

IN THE UPPER TRIBUNAL
IMMIGRATION AND
CHAMBER



Case No: UI-2024-004414

First-tier Tribunal No:
PA/54678/2023
LP/04423/2024

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 23 December 2024**

Before

**UPPER TRIBUNAL JUDGE LODATO
DEPUTY UPPER TRIBUNAL JUDGE MERRIGAN**

Between

**XXX
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Trambo, Counsel

For the Respondent: Mr N Wain, Senior Home Office Presenting Officer

Heard at Field House on 26 November 2024

DECISION AND REASONS

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.

Anonymity

1. We have decided to maintain the anonymity order originally made in these proceedings by the First-tier Tribunal because the underlying claim involves international protection issues in that XXX states that he fears serious harm on return to Albania. In reaching this decision, we are mindful of the fundamental principle of open justice, but are satisfied, taking XXX's case at its highest for these purposes, that the potential grave risks outweigh the rights of the public to know his identity.

Introduction

2. The appellant is a citizen of Albania. He appeals under the provisions of the Nationality, Immigration and Asylum Act 2002 against the decision ("the decision") of First Tier Tribunal Judge M.R. Hoffman, promulgated on 3 July 2024.

Background

3. The appellant was born in Albania in 2004. He claimed asylum on 27 November 2019, when he was 15 years of age. The appellant's account was that in or around 2018 his father borrowed money to fund a surgical operation. The appellant tried to help repay the debt as his parents were elderly. He did this by working in a car wash. The appellant was unable to earn enough money and so his father arranged for him to travel abroad to work. In the event, the appellant was taken to Belgium by the same gang to whom his father owed money to work on a cannabis farm.
4. The protection claim was refused on 14 July 2023, the Home Office having particularised in their Reasons for Refusal Letter inconsistencies in the appellant's account. The appellant accordingly gave notice of appeal against the Home Office decision on 28 July 2023.
5. The Respondent's Review, dated 18 March 2024, reached the same conclusion as the Reasons for Refusal Letter. The matter came before Judge Hoffman for hearing on 25 June 2024.
6. A day after claiming asylum, a referral was made to the National Referral Mechanism in order for the Competent Authorities to make a decision as to whether the appellant was a victim of modern slavery. Judge Hoffman records at [13] that the Competent Authority made a conclusive grounds decision on 19 December 2023 accepting that the appellant is such a victim.
7. That conclusive grounds decision meant that the factual issues between the parties narrowed considerably, and the respondent largely abandoned the inconsistencies relied upon in the Reasons for Refusal Letter. The parties and Judge Hoffman proceeded on the basis that, as reported by the appellant and summarised at [18] and [19] of the decision, the appellant's father had borrowed 250,000.00 Lek (approximately £2,100.00) from a gang that had, as a result of that sum ('the debt') being undischarged, trafficked the appellant. The appellant's father had originally been responsible for repaying the debt, though at some point the appellant's brother assumed the repayments. Eventually, the appellant escaped the cannabis farm and shortly afterwards arrived and claimed asylum in the UK. After the appellant had escaped, his brother continued repayments to the gang.

8. Notwithstanding this agreed way forward, an issue remained: was the debt totally repaid? The respondent invited Judge Hoffman to decide that it was, observing that the appellant's brother had twice travelled from and to Albania untroubled. The appellant said that 250,000 Lek was a large sum, and it should be assumed that at least some of that sum remained outstanding. Judge Hoffman decided that the debt was discharged.
9. Judge Hoffman considered that the debt having been repaid reduced the risk to the appellant significantly. Applying the law to the facts as he found them, Judge Hoffman found that the appellant did not have a well-founded fear of persecution for a Refugee Convention reason; did not face a real risk of death or serious harm on return contrary to Articles 2 and/or 3 ECHR; and the appellant's removal to Albania would not amount to a disproportionate interference with his right to a private life under Article 8 ECHR.

