



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

Appeal Number: AA/10032/2015

THE IMMIGRATION ACTS

Heard at Bradford Phoenix House

**Decision & Reasons
Promulgated**

On 11 April 2016

On 15 April 2016

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

**AS
(ANONYMITY ORDER MADE)**

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Bonavero of Counsel

For the Respondent: Mrs Peterson a Home Office Presenting Officer

DECISION AND REASONS

Background

1. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order preserving that already in force. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the Appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.

2. The Respondent notified the Appellant on 1 July 2015 of her decision to refuse to grant asylum or ancillary protection. The appeal against that decision was dismissed by First-tier Tribunal Judge Shimmin (“the Judge”) following a hearing on 19 October 2015. This is an appeal against that decision.
3. It is not necessary for me to provide significant factual detail of the claim except to say that the key preliminary issue was the Appellant’s nationality as, if she was not Albanian, there was no real risk of the events she claimed to have happened having occurred and no real risk of her being trafficked from there.
4. Designated Judge Lewis granted permission to appeal on 18 November 2015 as it was arguable that the Judge had failed to consider the passport produced by the Appellant when considering her nationality which stated that she was an Albanian national.

The hearing before me

5. Mrs Peterson relied on the rule 24 notice, that the Judge had not materially erred in failing to specifically mention the Albanian passport this or explain why he was placing no reliance upon it.
6. I did not need to hear from Mr Bonavero.
7. It was plain that the reference the Judge made to having been provided with the Appellant’s documents [12] did not suffice to show he had considered the Albanian passport as it is not mentioned anywhere else and there is no finding as to whether reliance could be placed on and if not why not. The adverse findings made against her did not deal with this at all. Whilst a Judge does not have to recite every piece of evidence, this was obviously a major part of the Appellant’s case and the failure to deal with this crucial piece of evidence was plainly a material error and had it been considered there was a realistic prospect there would have been a different result.
8. I therefore set the decision aside.
9. Both representatives agreed that given this was a key preliminary finding, the entire decision needed to be set aside and the matter remitted for a de novo hearing.

Decision

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision.

The matter shall be remitted to the First-tier Tribunal for a de novo hearing before a Judge other than Judge Shimmin. The time estimate is 3 hours and an Albanian speaking interpreter is required.

Deputy Upper Tribunal Judge Saffer
12 April 2016