



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/05133/2014

THE IMMIGRATION ACTS

Heard at Bradford
On 17th December 2014

Decision & Reasons Promulgated
On 6th January 2015

Before

UPPER TRIBUNAL JUDGE ROBERTS

Between

MISS V S
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Hussain, of Counsel
For the Respondent: Mr Diwnycz, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Albania born 8th March 1992. She appeals with permission the decision of FtT Judge Bagral who in a decision promulgated on 22nd September 2014, dismissed the Appellant's appeal against the Respondent's refusal to grant her asylum and to remove her from the UK by the way of directions.

Background

2. The Appellant's history is that she left Albania in March 2013 travelling to Belgium on her own Albanian passport. She was trafficked to Belgium by her boyfriend G; and once there forced, by him, into prostitution. She became pregnant and asked a friend who was also working as a prostitute to help her leave. Her friend helped her find a lorry which was travelling to the UK and she arrived here on 5th November 2013. She made an application for asylum on 6th November 2013. She subsequently gave birth to her child on 12th February 2014.
3. Her claims to a need for protection can be summarised as follows;
 - (i) She cannot return to Albania on account of being a single female with an illegitimate child. She claims that single females with illegitimate children are in danger of being rejected by their family members and relations or killed;
 - (ii) She cannot live in another part of Albania, due to the insecurities there;
 - (iii) She cannot seek protection in Albania as the authorities and the police force in Albania do not take victims of trafficking seriously.
4. The Appellant's appeal came before FtT Judge Bagral who noted at [28] and [29] in her decision the following,

"The factual background is uncontentious. The Respondent accepts the entirety of the Appellant's factual account. Having considered the evidence before me, I agree that that concession was properly made. I accept the Appellant's account is credible the background to which, I have set out above, and I find accordingly.

I am satisfied on the basis of the accepted factual account that the Appellant is a victim of trafficking and has experienced sexual exploitation and abuse at the hands of G who she trusted. The Appellant was befriended by him and he arranged for her travel documents and persuaded her to leave the country enabling her to travel to Belgium. Such a practice of targeting young women who are perceived to be vulnerable is noted in the background country information."
5. The Judge then went on to assess what was recorded as the issues before her namely, sufficiency of protection and internal flight alternative.
6. Having considered those matters, the Judge made a finding that there was sufficiency of protection for the Appellant as it would not be unreasonable for her to relocate to Tirana. In coming to that conclusion she took into account that an IOM package would be available for the Appellant on return.
7. Permission to appeal the Judge's decision was sought and granted. It is clear from the grant of permission that the only arguable point is one relating to whether the IOM package set up for the Appellant by the Respondent will adequately cater for the Appellant's assimilation. The relevant parts of the grant of permission are as follows.

“...The core finding is that the IOM package set up on 1.11.13 on behalf of the respondent will adequately cater for the appellant’s re-assimilation. The key country guidance (AM & BM) states that women in the appellant’s position are likely to be (a) abandoned by their families; (b) forced to abandon their illegitimate child; (c) re-trafficked. It is arguable that an error arises from omitting to consider (a) how long the package will last and (b) the extent to which an infant can be catered for while the appellant develops an alternative skill such as hairdressing (§ 52) as envisaged.”

