr B (2.1: 4, 5, 7, 9), in the context of his controlling behaviour, stalking and threat to force her into prostitution (2.1: 5-7; 3.3.18) and fear for her life including after his threat to kill her (2.1: 9, 19). These meet the initial criterion for the diagnosis, albeit that she escaped before being subjected to modern slavery.

4.1.13 Difficulties regulating affect (emotion): I reviewed B's disturbances in her capacity to control her emotions in various respects. According to her TSI performance she presents with Depression to a more severe degree than found in 99% of the population (3.7.29) cross-validated by her performance on a specialist measure of depression that placed her ratings in the higher end of the severe range (3.5.1). Her self-report of very low mood and severe distress (e.g. 3.2: 7, 16, 23, 29; 3.3: 13, 15, 17, 20, 29) was evident in her non-verbal behaviours during the assessment, including frequent tearfulness, heavy sighs, her voice breaking and distressed expressions (e.g. 3.2: 1, 3-7, 10, 20, 21, 23, 29; 3.3: 2, 4, 9, 12, 13, 17, 27).

4.1.14 B does not just struggle to contain her sadness but is often overwhelmed by her fears and anxieties, on which I have already reported (3.4.9; 4.1.6, 4.1.7). She made some references to irritability (3.7: 3, 8, 14), especially with her partner (3.5.10; 3.7: 7, 10) although denied aggression (3.3.28; 3.5.10; 3.7.20). Her ratings of anger and irritability while elevated did not obtain statistical significance (3.7.30).

4.1.15 Altered self-perception: B's performance on psychometric measures showed severe disturbances in her subjective well-being (3.3.1) and more impairment in the stability of her identity than found in 96% of people (3.7.29). She described embarrassment and shame about being a refugee (3.2: 4, 5). She feels defeated and different, as well as that she is treated as inferior to people who are British citizens (3.2: 1, 2, 18, 27; 3.3.29). She blames herself for choosing and trusting 'the wrong person;' who destroyed life as she knew it (3.2: 6, 20; 3.3: 2, 29). She now doubts herself and has lost confidence (3.7: 5, 6, 14).

- 4.1.16 She never expected to recover from that betrayal (3.2.7) and now believes that she is nothing without her current partner in her life (3.2: 3, 8; 3.3.4). She feels cursed, a deeply unhappy person that masks her pain and that she will never achieve happiness (3.2.30; 3.3: 4, 27; 3.5.2; 3.7.26). She feels bad about and scared by her mental health problems (e.g. 3.3.4; 3.4.15). She feels bad about herself (3.3.5; 3.5.4) and described herself as a loser (3.3.22) despite awareness that she is kind and that she is not a bad person (3.3: 6, 28; 3.7.15). Her difficulties conceiving have added to her sense of worthlessness (e.g. 3.3: 25, 29) and distress (3.3: 3, 30).
- 4.1.17 Difficulties in relationships: On a positive note, B adores her partner V, feels very close to him and speaks highly of his attributes and support (3.2: 7, 8, 10, 19, 20, 25, 28, 30; 3.3: 5, 12, 17, 23, 27; 3.7: 6, 15; 3.7: 32, 33). However, she is highly dependent on him, does not see a purpose to life without him (3.3: 4, 7, 10; 3.5.5; 3.6.1; 3.7: 10, 23, 24) and is terrified that he may be deported and thereby she will be separated from him (4.1.6; 3.2: 3, 8, 9, 29; 3.3.9; 3.4.5; 3.5.5; 3.6: 1, 2) to the extent that I considered if she had an attachment disorder, as outlined below (4.6; Appendix 3). As this topic is revisited below (4.6: 3-5), suffice to say here that her love and trust in her partner has offset some of the damage done by her traumatic experiences (3.2: 7, 8; 4.1.16).
- 4.1.18 Unlike many victims of trafficking that I have interviewed, B still has positive connections with her mother and sister, and has shared the bereavement of her father's death (3.2: 26, 28; 3.7: 21, 33) even if she has withdrawn from their pity to some extent (3.2.27) and their meeting has been disrupted by the pandemic (3.2.26). She also believes that she is well-liked by her colleagues (3.3: 6, 28) although feels isolated (3.3: 3, 12), partly because she tries to mask her distress from people (3.7.24). She is willing to engage with medical and legal professionals (3.2: 5, 8) and glad to access therapy, albeit not trauma-focussed treatment (3.2: 11- 18; 3.3: 2, 17; 3.4.20; 3.7.3). Her anger towards Mr B has weakened (3.7.4).
- 4.1.19 However, some of these positive indices are counterbalances or outweighed by the negative indicators I found. B presents with a number of relationship difficulties in contrast to her life in Albania before she met Mr B when her life was 'normal' and she had fun with friends (3.2.6). She reported avoiding people (3.5.16; 3.7: 7, 24) and discouraging V from socialising (3.5.3; 3.7.24). She is embarrassed about her past, does not disclose it and does not socialise with work colleagues as she used to (3.2: 4, 5, 23, 24). She does not have close friends (3.2.4; 3.3.27; 3.7.24). She is preoccupied by the behaviours of and feels maltreated by representatives of the Home Office whom she is convinced do not afford her the same respect as British citizens (3.2: 1-3, 18, 27; 3.3: 26, 29; 3.7: 32, 35); she is also troubled by the Judgements in the Tribunals (3.2: 29, 30; 3.3: 3, 10, 26) and how unfair her life is (3.7.15). She has been frightened of being followed and subjected to further harm, although tries to control her anxiety (3.4.17). She is frightened that she would be judged negatively and shamed if her experiences were known even to friends or family (3.2.23; 3.3.19).
- 4.1.20 In summary, I found B suffers from chronic Complex PTSD to a severe extent. I have already given examples of the way in which her psychological distress negatively impacts on her capacity to function in daily life in various respects (4.1.8).
- 4.1.21 Given the number of depressive symptoms I found, and given the frequency of dual diagnoses (of depression and PTSD) in complex cases such as hers (APA, 2013), I also assessed B for symptoms of Major Depressive Disorder. The diagnostic criteria for a Major Depressive Episode, the precursor of the Disorder, is presented fully in Appendix 3, and are five or more of the following:
- depressed mood most of the day, nearly every day;
 - markedly diminished interest or pleasure in all, or almost all, activities;

