



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

Appeal Number: PA/04139/2020
UI-2021-000531

THE IMMIGRATION ACTS

**Heard at Field House
On 23rd December 2022**

**Decision & Reasons Promulgated
On 1st March 2023**

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

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(ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Mr E Tufan, Senior Home Office Presenting Officer
For the Respondent: Mr P Norris, Lawrence & Associates Solicitors

DECISION AND REASONS

1. Although this is an appeal by the Secretary of State for the Home Department ('SSHD'), I shall refer to the parties as in the First-tier Tribunal. The appellant's appeal against deportation and the refusal of his protection claim was allowed by First-tier Tribunal Judge Knight ('the judge') for the reasons given in the decision promulgated on 23 July 2022.
2. The SSHD appealed on the grounds the judge had failed to resolve conflicting information. The respondent accepted the appellant was a victim of trafficking by a person called Niki but she did not accept that Niki

was the leader of an organised criminal gang ('OCG') with the ability to influence the Albanian authorities and the police. The respondent submitted there was no evidence to support the judge's conclusion and the appellant could internally relocate on return.

3. Permission was granted by First-tier Tribunal Judge Grant on 9 August 2021 for the following reasons:
 - "2. The grounds submit the Judge has arguably erred in law by arguably giving inadequate reasons for finding that "Niki" is an Albanian leader of an organised criminal gang with the ability to influence the police when set in the context of conflicting and inconsistent evidence from the appellant; inconsistencies not dealt with by the Judge.
 3. It is arguable that the Judge has erred in law by giving inadequate reasons for his findings which may arguably said to be based on speculation. The Grounds may be argued.
4. Mr Tufan relied on the grounds of appeal and submitted the judge's decision was contrary to country guidance because there was sufficiency of protection in Albania. The appellant had limited knowledge of Niki and there was nothing to suggest Niki was a gangleader such that the judge was entitled not to follow country guidance. The judge's decision was irrational and inadequately reasoned.
5. Mr Norris submitted the grounds were disagreements with the judge's findings. The judge heard oral evidence from the appellant and found him credible. The appellant was a victim of trafficking and the judge considered all the evidence in the round. The judge accepted the appellant's evidence of the level of organised crime and made reference to the sentencing remarks referred to in submissions. The judge considered the background evidence and country guidance in assessing risk on return. Absent a challenge to the appellant's credibility there was no error of law. The appellant explained Niki's involvement and had not changed his evidence. The judge was entitled to accept the appellant's account and properly considered sufficiency of protection in accordance with the CPIN's and country guidance.
6. In response, Mr Tufan submitted the judge's finding in relation to Niki was flawed and this was relevant to sufficiency of protection. The judge's conclusions that Niki was a leading member of an OCG and the police were corrupt were inadequately reasoned. Mr Tufan submitted the grounds did challenge the appellant's credibility and, taking the appellant's claim at its highest, there was sufficiency of protection on return.

Conclusions and reasons

7. The appellant is a citizen of Albania who was born in 1993. In January 2019, he pleaded guilty to one count of production of cannabis and was sentenced to 12 months' imprisonment. A deportation order was made against him and the appellant subsequently claimed asylum. He has been recognised as a victim of trafficking.

8. The judge found the appellant's account was coherent, plausible and supported by the background evidence. He accepted the appellant's explanation for not having claimed asylum earlier. The judge considered section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and concluded that the appellant's general credibility had been established
9. I am not persuaded the grounds challenge the judge's credibility findings, but in any event, on reading the decision as a whole, it is apparent the judge took into account all relevant matters and his finding that the appellant's account was credible was open to him on the evidence before him. The appellant's account was consistent and supported by the background evidence. The appellant had not embellished his claim.
10. The judge set out relevant country guidance and referred to relevant parts of the background evidence. He clearly demonstrated why this evidence was capable of showing the appellant would be at risk on return given he accepted the appellant's account of trafficking and past persecution.
11. I find the judge did not fail to resolve conflicting information and was entitled to accept the appellant's evidence that Niki was a leading member of an OCG. The judge gave cogent reasons at [103] to [110] for why the appellant would be at risk on return, there was insufficiency of protection and the appellant would be unable to internally relocate.
12. In conclusion, the judge's findings were open to him on the evidence before him and he gave adequate reasons for his conclusions. There was no material error of law in the judge's decision. The appeal by the SSHD is dismissed.

Notice of Decision

The appeal is dismissed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant without that individual's express consent. Failure to comply with this order could amount to a contempt of court.

J Frances

Signed

Date: 29 December 2022

Upper Tribunal Judge Frances

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.**