The Grounds of Appeal and the Grant of Permission

10. The appellant was granted partial permission to appeal by First Tier Tribunal Judge Dainty on 24 September 2024. As she did not grant permission in respect of the reasons given about his membership of a particular social group ('PSG'), considering that there is no arguable error of law therein, we have not sought to go behind the findings made by Judge Hoffman in respect of his membership of a PSG.
11. Permission was granted by Judge Dainty in the following terms:

The reasoning on risk arguably contains legal errors as it is confusing and potentially contradictory in respect of whether the judge found that the debt still remained outstanding or had been paid off and conflation of risk from the gang as to the debt and risk more generally as a victim of trafficking, which necessitated a consideration of the problems of sufficiency of protection. There are also insufficient reasons given in respect of 276ADE and art 8.

12. In the light of this partial permission, we take the live grounds to be the following (using the original paragraphing).

4. The Judge erred by finding at [31] that the appellant has been able [sic] to make out his case, even to the lower standard, that his father's debt is still outstanding. The Judge stated that "I also find that the appellant has failed to discharge the burden of proving to the lower standard that he is at risk of harm or re-trafficking by the gang. It is clear from the appellant's evidence that his fears about being targeted by the gang because he escaped from them are speculative". He has not heard from the gang since he escaped them in 2019 and, importantly, because the gang has not sought to harm his parents or his brother. The Judge failed to take into account the appellant's factual background and the country background evidence.

5. The Judge also erred by finding at [33] that he is not satisfied that the appellant faces a real risk of persecution on return, whilst accepting to the lower standard that the appellant is unlikely to

obtain adequate protection from his local police against the gang who lent money to his father and trafficked him to the UK.

6.The Judge failed to take into account that Albanian gangs being involved in criminality not only inside Albania but in other countries, is relevant to the assessment of A's protection claim. The Judge failed to consider it and/or failed to give any reasons for rejecting that evidence which is a material error of law.

7.In addition, it is nonetheless plain that A was trafficked for the purposes of criminality and forced to work in a cannabis factory. This is relevant to the assessment of risk on return to Albania from those criminals but also from others who might seek to exploit/traffic him. The Judge failed to adequately consider this aspect of A's claim.

8.The Judge erred in considering whether there are very significant obstacles to A's integration in Albania such that a grant of leave under paragraph 276ADE is appropriate by failing to take material evidence and factors into account and/or failing to give any or any adequate reasons for rejecting that evidence.

9.In addition, the Judge failed to consider in the context of obstacles to reintegration that A had been trafficked for criminality purposes. This is a factor which is relevant to the assessments of his circumstances on return and the Judge has failed to factor this into his assessment of whether there are very significant obstacles.

10. The Judge erred in the proportionality assessment under Article 8 by failing to take material facts and evidence into account, for the reasons outlined above.

The error of law hearing

13.We heard oral submissions from Mr Tramboo on behalf of the appellant and Mr Wain on behalf of the respondent. Mr Tramboo relied upon his skeleton argument dated 15.12.23 (together with its annex of the same date), in which he identified several issues for this Tribunal, which we consider below. Mr Wain relied on the Home Office Rule 24 response to the appeal dated 1 October 2024, which maintains that the First-tier Tribunal directed itself appropriately. We have also considered the contents of the 775-page Bundle before us.

14.At the outset of the hearing, Mr Tramboo raised with us what he referred to as a misunderstanding. Judge Hoffman records at [36] of his decision:

Mr Tramboo conceded that the appellant's paragraph 276ADE and Article 8 ECHR private life claims would stand or fall with his protection claim.

15.Mr Tramboo submitted that as (a) his skeleton before Judge Hoffman made clear that he presented his protection claim as being in the alternative from his paragraph 276ADE and Article 8 ECHR claim, and (b) he had made no submission that resiled from this position, Judge Hoffman should

not have assumed that he did not have to conduct a separate analysis for each alternative.