- significant weight loss or gain, or change in appetite;
- insomnia or hypersomnia nearly every day;
- psychomotor agitation (restlessness) or retardation (slowness);
- fatigue or loss of energy;
- feelings of worthlessness or excessive or inappropriate guilt;
- diminished ability to think or concentrate, or indecisiveness;
- recurrent thoughts of death or suicidal ideation without a specific plan, or a suicide attempt or specific plan for committing suicide.

4.1.22 I have already reported on some aspects of B's severely depressed mood (4.1.13). She has a history of hopelessness offset by the support of her partner (3.2.7; 3.3.4) described herself as an unhappy person (3.2.29; 3.3.27; 3.5.2) her life as destroyed (3.3.2) and she feels very low at the current time (3.2.16; 3.3: 10, 13, 15; 3.5: 6, 9). She has lost interests in pursuits she has previously enjoyed including cooking (3.3: 14, 24; 3.5.3) housework (3.3: 14, 24; 3.5.3) socialising (3.2.24; 3.5: 3, 16) and work (3.5.3) to the extent that her capacity to function has significantly deteriorated (3.2.28; 3.3: 1, 7, 13, 24). She is very distressed about ongoing proceedings (e.g. 3.2.2; 3.3: 4, 9, 10, 26; 3.4.5) as well as her difficulty in having a child (e.g. 3.2.3; 3.3: 3, 15, 19, 29; 3.4.7).

4.1.23 I found evidence of loss of energy and debilitating fatigue that also undermines her capacity to cope with everyday life (3.0.2; 3.3: 6, 7, 13, 20, 21, 24; 3.5.16) but not psychomotor agitation other than an occasional bout of restlessness (3.5.7). B described disturbed eating patterns, including lack of appetite or forgetting to eat (3.4.9; 3.5.11) and then bingeing or eating excessively (3.3.8; 3.5.11). She did not report significant weight change but is aware that her weight might be affected by unhealthy eating patterns and hormone treatment (3.5.12). I found severe disturbances in B's capacity to sleep, with onset insomnia and nightmares (3.3: 8, 13, 21; 3.4: 3, 5, 10; 3.5.9). She has stopped taking medication while she tries to conceive (3.3.21).

