



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

Appeal Number: AA/08157/2014

**THE IMMIGRATION ACTS**

**Heard at North Shields  
On 8 April 2015  
Prepared on 14 April 2015**

**Determination Promulgated  
On 21 April 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES**

**Between**

**AD  
(ANONYMITY DIRECTION)**

Appellant

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Bonavero, Counsel instructed by Kilby Jones Solicitors  
LLP

For the Respondent: Ms Rackstraw, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant is a citizen of Albania who entered the United Kingdom illegally on 28 March 2014. She applied on 7 April 2014 for a grant of leave to remain on the basis that she was a refugee. That application was refused on 1 October 2014, and in consequence a removal decision was made in relation to her.

2. The Appellant appealed to the Tribunal against those immigration decisions and her appeal was heard on 19 November 2014, and allowed by decision of Judge Bircher, promulgated on 12 January 2015.
3. The Respondent's application to the First Tier Tribunal for permission to appeal, as drafted, raised two complaints; (i) that whilst the Judge did have regard to the guidance to be found in AM & BM (Trafficked women) Albania CG [2010] UKUT 80, she had failed to adequately address why her own circumstances meant that she would be risk upon return, and, (ii) that the Judge failed to give adequate reasons for the finding that the Appellant suffered poor mental health.
4. That application was granted by Judge Plumptre on 2 February 2015. The Appellant filed no Rule 24 Notice. Neither party has formally applied for permission to rely upon further evidence pursuant to Rule 15(2A) of the Upper Tribunal Procedure Rules 2008.
5. Thus the matter comes before me.

#### Ground 1

6. It is accepted by Ms Rackstraw that the Judge did make specific reference to the guidance to be found in AM & BM. Indeed the headnote is set out in the decision in full. It is accepted that the Respondent makes no challenge to the findings of primary fact made in relation to the Appellant's age, upbringing, and experiences. Thus the argument boils down to the assertion that a woman of her profile, in the light of that guidance, faces no risk upon return. As both Ms Rackstraw, and the draftsman of the grounds accept, that is not the way in which the Upper Tribunal offered its guidance; no checklist of factors was offered without which there would be no risk. Ground 1 is in truth no more than a disagreement with the Judge's conclusion. Whilst another judge might not have reached the same conclusion upon the same evidence, that is not the test for an error of law.

#### Ground 2

7. The second ground is cast in terms of a criticism of the adequacy of the reasons offered for the finding that the Appellant's mental health has been affected by her experiences. The Judge's approach to this was however in my judgement quite simple. Having accepted that the Appellant's experiences had been as claimed, she accepted (as she was perfectly entitled to do) that it was entirely plausible that those experiences would have a negative effect upon her mental health. Not only is there nothing wrong with that reasoning, but it is perfectly clearly set out in the decision; MK (Duty to give reasons) Pakistan [2013] UKUT 641. It is moreover quite clear that the Judge was not

purporting to go further, and make any specific finding of any particular mental health condition.

## DECISION

The Determination of the First Tier Tribunal which was promulgated on 12 January 2015 contains no error of law in the decision to allow the Appellant's appeal which requires that decision to be set aside and remade, and it is accordingly confirmed.

Signed

Deputy Upper Tribunal Judge JM Holmes  
Dated 14 April 2015

### Direction regarding anonymity - Rule 14 Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until the Tribunal directs otherwise the Appellant is granted anonymity throughout these proceedings. No report of these proceedings shall directly or indirectly identify her. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to proceedings being brought for contempt of court.

Signed

Deputy Upper Tribunal Judge JM Holmes  
Dated 14 April 2015