16. Mr Wain submitted that there was no evidence of the extent of the concession that was apparently made per [36], although even if such a concession were not made, it was inevitable that any separate paragraph 276ADE/Article 8 ECHR analysis would have failed on identical terms as Judge Hoffman's protection analysis.
17. At this hearing, we must start from the position that there is no evidence to suggest that the concession was not made. Mr Tramboo, very properly, had not sought to give that evidence. We will consider the implications of that in our reasoning below.

Decision on error of law

18. The touchstone for considering inadequacy of reasoning as an error of law remains R (Iran) & Others v SSHD [2005] EWCA Civ 982. At [13]-[14] of the judgment of Brooke LJ, it was emphasised that reasons must be sufficiently detailed to show the principles on which a decision was made and why the ultimate decision was reached. Reasons need not be elaborate nor is it necessary to address each and every matter which might have had a bearing on the overall decision if those which were material to the reasoning are articulated.
19. Mr Tramboo's skeleton argument sets out five issues that he seeks to address in this appeal.
 - (a) Whether the Appellant, as a male victim of trafficking, is a member of a particular social group in Albania.
 - (b) Whether the Appellant has an objectively well-founded fear of persecution in Albania and/or serious harm on return to Albania.
 - (c) Whether there would be sufficiency of protection for the Appellant in Albania.
 - (d) Whether the Appellant could reasonably relocate within Albania.
 - (e) Are there very significant obstacles to the Appellant's reintegration into Albania.
20. While, as will be seen below, there is some overlap in the argument as formulated in respect of each issue, we shall consider each issue in turn.
21. In respect of the first of these issues, it plainly falls outside of Judge Dainty's grant of permission to appeal.
22. In respect of the second issue, Mr Tramboo notes in his skeleton argument that the starting point for evaluating risks of re-trafficking is TD and AD (Trafficked women CG [2016] UKUT 92 (IAC)). He sets out in some detail in his skeleton argument the respects in which he says the risk factors set out in TD and AD apply to the appellant: the appellant is from a poor family; as a minor, he was inherently vulnerable in Albania; he feared violence or murder having escaped the cannabis farm in Belgium; the family debt is still, in part at least, outstanding; his education is limited; and to return to his family whilst the debt is outstanding in itself poses a risk. Mr Tramboo also made the argument in his oral submissions that it is unclear whether Judge Hoffman considered the issue of trafficking

separately from the other risk factors Mr Tramboo identifies. Mr Tramboo said that it was incumbent upon Judge Hoffman to do so. Mr Tramboo argued there is even less clarity in that there is a disconnect in Judge Hoffman's reasoning, where at [30] he considers *whether* the debt is still outstanding, and at [34] concludes that it is not. Mr Tramboo observed that, at [31] of the decision, Judge Hoffman stated "*I find that the appellant has been able to make out his case, even to the lower standard, that his father's debt is still outstanding*", rather than, as at [34], the debt had been repaid.