4.1.24 B described difficulties in concentration and attention that have got worse over the last two years, including with regards to following conversations and managing work tasks (3.2.24; 3.3.24; 3.5.16; 3.7.9). These overlap with her dissociative symptoms, memory and undermine her capacity to function (4.1.5; 3.5: 8, 14, 15; 3.7: 5, 9, 14). I noted occasional mild lapses of concentration during the assessment (e.g. 3.4: 9, 13; 3.7.27) but she does make conscious effort to compensate for her difficulties (3.5.13). 4.1.25 I do not think that B will attempt suicide under the current circumstances, although she sometimes thinks she would be better dead or that life is not worth living (3.3: 1, 6, 20; 3.4: 9, 16; 3.5.5; 3.6.1; 3.7: 11, 27, 28) and she may not actively try to protect herself in a dangerous situation (3.6.2). However, there are many signs that she is highly likely to attempt suicide if her partner is deported (3.2: 3, 9; 3.3.6; 3.5.5; 3.6: 1, 2; 3.7.11). My opinion is partly based on the heightened suicidal ideation she had when he was in prison, despite their regular contact (3.2: 22, 23). Across the assessment it became clear that she cannot imagine life without being able to depend on his support and comfort while his love and encouragement gives her hope and purpose (3.3: 4, 9, 10, 11; 3.6.2). 4.1.26 In reviewing the interview, I found that B is suffering from chronic, severe Major Depressive Disorder, cross-validated by her psychometric performance on the BDI (3.5.1) and the TSI, which indicated that her depressive symptoms were more severe than found in 99% of the population of adult women (3.7.29). The Disorder co-exists with her chronic Complex PTSD. My opinion in that regard is highly consistent with that of her GP (2.1: 17, 18; 4.1.9). She also presents with features of separation anxiety disorder, discussed below.

4.2 Suspected development timeline

4.2.1 I did not find any indications of trauma in B's childhood either with regard to family dynamics or social circumstances (2.1.1; 3.2.6). In my clinical

experience, Complex PTSD (as diagnosed in her case) is most prevalent amongst women who have experienced intimate partner abuse or trafficking, or children who have directly experienced family abuse. This correlation has been established and replicated in the research literature (e.g. Jones et al, 2001; Mechanic, 1996; Van der Kolk & Fisler, 1995; Cloitre et al, 2014; Henning et al, 1996; Hughes et al, 1989).

- 4.2.2 Factors that influence the severity and duration of PTSD include the severity and type of trauma, availability and type of support, family history and physical health. Individual reactions to traumatic experiences also depend on how often they occur, security of attachments and if there was abuse or neglect in childhood (De Zulueta, 2007; Yehuda et al, 1998). From background documents and the interview, B enjoyed secure attachment bonds with her family members over her childhood. The security of her early life attachments is a positive prognostic marker for her ability to cope with later trauma (e.g. de Zulueta, 2006). She has been able to access positive support from her mother and sister (4.1.18). In other words, these secure attachments are likely to have given her some psychological resources that could protect her to some degree from traumatic experiences. As such, her development of severe psychological difficulties strongly indicate that other factors are at play.
- 4.2.3 B clearly located the onset of trauma and psychiatric distress to her mistake (3.2.6) of falling in love with 'the wrong man' (3.3: 18, 20, 30), that abruptly ended her 'good and normal life' and meant that she had to leave her home and country (3.2.6; 3.3.18). It appeared that she arrived in the UK in 2014 (2.1.11) 'in a state of shock', fear and distress (2.1: 7-9; 3.2.12; 3.4.4) exacerbated by her experience of being stalked and her life threatened even after her escape from Albania (2.1.19).
- 4.2.4 Her diagnosis of Complex PTSD is by definition the outcome of one or more traumatic events. Disorders of Traumatic Stress are not an inevitable consequence of interpersonal abuse, nor the only psychological disorders that might result. Nevertheless, they are a common problem for victims of severe and/or repeated abuse and/or domestic violence (Zimmerman et al, 2006; Herman, 1992). Amongst people with PTSD, many find that their symptoms resolve to a large extent within a short time, especially if they have good social support, as B had (e.g. Dai et al, 2016). However, this is not always the case (e.g. Laffaye et al, 2008).
- 4.2.5 Various studies and reviews (e.g. Schornstein, 1997; Humphreys, 2003; Dutton, 1992; Howard et al, 2013) have identified factors likely to increase the severity and/or duration of PTSD. These factors are:
- The trauma is caused by humans rather than by a natural disaster
 - The trauma was caused by a person known to the victim, rather than a stranger or intruder (as in a car accident or burglary)
 - The experience of violence is personal and individual, rather than shared by many (unlike mass disasters or war)
 - Continued proximity to the perpetrator(s)
 - The trauma being repeated rather than an isolated incident
 - The trauma occurs in a previously safe environment (for example at home, rather than surviving a bomb attack on holiday)
 - There has been rape or sexual violence
 - There is little sympathetic social support
 - There is a history of previous abuse or violation e.g. in childhood