Upper Tribunal Hearing

8. The appeal came before me on 17th December 2014 as an error of law hearing. I heard submissions from Mr Hussain on behalf of the Appellant and Mr Diwnycz on behalf of the Respondent.
9. Mr Hussain sought to rely on the grounds drafted seeking permission which were drafted by him. He submitted that the FtT Judge had erred in her assessment of internal flight to Tirana. He said that ground 3 disclosed two reasons amounting to error.
 - (i) The country guidance case of *AM and BM CG* [2010] UKUT 80 (IAC) is clear. The Appellant now has a child conceived out of wedlock. He accepted that there are temporary shelters in Tirana for women in this position, but said that no thought had been given to how the Appellant would sustain herself in the long run. The Judge had failed to engage with and means that there is a risk factor making internal flight alternative non-viable.
 - (ii) Mr Hussain submitted that there was no detail whatsoever as to what the IOM package would involve. He said that he accepted it was for the Appellant to establish her evidence that she would be at risk but it was the Respondent who was claiming that there is no risk factor because of the IOM package.
10. Mr Diwnycz relied on the Rule 24 response. He submitted that the Judge’s determination is a well constructed one. The Judge has given clear reasons for her findings that the Appellant and her child would not be at risk on return to Albania. She has had regard to the background country material and taken into account that the IOM makes provision for individuals being returned with children. The Judge also properly considered whether the Appellant would be at risk of being re-trafficked and found that there is no risk in this Appellant’s case. The determination is sustainable and the decision should stand.

Consideration

11. The basis of Mr Hussain’s submissions is that the Appellant fears relocation to Tirana away from her home area because;
 - (i) She will find herself with a very young child and have limited and temporary support only from shelters;
 - (ii) The additional risk factor is that she is the mother of an illegitimate child;

- (iii) With a young child to care for and being unable to work without someone caring for the child, the Appellant is at risk of having to turn to her family in desperation and this could result in relocation being unreasonably harsh for her.

Consequently the Judge erred in not considering adequately the long-term future of the Appellant.

- 12. I disagree with this and my findings for so doing are set out below. It is clear that the Judge kept in mind the country guidance case of AM and BM. She was clearly aware of it because she specifically refers to it in [39]. Most particularly she refers to these sections of AM and BM which states,

“...“(vi) Trafficked women from Albania may well be members of a particular social group on that account alone. Whether they are at risk of persecution on account of such membership and whether they will be able to access sufficiency of protection from the authorities will depend upon their individual circumstances including but not limited to the following: (a) The social status and economic standing of the trafficked woman’s family; (b) The level of education of the trafficked woman or her family; (c) The trafficked woman’s state of health, particularly her mental health; (d) The presence of an illegitimate child; (e) The area of origin of the trafficked woman’s family; and (f) The trafficked woman’s age.””

- 13. Having kept that guidance in mind, the Judge in paragraph [51] to [55] of her determination directs her mind to those very points which Mr Hussain says causes concern.

- 14. In paragraph [51] the Judge states,

“...Mr Hussain submitted that the report did not sufficiently detail the extent of the support being offered through this package, but as the evidence points out, support includes accommodation, education, vocational training, start-up business activity, employment subsidiary salary and medical support. Support is tailored to the needs of the individual and I have no reason to believe that the Appellant’s circumstances as a single mother cannot be catered for. I remind myself that it is for the Appellant to prove that services and support available through such a reintegration package would not be sufficient to meet her needs.”

- 15. Further having assessed the Appellant who appeared before her the Judge finds that in line with the guidance given in *AB and BM* how much the Appellant has going for her. The Judge clearly turns her mind to the reintegration package because she says in [52],

“...There is no evidence that the reintegration package is limited to the extent that she may be effectively abandoned and left destitute with a young child as she fears. It has thus not been established on the evidence that any degree of vulnerability will arise in the future as it did in the past. She was under no duress when she left Albania and travelled to Belgium, and it was only when she was in Belgium that the truth of her boyfriend's intentions was discovered. She is far wiser now than she was then, and there is no evidence that she is susceptible to such a degree that there is a real risk of repetition of such events in the future.”

16. In [54] the Judge goes on to find that the IOM package makes provisions for individuals being returned with children and that there was no real risk of the Appellant being re-trafficked by her ex-boyfriend.
17. In my judgment, the Judge fully considers the evidence before her. She has considered fully considered the Appellant's circumstances and those of the Appellant's child and formed conclusions which she was properly entitled to reach on the evidence before her. The determination of Judge Bagral discloses no error requiring it to be set aside.

Decision

18. For the foregoing reasons this appeal is dismissed.

Direction Regarding Anonymity - rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014

Unless and until a tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signature

Judge of the Upper Tribunal

Dated