



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

Appeal Numbers: PA/04137/2016

THE IMMIGRATION ACTS

Heard at Field House

Decision and reasons

and reasons

On: 5 June 2017

Promulgated

On: 17 August 2017

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL CHANA

Between

MR A N

(Anonymity direction made)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr N Avery of Counsel

For the respondent: Mr C Avery, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Albania born on [] 1998. His application for leave to remain in the United Kingdom under paragraph 336 of the Immigration Rules HC 395 was refused including his claim for humanitarian protection pursuant to paragraph 339C of the Immigration Rules. The appellant's appeal against the respondent's decision was dismissed by First-tier Tribunal Judge Walker on 12 October 2016.

2. Permission to appeal was at first refused by the first-tier Tribunal on 17 November 2016 and subsequently granted by Upper Tribunal Judge McWilliam on 14 March 2017 stating that it was arguable that the judge erred in respect of sufficiency of protection in light of the expert evidence provided by the appellant.
3. Thus, the appeal came before me.
4. The Judge in his decision made the following findings which I summarise. The appellant's claim is that he lived in Albania with his family, his parents and three younger sisters aged 13, 11, and 3. The appellant's father was abusive towards him. He forced him to work in various jobs. When he was 12 years old, he worked in a mine for some two or three months. When he was 13 or 14 he was made to work in a car wash and when aged 14, he worked as a waiter. All the jobs were found by his father who forced him to take them.
5. His father prevented him from going to school and made him work against his will. When he refused to work and told his father that he wanted to go to school, he was beaten by him. His father would threaten him and tell him that he would not be allowed to eat in the house and would be kicked out if he did not do as he was told.
6. The appellant did not go to the police to complain because he was afraid of his father. The appellant continued to study until he was 15 or 16 years old and was forced to work when he was not at school and at weekends he had to work until 7 PM.
7. About 10 days before he left Albania, the appellant skipped work. The owner of the business spoke to the appellant's father who beat him. The appellant left the house and went to stay with friends and decided to leave Albania. He left Albania with a friend and they travelled together from Hungary to Belgium where they stayed for approximately one month. They then managed to get on a lorry to the United Kingdom. The appellant fears his father who beat and forced him to work whilst taking his earnings. He also feels that his father could kill him.
8. It has been accepted by the respondent that the appellant falls within the definition of a victim of trafficking. The NRM decision made on 29 March 2016 concluded that the appellant was a victim of human trafficking or slavery, servitude, or forced/compulsory labour. The appellant's circumstances demonstrate that his trafficking constituted of being forced to work by a violent father and to become the only breadwinner whilst still a teenager. The appellant was not trafficked to any third party or by any

criminal gang or away from his home area. The appellant has been a child victim of parental domestic abuse.

9. The first issue is whether the appellant is a member of a particular social group and while some victims of trafficking are considered to be members of a particular social group where the trafficking has been for the purpose of criminality and is dealt with in the case of **SB Moldova CG [2008] UKAIT 00002**. It is not accepted that the appellant together with others in similar positions have a distinct identity in Albanian society and which is perceived as being different to that of surrounding society. The appellant is aged 17 and will be 18 in two months' time. He presented as a fit, healthy and mature young man. He looked more mature than 17 years of age. In the circumstances, the appellant is not a member of a particular social group and as such is not entitled to the protection of the 1951 Convention.
10. The second issue to determine is whether the appellant should be granted humanitarian protection in the United Kingdom. The only person that the appellant fears is father in Albania. It is not accepted that his father will be able to find him as claimed by the appellant. The appellant's evidence is that his father was a poor man, out of work and who relied upon the appellant's part-time earnings. This is not the profile of a person with influence and the ability to find the appellant in other parts of Albania. The appellant would not be at risk in any way from his father anywhere in Albania other than perhaps in his immediate home area. Given the appellant's profile as a mature young man who settled well with his foster carer, attending college as well as being a member of a boxing club, it is not accepted that the appellant is intrinsically vulnerable to being re-trafficked. He was only used and abused by his own father and was never involved in any criminality. As long as he does not return to his home area then I do not believe he will be at risk.
11. The expert report by Christine Beddoe has been considered who based her report on relevant written evidence but did not meet the appellant. The expert details the objective information and situation in Albania about trafficking. She deals with the more serious aspects of trafficking including international trafficking, criminality, prostitution and pornography.
12. The appellant was thankfully not involved or forced to be involved in these much more serious aspects of trafficking. The expert deals with the appellant's mental health concerns but it is noted that he is not receiving, nor has requested any treatment for any physical or mental ailments. The only reference is from his foster carer, who suggested that the appellant ought to see a counsellor but this was something decided against by the appellant himself. The appellant is not seeking any treatment for health in

the United Kingdom where such treatment is readily available than it is believed he will not need it in Albania.