From the history provided, at least seven of these nine factors were applicable to B at some point in time. It is likely that there are eight: her fear of being negatively judged (4.1.19) having been reared in an honour and shame-based culture (2.1.120; 3.6.2; 3.3: 18, 19; 3.7.16) overrides the social support she gleaned from her family (4.1.18), who still do not know the extent of her trauma. This greatly enhances the likelihood that she would develop a severe and long-standing form of psycho-morbidity, as has been found.

- 4.2.6 PTSD Intrusive Events can result from single incidents, such as a road traffic accident. However, that memory is likely to be intermittent and diminish as time passes. B still suffers from symptoms of Intrusion, to a more severe degree than found in 99% of the population (4.1.3). She also makes more active efforts than 99% of the population, albeit unsuccessfully, to avoid these painful, distressing memories, thoughts, and feelings (4.1.4). B's symptoms of Dissociation reflect more extensive psychopathology and are more severe than found in 99% of the population (4.1.5). These are more common in people subjected to severe interpersonal abuse (e.g. Van der Hart et al, 2007).
- 4.2.7 I also found that B presented with a severe, persistent sense of threat (4.1: 6, 7). The account she has given of being subjected to psychological, physical and sexual abuse by Mr BA is consistent with chronic, acute fear from a psychological perspective. However, given that she escaped some time ago, and the duration of his abuse was relatively brief compared to some victims of modern slavery I have assessed, her mental health problems are highly likely to have been aggravated by other factors or stressors than the abuse perpetrated by Mr BA.
- 4.2.8 Research has found that Major Depressive Disorder and PTSD are the most common sequelae of extensive or severe interpersonal abuse (e.g. Howard et al, 2010; Oram et al, 2016). Research reviews (e.g. Cascardi et al, 1999; Golding 1999) report an average rate of depression among abused women of 48%, greatly exceeding that for women in the general population over their lifetime. In UK-based research, women victimised by an intimate partner are at least three times more likely to experience depression than those who were not (Coid et al, 2003; Howard et al 2009; Ferrari et al, 2014). In other words, the chronic comorbid conditions with which B presents are highly consistent with the psychiatric profile of women who have suffered domestic violence or trafficking.
- 4.2.9 In my clinical experience, some of these victims experience a profound sense of loss and develop Major Depressive Disorder when isolated from their families and/or if experiencing social exclusion and discrimination. I note that B has been bereaved by the death of her father which she associated with a significant decline in her mental health (3.2.14). Whilst deaths of family members can impact on symptoms of Depression (Appendix 3), they do not meet the initial criteria for PTSD unless they occur under traumatic circumstances. B had the support of her partner and family to come to terms with her father's illness, even if she still has unresolved grief (3.2: 14, 26, 28; 3.3.19; 3.7: 21, 33).
- 4.2.10 I considered other factors that might have a bearing on the nature and severity of B's current mental illness. Researchers have come to recognise how profoundly post-migration circumstances impact refugee well-being (e.g. Amnesty, 2006; Blackburn & Barker, 2011; WHO, 2000; Miller & Rasmussen, 2010; Momartin et al, 2006; Silove et al, 2007; Steel et al, 2006). Psychosocial stressors such as discrimination, lack of economic opportunity and social isolation some refugees experience after resettlement may predict emotional distress even more than exposure to trauma before or during flight (Pernice & Brook, 1996; Porter & Haslam, 2005; Rasmussen et al., 2010). However, although it is likely that the proceedings added to her mental health problems at the time (2.1: 11, 13- 17) B's immigration status has been settled for some time (2.1.12) such that one might have anticipated her recovery.
- 4.2.11 There are indeed indications that B did begin to regain her mental health, not least in terms of her occupational function but in terms of feeling safer and feeling some distance from Mr BA (2.1.21; 3.4.17; 3.7.4). She attributed this improvement primarily to reclaiming her self-worth as someone who could be loved and safe in the arms of a supportive partner (3.2: 7-10, 25, 30; 3.3: 4, 5, 12, 17, 23, 27; 3.7.6). Various types of psychological and practical support were also of some benefit to her, even before she met VG, and thereafter (3.2: 12-18). However, his support was paramount, not least