23. In response, Mr Wain observed that there was no direct challenge to the matters recorded and found in the decision at [26] to [28]: Mr Tramboo's argument goes not to whether Judge Hoffman was right to find that the debt was repaid, but whether his reasoning is sufficiently clear. Mr Wain also submitted that the TD and AD risk factors identified in the skeleton argument before Judge Hoffman do not apply to the appellant.
24. We are unable to agree with Mr Tramboo as to the adequacy and clarity of Judge Hoffman's analysis. The decision states at [32] that "*I therefore turn to consider whether the appellant will be more at risk generally as a victim of trafficking*". It is plain that Judge Hoffman was alive to the extra risks that being a victim of trafficking presented. It is also plain that Judge Hoffman's finding that the debt is not outstanding is pivotal. Several of the risk factors identified by Mr Tramboo are framed on the basis that the debt is at least partially outstanding. Judge Hoffman carefully sets out at [28] his reasons for finding, on the balance of probabilities, that the debt had been repaid in full. We cannot see that his reasoning is assailable. It is true that, at [31], Judge Hoffman writes that the debt is still outstanding, but this is plainly a slip of the pen: the sentence reads unnaturally as it is. If the negative is added, and the sentence reads "*I find that the appellant has not been able to make out, even to the lower standard...*" the reading becomes natural. This is obviously what was meant, and it is consistent with everything else that Judge Hoffman wrote on this point. We are, moreover, satisfied that Judge Hoffman's reasoning in [30], [31], [33], and for that matter [28], lead unassailably to his conclusion in [34] that the risks to the appellant are mitigated by the debt having been repaid.
25. The third issue raised by Mr Tramboo, sufficiency of protection, goes to any risk of re-trafficking. Mr Tramboo relies on the TD and AD risk factors he has identified above, placing particular emphasis in his skeleton upon the appellant's financial situation. Mr Tramboo says that it is unlikely that the appellant will be able to make enough money to live on, and that in itself increases the risk of re-trafficking. It is said that Mr Wain submitted that, if the primary finding is that the appellant would not need to seek protection, because he would not seek to return with the debt having been paid off, then Judge Hoffman is entitled to rely on the Country Guidance for Albania. That Guidance says, in general terms at least, that there is sufficiency of protection; and Judge Hoffman was entitled to find that the appellant would be adequately protected on return.
26. We have already commented on the safety of the finding Judge Hoffman made as to whether the debt has been repaid. Addressing Mr Tramboo's argument, we note that Judge Hoffman accepted at [33] that the appellant has a limited education and comes from a poor family. Judge

Hoffman specifically records at [33] that he has considered the Asylos and ARC Foundation report; and concluded at [34] that, with the qualifications he has since obtained in the UK and the availability of reintegration services, the risks of the appellant being re-trafficked were adequately mitigated. We consider that Judge Hoffman was entitled to reach the conclusion that the appellant would be able to find adequate work in Albania without resorting to crime.

27. The fourth issue raised by Mr Tramboo is that of internal relocation: his primary submission is that the appellant could not avoid the risks of being re-trafficked by relocating precisely because, by virtue of having been trafficked, his core vulnerabilities remain the same wherever he may be in Albania. Mr Tramboo relies on the case of AM and BM (Trafficked women) Albania CG [2010] UKUT 80 (IAC), noting that the risks of re-trafficking apply to men as well as to women; and that the appellant's ability to relocate in Albania without being traced is compromised by its being a relatively small country. His secondary submission is that even if he could avoid the risk of re-trafficking by relocating inside Albania, it would be unduly harsh to expect him to do so. Mr Wain submits that the reasons given in the decision on this point are sufficient.
28. Judge Hoffman's finding that the debt is no longer outstanding is pivotal to this issue. The decision sets out in [28] a series of observations that the family appear unharmed by the gang. In particular, Judge Hoffman notes that the appellant's brother has twice been able to travel from and back to Albania twice in recent years. As well as bolstering Judge Hoffman's conclusion that the debt has been repaid, in any event, the appellant's family has apparently been left in peace. There is no reason to think that the appellant would be treated any differently, and so there is no reason to believe that the appellant would be re-trafficked. This is the conclusion Judge Hoffman reaches at [31]. As it was not established that the gang will seek to harm the appellant or that he is otherwise at risk, there is no need for him to relocate; and as such we cannot see that the risks identified in AM and BM apply to the appellant. Taken together with Judge Hoffman's observations at [33] that the appellant is a healthy adult with a UK qualification in a trade, he was not found to be at risk of re-trafficking from a different gang. We do not agree with Mr Tramboo on his primary submission; and for the same reasons above we do not consider that the judge reached unlawful findings that it would be unduly harsh to expect the appellant to relocate should he desire to do so.
29. The final issue Mr Tramboo raises is that there will be very significant obstacles to reintegration in Albania. Relying on Kamara [2016] EWCA Civ 813, Mr Tramboo argues in his skeleton that the appellant will be destitute on his return to Albania. Again, Mr Wain states that Judge Hoffman's reasons are sufficient to answer Mr Tramboo's argument.
30. We have already summarised Judge Hoffman's analysis of the appellant's ability to support himself in Albania. While it is true that the appellant left Albania at the age of 15, he was found to have a UK qualification that will enable him to earn money. As it was also found that his family are not being targeted by the gang, they will be able to assist him without their association putting the appellant at risk. We are satisfied that Judge Hoffman has undertaken the broad evaluative judgment required by