13. There is sufficiency of protection for the appellant in Albania. The appellant can avoid his father in his home area and could avail himself of the protection afforded by the authorities and the police even if the efficiency standards fall far short of the standards found in the United Kingdom there nevertheless is an operating judicial police system in Albania. The appellant has not demonstrated that the authorities in Albania would be unable to or unwilling to offer him protection if he sought it. In respect of the appellant's accommodation in Albania as a minor, there is evidence of help and assistance being available with one State run shelter and three others, operated by NGOs.
14. The appellant has shown himself resourceful enough to travel across Europe to the United Kingdom. He has travelled through Kosovo, Hungary, Germany and Belgium. He has travelled through countries where he does not speak the language whereas if he returned to Albania he would have no problems with the language and culture. The appellant is still a minor but he will be removed to Albania when he is an adult. The appellant's appeal for humanitarian protection was dismissed.
15. At the hearing, I heard submissions from both parties as to whether there is an error of law in the decision of the First-tier Tribunal.

Decision as to whether there is an error of law.

16. I have given anxious scrutiny to the decision of the First-tier Tribunal and have taken into account the grounds of appeal and the documentary evidence provided by the appellant. The gist of the grounds of appeal is that the Judge did not take into account the expert's opinion about sufficiency of protection.
17. The appellant claims to have been a victim of trafficking and the Council of Europe Convention on Action against Trafficking in Human Beings applies to him. If she is or has been a victim of trafficking, he may be entitled to a temporary renewable residence permit and may be entitled to other assistance from the United Kingdom authorities as decreed by law. The appellant claims that he fled Albania and came to the United Kingdom travelling through various European countries to escape his abusive father who would make him work when he was not studying.
18. The First-tier Tribunal Judge took all the evidence into account and found that the appellant does not belong to a particular social group and this finding is without arguable error.

19. The Judge correctly identified that the only person that the appellant fears is his father in Albania. He correctly identified that the appellant was not a victim of gangs or of being trafficked outside the country. The Judge found that the appellant was a victim of domestic abuse and forced labour by his father who lived off the appellant's earnings from his part-time work because his father did not work. There is no error of law or fact in this finding. The Judge particularly noted that the appellant also went to school and was only required to work part-time.
20. The Judge further identified that the appellant could relocate within Albania away from the area where his father lives. He also correctly found that the appellant's father is a poor man, out of work and without influence and would not be able to find the appellant if he returned and lived in another area of Albania. The Judge further noted that the appellant will be an adult when he returns to Albania and therefore no longer a vulnerable child who would be at the mercy of his father or any other adult. The Judge found that the appellant is a mature young man who has been able to travel to different countries where he does not even know the language or the culture. The Judge found that the appellant on his return to Albania, would be familiar with the language and culture. These findings are on the evidence before the Judge and there is no perversity in the conclusions that he drew from the evidence.
21. The Judge considered the expert report and said that the expert talks about background evidence of a more serious type of trafficking which involves criminality and being trafficked outside the country. The Judge was entitled to find that the appellant's father who forced him to work, for the family to live off his earnings, is not at the serious end of trafficking.
22. The Judge notes that the expert did not meet the appellant and her expert report is more concerned with the more serious trafficking including international trafficking, criminality prostitution and pornography. The Judge correctly noted that this did not apply to the appellant. The Judge did consider the expert report and there is no merit in the argument that he did not. He was entitled to place the reliance that he did on the expert report and gave adequate reasons in the decision.
23. The Judge also considered that there was sufficiency of protection for the appellant in Albania. The Judge found that the appellant did not report his father to the authorities but ran away to the United Kingdom. He considered the appellant's explanation for why he did not report his father to the police which was that he was scared of him. The Judge considered that when he was in Albania, he was a child but now that he is an adult he can avail himself of the protection of the authorities in Albania. This is consistent with

Judge's finding that the appellant is a mature individual who has managed to travel through various countries to come to the United Kingdom as a child. There is no material error in this finding that the appellant who will be an adult when he returns to Albania will not be at risk of being re-trafficked given that he is not vulnerable and was only a victim of forced labour by his father to feed his family because his father was not employed.

24. The evidence before the Judge was also that the appellant did go to school as well as working part-time which is not entirely consistent with the appellant's claim that he was forced to work with he wanted to study. The appellant claims that he ran away to the United Kingdom because he did not want to work and his father threatened him that he will not eat, and be thrown out of the house. If the appellant had run away to another part of Albania, he would have achieved the same result. The Judge did not find credible that the appellant's father had any resources or influence to find the appellant in another part of Albania. These are sustainable findings on the evidence before the Judge.
25. I find that the Judge was entitled and required to reach his conclusions based on the evidence in determining the appellant's appeal. The Judge has taken into account all the evidence including the medical and expert evidence. The Judge found that despite the appellant's claim that he has a medical condition, he has not sought any medical intervention in this country where it is available and therefore will not need it on his return to Albania. I find there is nothing unreasonable or perverse in the conclusions reached by the Judge. I find on the evidence in this appeal, no differently constituted Tribunal would reach a different conclusion.
26. I find that there is no material error of law in respect of the Judge's findings that the appellant cannot be recognised as a refugee or be granted humanitarian protection in the United Kingdom.

DECISION

The appellant's appeal is dismissed

Anonymity direction has been made

There can be no fee award in this case

2017

Dated this 19th day of July

Signed by

A Deputy Judge of the Upper Tribunal

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Mrs S Chana