because it was accessible more than once a week and in her darkest hours (3.2.8; 3.3.30; 3.7: 23, 24).

- 4.2.12 B's condition and capacity to cope with daily life has significantly deteriorated over the past few years (2.1: 17, 18; 3.2: 24, 25; 3.3: 2, 13, 14, 24; 3.4.6; 3.5: 3, 7, 13-16). Her longing for a healthy family has not only been jeopardised by the separation from her family of origin in the context of her fear of returning to Albania but because of the restrictions imposed in the current pandemic (e.g. 3.2.26) the fear of losing her hard won stability (e.g. 3.3.2) and her yearning for a family in which she is a parent (e.g. 3.3.4)
- 4.2.13 In my view, her recovery has primarily been arrested by the stalling of her hope for a substitute family in the UK when a) her partner is under threat of deportation (2.1.18; 3.2: 19-20, 29, 30; 3.3: 6, 9, 10, 15, 32, 25; 3.4.5; 3.5.5; 3.6: 1, 2) in contrast to her relief and improvement when it was alleviated (3.2.29) b) because of their difficulty in conceiving a child, for which she blames herself (3.2: 9, 10; 3.3: 15, 19, 21, 25, 29, 30; 3.4: 7, 8) c) she feels personally maligned by the UK Authorities, as a secondary trauma (e.g. 3.2: 27, 30; 3.3: 26, 29, 30; 3.4.8; 3.5.2; 3.7: 14, 15, 32) d) fear of returning to Albania and being found, abused, trafficked and/or breaking down (e.g. 2.1: 16, 17, 19, 20; 3.7: 17, 34).
- 4.2.14 Research shows that pre -and post- migratory experiences can combine to cause chronic psychological distress. Mansouri and Cauchi (2006) found that past trauma, combined with family separation and/or social exclusion, and further compounded by uncertainty about the future, resulted in almost chronic states of Anxiety and Depression among a significant number of people granted temporary leave. It is my clinical experience that refugees and asylum seekers living in circumstances of ongoing uncertainty and instability remain in chronic states of stress, which cannot be entirely resolved by psychological treatment.
- 4.2.15 I found that B's psychiatric health and capacity to function deteriorated to a clinically significant extent when VG was imprisoned, despite being able to visit him, to the extent that her depressive disorder was re-triggered and she felt suicidal (3.2: 21-23). While cognizant of the reasons he was convicted as charged and as such that he should bear the penalties (3.2.19) she is bewildered and distressed about the consequent threat to deport him, that she takes as a personal attack, as a function of her Complex PTSD (3.2: 18-20).
- 4.2.16 In summary, to my clinical judgement there is no single causal factor for B's psychological distress. Her presentation is consistent with the cumulative impacts of interpersonal abuse and threat, the death of her father and separation from her family, and post-migratory stressors, predominantly the ongoing threat of separation from her partner VG on whom she heavily depends and whose support had started to go some way to contribute to her psychological recovery, which has now been reversed.

