Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/10970/2019 (V)

THE IMMIGRATION ACTS

Heard at: Field House	**Decision & Reasons Promulgated**
On : 15 December 2020	**On: 6 January 2021**

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

RG
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Azmi, instructed by Bond Adams LLP Solicitors
For the Respondent: Mrs H Aboni, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This has been a remote hearing to which there has been no objection from the parties. The form of remote hearing was skype for business. A face to face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing.

2. The appellant is a citizen of Albania born on 28 March 1997. She has been given permission to appeal against the decision of First-tier Tribunal Judge Perry dismissing her appeal against the respondent's decision to refuse her asylum and human rights claim.

3. The appellant arrived in the United Kingdom on 27 November 2016 and claimed asylum on 8 December 2016. Her claim was refused on 16 January 2017 and certified as clearly unfounded under section 94(1) of the Nationality, Immigration and Asylum Act 2002, so that there was no in-country right of appeal. The appellant did not depart from the UK but made further submissions on 3 September 2019 which were treated by the respondent as a fresh claim. That claim was refused on 24 October 2019 and the appellant's appal against that decision gave rise to these proceedings.

4. The appellant's earlier claim for asylum, made on 8 December 2016, was on the basis of a fear of being forced into an arranged marriage with her cousin or of being killed by her father if she refused, given the threats he made when she refused to enter into the marriage prior to leaving Albania. The respondent, in refusing the appellant's claim, accepted that she had demonstrated a genuine subjective fear on return to Albania but concluded that her fear was not well-founded given the availability of a sufficiency of protection from the Albanian authorities or the possibility of relocating to another part of the country. As such, it was not accepted that the appellant would be at risk on return to Albania and it was considered further that her removal from the UK would not breach her human rights under Article 3 or 8.

5. The basis of the more recent asylum claim, set out in the submissions lodged on 3 September 2019, was that the appellant was at further risk from her father for having violated the honour of her family by having a child outside of marriage. It was claimed that the appellant had established a relationship with a man in the UK and had fallen pregnant and given birth to a daughter on 28 August 2018. Her partner had disappeared and she had not seen him since May 2018, as he did not want to take responsibility for the child. A friend of hers in Albania had provided a letter explaining that her father had become aware of her situation and no longer accepted her as his daughter. She would find it difficult returning to Albania as a single woman with a child and relocating to another part of the country to avoid her father and would be destitute.

6. The respondent refused the further claim in a decision of 24 October 2019, in which it was concluded again that the appellant was not at risk on return to Albania and that her removal from the UK would not breach her human rights.

7. The appellant appealed against that decision and her appeal was heard on 23 January 2020 before First-tier Tribunal Judge Perry. The appellant gave oral evidence before the judge. The judge accorded little weight to the letter from the appellant's friend which referred to her family being aware of her situation and the risk from her father and noted inconsistencies in the appellant's account which damaged her credibility. The judge found in any event that

there was a sufficiency of protection available to the appellant and that she could also relocate to another part of Albania. As for Article 8, the judge found that there were no very significant obstacles to the appellant's integration in Albania and that her removal to Albania would not be disproportionate. He accordingly dismissed the appeal on all grounds.

8. Permission was sought by the appellant to appeal to the Upper Tribunal on the grounds that the judge had erred by failing to have regard to her individual circumstances when concluding that there was a sufficiency of protection available to her in Albania and that the judge had erred by according little weight to the letter from her friend.

9. Permission to appeal was granted in the First-tier Tribunal on 19 March 2020, albeit on a different basis to that set out in the grounds, namely that the judge had erred by going behind the respondent's concession in relation to credibility.

10. Both parties made submissions on the error of law issue.

11. Mr Azmi submitted that the presenting officer at the hearing had not departed from the respondent's concession in the first refusal decision and that the only issues before the judge were therefore sufficiency of protection and internal relocation, with credibility not being an issue. The judge had therefore erred in law by rejecting core elements of the appellant's claim. He also erred by raising matters not previously raised, namely the first safe country issue at [19] which was in any event wrong as Albanians were allowed to travel through Schengen countries. As for the findings on sufficiency of protection and internal relocation, the judge gave only a general consideration to the matters and did not consider the appellant's own circumstances.

