



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/03156/2016

THE IMMIGRATION ACTS

Heard at Birmingham Employment Tribunal  
On 23<sup>rd</sup> June 2017

Decision and Reasons Promulgated  
On 28<sup>th</sup> June 2017

Before

UPPER TRIBUNAL JUDGE COKER

Between

NK

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Pipe, instructed by Goshen solicitors

For the Respondent: Ms R Petterson, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. 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 original Appellant/parties in this determination identified as NK. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings

1. The appellant was granted permission to appeal a decision of the First-tier Tribunal dismissing her appeal, on international protection grounds, against a decision of the respondent refusing her asylum claim.

2. The SSHD did not file a Rule 24 response and Ms Petterson very properly conceded that the First-tier Tribunal judge had failed to have adequate regard to material matters namely the medical evidence, had failed to have adequate regard to the country guidance case of *TD and AD (trafficked women) CG* [2016] UKUT 00092 (IAC) in the context of the appellant's account, failed to make findings on the appellant's evidence that family members lived in Tirana and failed to make adequate reasoned findings on the appellant's evidence of the threat she received in 2010 and the impact that had on her claim for international protection.
3. I am satisfied the First-tier Tribunal judge erred in law and set aside the decision to be remade.
4. Although there was some suggestion from Ms Petterson that the appeal be remitted to the First-tier Tribunal I saw no reason why I could not remake it today.
5. The appellant had, through her solicitors made an application for further evidence to be admitted, which I granted. The further evidence included copies of her medical records, a report from Dr Faisal Shafi Shaikh dated 15<sup>th</sup> June 2017 and a witness statement from a friend. Ms Petterson did not challenge this evidence. She sought to rely upon the reasons for refusal of asylum decision letter but made no other submissions.

#### Findings

6. The respondent accepts this young woman has been trafficked from Albania, that her father tried to force her into an arranged marriage and that she had received threats from her father. The respondent did not accept she had received threats in 2010 from an unknown source when she intended to publish an article about miners being killed in an accident.
7. The appellant has a Masters in journalism from Tirana. Her unchallenged evidence is that she has family members living all over Albania including an uncle. The medical evidence, unchallenged, is that she is not only suicidal but has also made a serious attempt at committing suicide, her attempt being thwarted because a friend grabbed her legs and prevented her from succeeding in throwing herself out of the window of a 10<sup>th</sup> floor flat. The psychiatrist's report relied on before me is an amplification of the report that was before the First-tier Tribunal but also provides detailed consideration of her current mental health and prognosis. It includes

"5.1 Her current diagnosis is post-traumatic stress disorder associated with major depressive disorder. The basis of this diagnosis is the horrific abuse that she had to endure in 2014 and 2015 following which she is not able to come to terms with the loss of dignity and honour that has happened to her since.

5.2 In terms of treatment that she is currently receiving, as highlighted above she is in receipt of a combination of strong antidepressant medication and a small dose of antipsychotic medication to help with her sleep from which she has benefitted partly;

however she has not received any counselling or psychotherapeutic support which in my view is the other important aspect of her treatment.

5.3 In terms of the length of treatment required for her and the prognosis, my view would be that the prognosis of her condition appears to be poor in the short term although it may improve in the medium to long term if she is in receipt of regular psychiatric support as she is receiving which is combined with psychotherapy for at least 3-5 years.

....

5.5 Clearly as observed by myself in terms of her mental state, [NK] is in no fit state of mind to be able to return to Albania currently given the fact that she is still acutely unwell with 2 major diagnoses as mentioned above and for which she has not received proper treatment and whatever benefits she may have acquired are still in the early stages....

5.6 ....If she is returned to Albania...her prognosis would become even poorer than what it is currently and there is a real risk that she may not even return because she is contemplating ending her life if this were to happen....I am unable to comment about the mental health services in Albania; however even if we suppose the mental health services are reasonable and adequate, the atmosphere of fear and uncertainty would not be conducive for [NK] to be in especially as she is the victim of not just her family's threats to be killed for not obeying their orders for a forced marriage but also as a victim of sex trafficking ring....

8. *TD and AD* considers in detail the evidence with regard to shelters. A woman with particular 'heavy' issues may be able to remain in a shelter for up to two years. The option of the shelters is not unreasonable unless the individual has particular vulnerabilities. The stay in the shelters enables support and education to be provided, enabling the woman to live on her own and to assist in enabling her to negotiate the difficulties that will ensue as a result of what has happened to her.
9. In this case, the very strong medical evidence is that she will need a period of at least 3 years to start to come to terms with what has happened to her. This is longer than the maximum stay in the shelter. On departure from the shelter, despite being well educated, the possibility of employment as a journalist is unlikely not least because she would be able to be traced through anything she published. Although the threats against her in 2010 are untraceable and are unlikely to be repeated unless she undertakes similar investigative journalism, that in itself will also prevent her returning to the employment she once had. Of course there may be other sources of employment to be had but that has to be seen in the context of her very serious mental health problems which would not, on departure from the shelter, be resolved. Furthermore, she has relatives throughout Albania including an uncle in Tirana and their discovery of her presence would immediately put her at risk of being further persecuted. It is simply inconceivable that there is an area of Albania where she could live without real objectively supported fear of discovery, even if she had no mental health problems to overcome to enable her to survive. There is no evidence at all that she has any support networks available to her in Albania.
10. In summary this young woman is highly vulnerable, will face significant and serious challenges to surviving in Albania and there is a real risk of her being further persecuted.

11. For these reasons I allow this appeal on international protection grounds.

Conclusions:

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.

I re-make the decision in the appeal by allowing it.

Anonymity

The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).



Date 23<sup>rd</sup> June 2017

Upper Tribunal Judge Coker