



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-000969

First-tier Tribunal No: PA/53200/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 20th of December 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE LEWIS

Between

A.B.
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Imamovic of Counsel instructed by Pickup & Scott
For the Respondent: Mr M Parvar, Senior Home Office Presenting Officer

Heard at Field House on 13 August 2024

Order Regarding Anonymity

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. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

Introduction

1. This is an appeal against a decision of First Tier Tribunal Judge Broe dated 17 July 2023 dismissing the Appellant's appeal against a decision of the Respondent dated 29 June 2022 refusing a protection claim made on 17 January 2019.
2. The Appellant is a citizen of Albania. His personal details, and the background to his appeal, are set out in the documents on file and are known to the parties. In keeping with the anonymity direction that has previously been made in these proceedings (and is hereby continued), and bearing in mind the relatively narrow basis upon which I have ultimately determined the challenge to the decision of the First-tier Tribunal, it is unnecessary to rehearse the personal details and full background here.
3. The ultimate issue upon which the First-tier Tribunal was required to make a decision was summarised at paragraph 29 of the Decision of the First-tier Tribunal in these terms:

"There is no dispute that the Appellant is an Albanian national. The Respondent accepts that he was a minor at the time of his claim although he is now 20. He has been found to be a victim of modern slavery. The issue therefore is what risk if any he would face on return to Albania. He clarified this in evidence saying that he feared his father because of what he had done in the past. He claims that he would still be at risk and says that he would not be able to seek protection or relocate in safety."
4. Before the First-tier Tribunal there was an issue between the parties as to the engagement of a Refugee Convention reason: see paragraph 35:

"The Respondent found that the Appellant's claim was not based on a Convention reason. This seemed to be accepted in the Appellant's skeleton argument although Ms Imamovic took a different position at the hearing. She argued that people who had been trafficked were capable of being members of a particular social group."
5. The First-tier Tribunal determined this issue against the Appellant: see paragraphs 36 and 37. Essentially, whilst the Judge had accepted that the Appellant was a victim of modern slavery, it was not accepted that he had been trafficked to the UK, but rather that he had in substance "*chosen to be smuggled*" (paragraph 37).
6. The Judge went on to consider the issue of risk, albeit within the framework of the ECHR (with particular reference to Article 3) rather than within the framework of the Refugee Convention – reiterating that the Respondent accepted that as a child the Appellant had been a victim of modern slavery (paragraph 38). The Judge stated his conclusion in this regard at paragraph 41:

"Against that background and having regard to the low standard or proof applicable in this matter I find that the Appellant has not shown that he would be at risk of persecution or treatment engaging Article. He does not rely on Article 8."

(It appears that the number 3 was omitted from the penultimate sentence at paragraph 41.)

Challenge

7. The Appellant applied for permission to appeal to the Upper Tribunal. In support of the application the Appellant pleaded 5 grounds of appeal. The Grounds are a matter of record and are known to the parties: I do not summarise each of them here.
8. Permission to appeal was granted on 8 March 2024 by First-tier Tribunal Judge Robinson in these terms:
 - “2. Grounds 1 and 2 assert that the Judge has failed to properly consider and give reasons why the Appellant is not capable of falling within a particular social group on account of being a former victim of forced labour (domestic abuse/violence).*
 - 3. It is arguable that the Judge has erred in failing to give proper consideration to the issue of whether the Appellant was a member of a particular social group constituting a Refugee Convention reason in light of the Respondent’s acceptance that he was a victim of modern slavery within Albania.*
 - 4. I am not persuaded by the other grounds so permission is granted on the basis identified only.”*
9. The Appellant renewed his application for permission to appeal to the Upper Tribunal in respect of those grounds upon which he had been refused permission to appeal. By decision dated 3 April 2024 Upper Tribunal Judge Lindsley refused permission to appeal on the remaining grounds 3-5. The decision of Judge Lindsley helpfully summarises the content of those grounds and explains why they were not considered arguable. Of particular note is the following:
 - “4. ... It was unarguably rationally open to the First-tier Tribunal to find that the appellant is now a fit, healthy adult who has been able to adjust to life in a new country and so, despite his history of modern slavery, would not be at real risk of serious harm from his father who is now an unwell man, particularly as the First Tier Tribunal on evaluation of the evidence concludes that the appellant was brought to the UK by his family, and therefore has their support and in the context of there generally, in accordance with the country guidance cases, being sufficiency of protection. It was open to the First-tier Tribunal to find that there was no evidence of his father having influence on the authorities beyond the appellant’s own testimony and to find that he was evasive/vague about his contact with his supportive family.”*
10. It follows that the only grounds before me are grounds 1 and 2 in respect of the issue of ‘particular social group’ under the Refugee Convention.

11. The very real and obvious difficulty that the Appellant faces is, that given the findings on an absence of risk, it becomes immaterial whether or not his claim might be said to engage a Refugee Convention reason.
12. Notwithstanding this apparent difficulty, Ms Imamovic was given an opportunity to expand on the substance of the grounds upon which permission to appeal had been granted, and to address me on materiality. In turn Mr Parvar resiled from the contents of the Rule 24 response dated 21 March 2024, and acknowledged that the First-tier Tribunal Judge had not given sufficient consideration to evidence suggesting that stigma attaching to victims of modern slavery might not provide a distinct identity relevant to an evaluation of whether they constituted a 'particular social group' within the contemplation of the Refugee Convention. However, Mr Parvar advocated that even if there were an error in this regard, the absence of any challenge to the First-tier Tribunal's evaluation of risk doomed the appeal.
13. I agree with the position of the Respondent. I am not remotely persuaded that any error in respect of identifying that stigma might give rise to a distinct group identity undermines the First-tier Tribunal's clear findings of the absence of any meaningful risk to the Appellant in circumstances where he was no longer a child, was not at risk from his father, and had the support of family members. Any societal stigmatisation - even if it might result in some element of discrimination - was not demonstrated before the First-tier Tribunal to constitute a risk of harm reaching the threshold of persecutory treatment, or Article 3 seriousness.
14. The Appellant's challenge fails accordingly.

Notice of Decision

15. The decision of the First-tier Tribunal contains no material error of law and accordingly stands.
16. The appeal of A.B. remains dismissed.

I. Lewis
Deputy Judge of the Upper Tribunal
(Immigration and Asylum Chamber)
14 December 2024