4.3 Basis for my conclusions

- 4.3.1 I do not accept what clients say at face value. My training is to not only to pay attention to the content of a client's conversation and to analyse their ratings but to look for consistencies or discrepancies in the process by which the account is given. I used a number of tools to address the validity and reliability of B's account, including:
- Searching for consistency between B's psychological profile and her account of her experiences (e.g. 4.1: 2, 12; 4.2.4)
 - Analysing her non-verbal behaviours, display of emotions and thought processes and checking them against the content of her speech (e.g. 3.2: 1-7, 9, 11, 20, 21, 23-26, 28-30)
 - Comparing her with other people I have interviewed, both those who have been genuine victims or those who have fabricated or exaggerated their symptoms and/or experiences for their own ends

- Examining her profile against clinical and research reports on the mental health and behaviours of victims of trauma and abuse (e.g. 4.2: 1, 2, 4, 5, 8, 10, 14)
- Cross-checking the consistency between her spontaneous comments with her ratings on various subscales (e.g. 4.1: 3-6, 13, 15)
- Examining TSI scales that test validity and reliability of a client's self-report which B passed from a psychological perspective as deemed by independent test designers (3.7.2).

20. In relation to prospect of B being able to engage in therapeutic intervention to address her identified issues; it is written:

4.4.20 In summary, stabilisation of B's situation and health is necessary (4.4: 6, 7, 9) before she can engage in the specialist trauma-focussed work required by national guidelines (4.4: 8, 10, 14). In the interim, her capacity to function is hampered and her risk of relapse heightened. Moreover, the current circumstances are aggravating both her PTSD and Depressive Disorder.

21. In terms of specific evidence of the impact upon B of the appellant's departure from the United Kingdom as a result of the deportation order Dr Roxane Agnew-Davies writes:

4.6 Impact of VG's enforced departure from the UK on her condition

- 4.6.1 It is well established that social support is a significant predictor of recovery but isolation and lack of support has been found to be a negative prognostic index (APA, 2013; Dept. of Health, 2003; Gordon, 1996). As such, at the most basic level, the impact of VG's departure for an indefinite period would be negative on B's prognosis, mental health and capacity to cope (4.4.1).
- 4.6.2 However, the implications for this case extend beyond the normal range. Fear of separation from loved ones is common after traumatic events such as a disaster. In posttraumatic stress disorder (PTSD), the central symptoms concern intrusions about, and avoidance of, memories associated with the traumatic event itself (4.1: 3, 4), whereas in separation anxiety disorder, the worries and avoidance concern the well-being of attachment figures and separation from them. B presents features of Separation Anxiety disorder that are above and beyond PTSD (e.g. 3.2.22; 3.7: 23, 24), are unusual to find with onset in adulthood and that extend beyond what might be expected in a normal partnership, such as worry that her longing for a child to complete their family will be disrupted by enforced separation from her partner (3.2: 3, 10; 3.3: 15, 25, 29; 3.4.7; 3.7.6).
- 4.6.3 Separation Anxiety Disorder is developmentally inappropriate and excessive, where fear and anxiety about separation from the loved one, or avoidance of separation is persistent, lasting six months or more in adults, and when the disturbance causes clinically significant distress or impairment in social, occupational or other important areas of functioning and is not better explained by another mental disorder (Appendix 3). It can develop after life stressors including immigration and especially after a loss of a relative and traumatic separation from attachment figures, all applicable to this case (3.2.14; 4.1.18).
- 4.6.4 Adults with this disorder are typically overconcerned about their spouse or offspring and experience marked discomfort when separated from them. They may also experience significant disruption in work or social experiences because of needing to continuously check on the whereabouts of a significant other. I found evidence with regard to B not only in her reactions when VG was in prison (3.2: 21-23) but in her terror about his potential removal (e.g. 3.2.9; 3.3: 15, 22, 25; 3.4.5; 3.6.2; 4.1.6).