Kamara in reaching the conclusion that there are no very significant obstacles to reintegration.

31. Having considered the five issues raised in Mr Trambo's skeleton as amplified in oral submissions, we now turn to the grounds as set out above. Applying R (Iran) & Others v SSHD, we consider Judge Hoffman's explanation of his decision to be sufficient.
32. As regards the ground at paragraph 4, we do not see that it particularised an error of law. Taking it in broad terms, we consider that Judge Hoffman has adequately set out in his conclusions as to whether the appellant continued to be a target of the gang or otherwise at [30]. Judge Hoffman confirmed that he considered the Asyls and ARC Foundation report at [33]. On the facts, the appellant reported that he did not know whether his family had discharged the debt [27]: surprising as, on unchallenged evidence, the appellant spoke with his family by telephone five to six times per month, as recorded at [31]. Also on the facts, the appellant had not heard from the gang since 2019 [31]. It was plainly open to Judge Hoffman to decide that the debt had been paid and that the appellant's fears were speculative. Moreover, his decision was clear as to why he did so.
33. As regards the ground at paragraph 5, we find no error of law. Judge Hoffman has stated at [33] that he was not satisfied the appellant faces a real risk of persecution on return to Albania. He has specifically taken the appellant's relative lack of money and education into account. The appellant having heard nothing from the gang for five years, and there being no evidence that his family had been harmed by the gang, Judge Hoffman was entitled to come to this conclusion.
34. As regards the ground at paragraph 6, it was agreed fact that the appellant had been trafficked to Belgium: it therefore must have been evident to Judge Hoffman that gangs operate outside of Albania, and that this is relevant to the appellant's claim. We would not expect Judge Hoffman to record that he had taken into account something that was manifestly obvious. His analysis of the risk now posed by the gang at [26] to [34] also make clear why Judge Hoffman did not think that Albanian criminality extending outside of Albania did not present such a risk to the appellant that he would succeed in his protection claim.
35. As regards the ground at paragraph 7, Judge Hoffman has taken account of the risk posed by other gangs at [32], where he says "*I therefore turn to consider whether the appellant will be at risk more generally as a victim of trafficking*". Judge Hoffman is clear in the same paragraph of his decision that the particular circumstances of an appellant are to be considered. We consider that Judge Hoffman was alive to the risks posed not just by the gang that trafficked him, but the risks posed by other criminals. Judge Hoffman came to the view that, having learned a trade in the UK and with the support of his family, this risk was mitigated. On the facts, he was entitled to do so.
36. As regards the grounds at paragraphs 8, 9 and 10, we have already observed that the starting point must be that the Article 8 analysis overlapped entirely with the points advanced in support of the protection

claim. Without any evidence to contradict this, Judge Hoffman cannot be criticized for failing to conduct an exercise when it was already accepted that he did not need to. In our view, on the facts of this matter, the judge's assessment of very significant obstacles per paragraph 276ADE of the Immigration Rules, and proportionality assessment under Article 8 ECHR, lawfully led to the same conclusion as the analysis of the appellant's protection claim.

Notice of Decision

The decision did not involve an error of law. It follows that the appeal must be dismissed.

D. Merrigan

Judge of the Upper Tribunal
Immigration and Asylum Chamber

10 December 2024