12. Mrs Aboni submitted that the concession had only been that the appellant had a subjective fear of her father at the time she left Albania in relation to her refusal to undergo a forced marriage. The judge was entitled to assess the credibility of the appellant's claim thereafter and to make the adverse findings that he did and to conclude that that fear did not persist. In any event, given the findings the judge made on sufficiency of protection and internal relocation, the credibility findings were immaterial.

13. Mr Azmi responded by reiterating the points previously made in regard to protection and internal relocation.

Discussion

14. It is relevant to note that the basis of the grant of permission was not a matter challenged in the grounds. The grounds themselves were not particularly clear and paragraph 2 is difficult to understand.

15. In any event I find no merit in either the grounds or the challenge raised in the grant of permission. The concession made by the respondent as to the appellant's subjective fear of persecution was in relation to her initial claim about being threatened by her father for rejecting an arranged marriage to her cousin. That appears at [22] of the decision of 16 January 2017. Although the respondent accepted that the appellant had a genuine subjective fear, credibility issues were nevertheless raised in relation to the appellant's evidence about family support in Albania and at [39] the respondent considered that the appellant had given conflicting accounts in that regard, in relation to sufficiency of protection and internal relocation.

16. In any event, that was not the decision under appeal before Judge Perry. The relevant decision for the current proceedings is the decision of 24 October 2019, which was made on the basis of a different claim and which noted at [8] that there had been credibility issues arising in the previous refusal decision, and went on to include further credibility concerns arising out of the current account. At [14] the respondent referred to the appellant's father's "alleged" threats and to the limited weight given to the appellant's claim. At [26] the respondent turned to sufficiency of protection and internal relocation in the alternative, taking the appellant's claim at its highest. There was no concession made in that decision as to the appellant credibility and her subjective fear and, on the contrary, it is clear that the respondent did not accept the appellant's account. In so far as the judge, at [14], recorded that there was a concession, he was mistaken, and it is clear from [14] that the presenting officer did not accept that such a concession had been made.

17. There is, furthermore, no merit in the suggestion that the judge was not entitled to make adverse credibility findings about a claim which was different to that assessed in the earlier refusal decision. The judge gave cogent reasons for making the adverse credibility findings that he did. Whether or not he was wrong about the appellant's father being able to travel through Europe on an Albanian passport, the judge was perfectly entitled to draw adverse conclusions from her inconsistent evidence about her relationship with her claimed former partner, as set out at [20] to [24], and her evidence about the risks she faced from her family, as set out at [27]. As for the weight the judge gave to the letter from the appellant's friend, that was entirely a matter for him. He gave cogent reasons, at [26], for finding that the letter was of limited weight and was fully and properly entitled to conclude as such.

18. In any event, as Mrs Aboni submitted, none of that is material given that the judge made findings in the alternative, on the availability of a sufficiency of protection for the appellant and the possibility of internal relocation to another part of Albania. The challenge in the first paragraph of the appellant's grounds of appeal was made on the basis that the judge failed to have regard to the appellant's individual circumstances when considering sufficiency of protection and the option of internally relocating. However that is clearly not the case. At [29], the judge relied on the country

guidance in DM (Sufficiency of Protection, PSG, Women, Domestic Violence) Albania CG [2004] UKIAT 00059, and the updated country information, which was relevant to the appellant's particular circumstances, and then at [30] and [33] referred to the appellant's individual circumstances. There has been no challenge to the findings made by the judge in that regard, only to the (erroneously) asserted absence of findings and the grounds fail to identify any error on the part of the judge.

19. For all of these reasons I consider that the grounds of appeal do not disclose any errors of law requiring the judge's decision to be set aside. The judge clearly had regard to all the evidence and was entitled to make the adverse findings that he did, for the reasons fully and cogently given. He was perfectly entitled to conclude that the appellant had failed to show that she would be at risk on return to Albania and that her removal to that country would breach her human rights.

DECISION

20. The making of the decision of the First-tier Tribunal did not involve an error on a point of law. I do not set aside the decision. The decision to dismiss the appeal stands.

Anonymity

The anonymity direction made by the First-tier Tribunal is maintained.

Signed: S Kebede
Upper Tribunal Judge Kebede Dated: 15 December 2020