- 4.6.5 Individuals with separation anxiety disorder often limit independent activities away from home or attachment figures (e.g. not leaving, traveling or working outside the home). B's behaviours in this regard have been aggravated by the restrictions imposed during the pandemic that are only beginning to lift (3.2.24; 3.3.13; 4.2.12). Nevertheless, there are many indications that she is highly dependent on ready access to his support and hypervigilant about their contact (e.g. 3.3.23).
- 4.6.6 My opinion that VG's enforced departure from the UK would be highly detrimental to B's mental health is supported by the research literature. There is consistent evidence about the negative impacts of family separation on refugee mental health and that concerns for the welfare of and desire to reunite with distant family members are priorities for refugees post-migration. For example, Miller et al (2018) found that family separation was a major source of distress for refugees experienced in a range of ways: as fear for family still in harm's way, as a feeling of helplessness, as cultural disruption, as the greatest source of distress since resettlement, and contributing to mixed emotions around resettlement. In addition, family separation significantly contributed to refugees' depression/anxiety symptoms, PTSD symptoms, and psychological quality of life, even after accounting for trauma exposure. In other words, of 26 other types of trauma exposure, family separation was one of only two factors that explained the variance in all three measures of mental health.
- 4.6.7 Given that social support is such an important prognostic indicator, and security of attachment is a key prognostic marker (e.g. de Zulueta, 2006), it is my professional opinion that B's best chance of recovery and meaningful social engagement is to remain in a secure base with VG, by whom she feels loved and with whom she feels safe. B has cited him as the person she has talked most openly about her experiences (3.2.4), who does not judge her (3.2.7) and on whom she can call for immediate support at any time, day or night (3.7: 23, 24; 4.4.4).
- 4.6.8 B's prospects would be much worse without her partner's regular, immediate support. That is not to say that she could not manage a temporary separation, such as when she encouraged VG to attend a relative's funeral in Albania without her but in the expectation that he would return within days and that they would be in regular contact (3.7: 31-33). However, I anticipate that even then her symptoms would worsen.
- 4.6.9 There are complications in this case that exacerbate the likely impact of separation from a partner. These include but are not confined to the threat from the trafficker (4.1.6), the death of her father (4.5.3), restrictions imposed by the pandemic (4.6.5) and the refusal of her sisters' application by the Home Office (3.2: 26-28). Indeed, the proceedings against VG have seriously aggravated B's difficulties in her relationship with the authorities, that are an inherent part of her Complex PTSD as well as her sense of worthlessness (3.2: 1, 2, 18; 3.3: 26, 29; 3.7: 15, 32; 4.1.19; 4.2.13).
- 4.6.10 I have already outlined the contribution of hopelessness and helplessness on Depression (4.1: 15, 16, 22). In my clinical judgement, if B was separated from VG by his enforced departure without the prospect of their reconnection in the UK, she is extremely likely to spiral into a deepening Depression, which will further incapacitate her and undermine her ability to cope with everyday life. At present, B sustains some glimmer of hope with regards to the current case and possible resolution, which alleviated her depression as when she heard of a positive judgment about VG's right to appeal (3.2.29) before her hope was dashed, when her condition worsened again. This ABAB design (if such an experiment was to occur) when she improved after first meeting VG, deteriorated when separated from him, improved when reunited and then deteriorated under threat of being separated is strong support for the causal import of VG's security or insecurity of immigration status on B's mental health (3.2.25; 3.3: 14, 15; 4.4.1). My opinion is highly consistent with that of B's GP in this regard (2.1.18).

- 4.6.11 I believe that at present, B is operating in 'survival mode' in response to the current crisis and threat of VG's removal, reflected in her somewhat resentful stance, which is part of the 'fight' aspects of a 'fight or flight' stress response. Whilst in such a state, individuals may draw on reserves of adrenalin to survive threatening circumstances. However, this state is highly psychologically and physiologically taxing and is a short term, unsustainable response to immediate threat (4.1: 6, 7, 13). Extended over time, this can lead to chronic stress responses such as chronic pain, digestive issues, reduced immune functioning, heart problems and numerous other difficulties, as the impact on the body is far-ranging. In the long-term, individuals may psychologically collapse into 'learned helplessness' or depression and dissociation.
- 4.6.12 It is my clinical judgement her current circumstances aggravate B's symptoms of CPTSD and MDD and that VG's enforced departure from the UK would seriously and significantly worsen her mental health and prognosis including by:
- Rapidly increasing her suicidal ideation and significantly increasing the likelihood that she attempts suicide, if need be repeatedly until successful completion (3.2: 3, 9, 22; 3.3: 6, 9, 11; 3.5.5; 3.6: 1-2; 4.5.4);
 - Exposing her to triggers to her memories of life-changing trauma and heightening her PTSD Avoidance (3.2: 6, 23, 25; 4.4: 12, 16);
 - Increasing her CPTSD symptoms including inability to regulate emotions (3.3.17) loss of sense of self (3.2: 3, 5; 3.3.22) and relationship difficulties (3.2: 4, 24)
 - Heightening behaviours characteristic of depression (3.2.23), including hopelessness (3.5.2) loss of interest (3.2: 9, 23; 3.5: 3, 16), lack of sleep (3.2: 21, 22) loss of appetite (3.2.22), concentration difficulties (3.2.24; 3.5: 8, 13-15) and worthlessness (3.2: 3, 5, 10; 3.3.4);
 - Failing to ease the unresolved loss of her father and separation from her mother and sister (4.5.3);
 - Arresting factors that might otherwise improve her prognosis (4.4.11).

