



Upper Tier Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/09440/2014

**THE IMMIGRATION ACTS**

Heard at Field House  
On 11 May 2015

Decision and Reasons Promulgated  
On 13 May 2015

Before

Deputy Upper Tribunal Judge Pickup

Between

**Suad Dani**

[No anonymity direction made]

Appellant

and

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the appellant: Mr A De Ruano

For the respondent: Ms E Sage, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant, Suad Dani, date of birth 6.4.97, is a citizen of Albania.
2. This is his appeal against the determination of First-tier Tribunal Judge Paul promulgated 2.2.15, dismissing his appeal against the decisions of the respondent, dated 24.10.14, to refuse his asylum, humanitarian protection and human rights claims and to refuse leave to enter the UK. The Judge heard the appeal on 27.1.15.
3. First-tier Tribunal Judge Chohan granted permission to appeal on 2.3.15.

4. Thus the matter came before me on 11.5.15 as an appeal in the Upper Tribunal.

### **Error of Law**

5. For the reasons set out below I find that there was no material error of law in the making of the decision of the First-tier Tribunal such that the determination of Judge Paul should be set aside.
6. The appellant's claim was that he is homosexual and fled Albania on grounds of persecution and after being forced to work as a male prostitute. In a short decision, Judge Paul rejected his factual claim in its entirety, finding it not credible for the cogent reasons set out in the decision of the First-tier Tribunal.
7. The grounds of application for permission to appeal submit that there were no significant discrepancies in the appellant's factual account and the judge relied entirely on plausibility to reject the account; that the judge failed to make a specific finding as to the appellant's sexual orientation; and that the Tribunal applied an unduly high burden of proof, despite stating the correct standard of proof at §18 of the decision. It is suggested that the judge failed to give the appellant the benefit of the doubt. These matters, it is submitted amounted to an error of law.
8. In granting permission to appeal, Judge Chohan found that the judge failed to make any clear findings as to whether or not he accepted that the appellant was homosexual and whilst citing HJ (Iran) [2010] UKSC 31 at §15 of the decision, the judge failed to follow the guidance. "Considering the decision as a whole, I find that there is no specific finding in relation to the appellant's homosexuality and overall there appears to be a lack of reasoning in the decision. Hence, I find there is an arguable error of law and all grounds may be argued."
9. After hearing the submissions of the representatives of both parties, I do not agree with the observations of Judge Chohan and find no material error of law in the decision.
10. First, it is quite clear that the judge rejected the appellant's factual account in its entirety, including his claim of homosexuality. As the Rule 24 response, dated 17.3.15 pointed out, §20 of the decision both rejects the claim that the appellant is homosexual and any matters arising from that claim. This is repeated in the summary at §23. The factual claim having been rejected, for what I find to be cogent reasons set out in the decision, HJ (Iran) has no application.
11. There is no merit in the oral submission of Mr De Ruano that the judge ignored the appellant's latest witness statement in rebuttal of the refusal decision. However, the judge noted the several statements of the appellant, including noting at §2 his latest witness statement of 26.1.15. The judge proceeded to give a careful summary of the appellant's claim in the subsequent paragraphs of the decision, including reference to his oral evidence at the appeal hearing.

12. I find that in considering §18 through §23 of the decision of the First-tier Tribunal that adequate and cogent reasons have been provided. The judge was entitled to disbelieve the appellant's factual claim, stating at §19 that he was not satisfied that the appellant had given an accurate or reliable account of his reasons for leaving Albania. Considered as a whole, I do not agree that the decision lacks adequate reasoning, relatively brief though it is. It cannot be said that the decision was perverse or irrational. My attention has not been drawn to any factual error in the decision and the grounds amount to no more than a rather vague and generalised disagreement with the findings of the First-tier Tribunal and disclose no material error of law.
13. Finally, I note that at §12 of the decision, the judge found in the alternative that based on the case law therein cited, there is no evidence to show that the Albanian police or other authorities mistreat gay men. There are LGBT organisations in Albania which advocate gay rights. The case law held that there is a sufficiency of protection in Albania, including for cases involving organised crime, kidnapping and extortion. "On this basis, it was submitted that not only was there no persecution by his stated evidence, but there was adequate support provided. On this basis, it was contended that the appellant had failed to avail himself of the necessary support by going to the police." The judge concluded at §13 that there was insufficient evidence to show that he was at risk of persecution from non-state agents on return to Albania.
14. It follows that whether or not the judge was correct in relation to the appellant's core factual claim, the availability of support and sufficiency of protection means that he is not at risk on return, even if his claim is accepted in its entirety. There has been no appeal against these findings of the First-tier Tribunal and thus this appeal to the Upper Tribunal cannot succeed in any event.

**Conclusions:**

15. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.



**Signed**  
**Deputy Upper Tribunal Judge Pickup**

**Dated**

**9 July 2015**

**Anonymity**

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

Given the circumstances, I make no anonymity order.

**Fee Award**                      **Note: this is not part of the determination.**

I make no fee award.

Reasons: The appeal has been dismissed.



**Signed**  
**Deputy Upper Tribunal Judge Pickup**

**Dated**    **9 July 2015**