- 22.** The content of a more recent letter dated 8 September 2021 commenting on B's fitness to give evidence and whether any reasonable adjustments might assist written by Dr Agnew-Davies has also been taken into account.

Discussion

- 23.** In relation to the identified harshness to B I accept that that is the consequence of deportation of VG identified by Dr Roxane Agnew-Davies in her first report and subsequent letter.
- 24.** Whilst there may be robust mental health services in the United Kingdom the difficulty identified in the report is that they are likely to be ineffective unless B is able to find stability in her situation which the evidence shows she will not have if VG is deported.
- 25.** I note the reference by Mr Tan to B traveling to Kosovo on two occasions to see her own family alone as she is unable to return to Albania as she has been recognised as a refugee from that country, and that she was able to travel alone; but it is relevant to note she had the stability of the relationship back in the UK, which was not under threat, and it was a visit for a short period. There is no evidence that either the VG or B will be able to resettle within Kosovo and it is not suggested that B will be able to relocate with him to Albania.

- 26.** The weight of the evidence now available is considerably in excess of that that produced before the First-tier Tribunal, from an expert with considerable experience of dealing with the trauma faced by those such as B. I find that considerable weight can be placed upon the content of the report and its recommendations, especially in light of the qualification by the author of the report that it is not a document produced solely by taking what has been said by B at face value.
- 27.** The impact upon B of the deportation of VG has to be assessed against the background of a complex number of factors, including the protective element provided by VG's presence, which allows B to have an identified purpose and to function within society. It was not disputed that if VG was deported the emotional and functional support he provides will be lost, greatly increasing the risk of feelings of helplessness and suicide.
- 28.** Although it is no longer permissible to refer to "the normal impact of a deportation upon an individual" it is necessary to factor this into the assessment of whether any harshness identified is outside the range of 'acceptable harshness'. In this case I find that the impact upon B will be considerably greater than the emotional and practical consequences of deportation experienced by many whose partner is removed. It was not made out B could not work and pay the mortgage on a practical level, if she is able to function, although the medical evidence suggests that she is unlikely to be able to do so even if she does not commit suicide.
- 29.** The key question is whether the harshness found is of a sufficiently elevated degree to outweigh the public interest. The answer is that if the harshness falls within the category of being "unduly harsh" the Secretary of State's own legal provisions make removal disproportionate; meaning the public interest is outweighed.
- 30.** VG has been in the United Kingdom for over 10 years with a good work history, appears to be in relatively good health, show remorse, and there is nothing on a personal level to suggest that he could not re-establish himself in Albania.
- 31.** I do find, however, for the reasons set out above, that the consequence of B's previous experiences, loss of support from VG in a situation where she will struggle to cope, her inability to seek assistance if she loses her emotional and practical support mechanism, giving rise to realistic risk of suicide, support a finding that the degree of harshness is over and above that which is acceptable on the facts, which I find amounts to undue harshness.
- 32.** For the sake of completeness, when considering whether there are very compelling circumstances, which permits a balancing of the appellant's facts against the offence committed, the family and private life VG and B have in the United Kingdom include their work, settled home life, including the purchase of the property and the mortgage, their desire to start a family (even though there is no inalienable right to undergo IVF treatment I find this indicates the strength of their bond to each other and to the United Kingdom), I have noted there is no indication of ongoing offending by VG since the

commission of the offence in 2015, and that VG is fully aware of the consequences if there is any reoffending in the future.

- 33.** Weighing up the competing circumstances I find this is clearly a case that on the facts and with specific emphasis upon the medical evidence, warrants a finding that there are very compelling circumstances enabling a decision to be made, that is compatible with article 8 ECHR, that the appeal should be allowed.

Decision

- 34. I allow the appeal.**

Anonymity.

- 35.** 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 12 November 2021