



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

Appeal Number: PA/10817/2016

THE IMMIGRATION ACTS

**Heard at : Field House
On : 21 July 2017**

**Decision Promulgated
On : 25 July 2017**

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

[E I]

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms U Dirie, instructed by Sentinel Solicitors

For the Respondent: Mr P Singh, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal dismissing her appeal against the respondent's decision of 20 September 2016 to refuse her protection and human rights claim.

2. The appellant is a citizen of Albania, born on [] 1998. She arrived in the UK on 14 September 2014, aged 16 years, having left Albania on 5 September 2014 and spent a few days in Italy. She claimed asylum on the day of arrival and was served with illegal entry papers. She was interviewed about her claim which was then refused on 2 April 2015. She was, however, granted a period of leave as an unaccompanied asylum seeking child until 1 February 2016. She

then submitted an application for further leave to remain on 22 January 2016, but that was refused on 20 September 2016, by which time she was 18 years of age.

3. The appellant appealed against that decision and her appeal was heard in the First-tier Tribunal on 23 January 2017 and was dismissed in a decision promulgated on 7 February 2017.

The Appellant's Case

4. The appellant claims to fear persecution from Albanian criminals who were in conflict with her father. She was originally from Kukes in Albania, but her family moved to Durres in 2006. Her claim is that her father used to be the Chief of the Police in Kukes in the narcotics section and as a result of that position and his subsequent senior role in the narcotics unit in the police in Durres, she was followed by those criminals, from the summer of 2012 or 2013. She noticed that she was being followed after school when she went to the supermarket or other places and this continued until May 2014. The problems increased in October 2013 when she was stopped in the street by two or three men who pulled her by the arms and told her that she was a target because she was very close to her father. At the end of May 2014, when she was returning from school, a car stopped in front of her, three men came out and pulled her by the arms and tried to force her into the car. She screamed and tried to fight the men off. When another car came they went away and she fell to the ground unconscious. She went home afterwards but did not tell her family. She did not tell her father as she did not want to be kept inside the house and did not want to cause him stress. She next saw these people at the end of June 2014 near her apartment and she stopped going out alone. The incidents caused her extreme stress and as a result she had headaches and stomach aches and was hospitalised four or five times. In the summer of 2014 she hardly left home as she was traumatised and scared. At the beginning of September 2014 she asked her father if she could visit her cousins in Bari, Italy and he agreed and accompanied her there on 5 September 2014 before returning home the same day. She told her cousin about the problems and he took her to a place in Italy where there were lorries going to the UK. She got in a lorry and travelled to the UK. She called her family and explained what had happened and her mother told her that she had seen people around her apartment block looking towards the windows.

5. The respondent, in refusing the appellant's claim in her initial decision of 2 April 2015, considered that her account was vague and inconsistent in dates and that her father's and family members' ability to reside in Albania without incident over an extended period of time undermined her claim to have been approached by these men due to her connection with her father and his work. The respondent noted that the appellant had experienced no problems from May 2014 until September 2014 and that no actions had been taken against her family since she had left Albania. The respondent therefore did not accept the appellant's account of having had problems in Albania as a result of her father's work, but considered that, in any event, there was a sufficiency of

protection and internal relocation option open to her. It was not accepted that her removal to Albania would breach her human rights.

6. The respondent maintained the same grounds of refusal in her subsequent decision of 20 September 2016. The respondent noted that the appellant had submitted further evidence showing that her father had been transferred to Durres and was a police officer in Fushe Kruj near Durres. The respondent accepted that the appellant's father was currently a police officer in Durres but noted that the evidence did not confirm that he had previously been the chief of police in the narcotics section in Kukes. The respondent noted the appellant's account in her further representations that her father had been transferred from the place where he was working previously and that he believed that was because his directors were corrupt and worked with the drug traffickers. The respondent noted that there was no evidence to corroborate such a claim. The respondent maintained that the appellant would not be at risk on return to Albania.

7. The appellant's appeal against that decision was heard by First-tier Tribunal Judge Nolan. The judge heard from the appellant and considered the documentary evidence before her which included letters from the Albanian Ministry of Internal Affairs relating to the appellant's father's employment as a police officer, a letter from the appellant's social worker, a letter from the appellant's GP and letters from a senior clinical psychologist Dr Dan Keren stating that her return to Albania may cause deterioration to her mental health and could put her at a higher suicide risk. The judge recorded the appellant's evidence that she had been living with a foster family in the UK for over two years and that they were like a second family. She was at college studying business and finance NVQ and was achieving well and had lots of friends. She was currently doing her GCSEs. She attended therapy sessions every week or fortnight and was very stressed. The judge also heard from the appellant's foster mother.

8. The judge accepted that the appellant's father was a police officer, as she had provided documentary evidence to that effect, confirming that he was currently working as a crime specialist in Durres and had previously worked as part of the specialist anti-money laundering section in Kukes. The judge noted that there was no evidence to support the appellant's claim that her father had been the chief of the narcotics section and did not accept that he had held that role. Neither did the judge accept that the appellant had been followed every time she went to and from school for the year before she left Albania. She did not find it credible that the appellant would have been constantly followed without anyone in the family or outside the family having noticed and did not accept that she would not have told her parents. She did not accept that criminals would invest substantial amounts of time, resources and personnel in following the appellant and did not accept that the appellant would have been able to fend off three large men. The judge did not accept the appellant's account and did not accept that she was at risk from criminals in Albania. She did not accept the appellant's claim that she had no contact with her family in Albania and that her family had rejected her and considered that her parents

were colluding with her asylum claim. The judge considered that the appellant could return to her family home in Durres or relocate to Tirana and that she could access medical treatment there for her mental health problems. The judge considered that the appellant's removal would not breach her human rights and she dismissed the appeal on all grounds.

9. The appellant sought permission to appeal Judge Nolan's decision to the Upper Tribunal on the grounds that the judge had erred by rejecting her account of her father's role in narcotics merely because it was not supported by documentary evidence and that, since the further adverse credibility findings were predicated on the core finding that the appellant had lied about her father's role, such an error was material. It was also asserted that the judge's adverse credibility findings were unsustainable as being rooted in speculation and conjecture as to how Albanian criminals would act.

10. Permission to appeal was granted on 6 June 2017.

Appeal hearing and submissions

11. The appeal came before me on 21 July 2017. Both parties made submissions.

12. Ms Dirie submitted that it was too simplistic for the judge to have rejected the appellant's evidence of her father's role as chief of narcotics when her evidence had otherwise been consistent throughout and when she was a minor. The requirement for corroborating documentary evidence was an error of law. That in turn impacted on the judge's other findings.

13. Mr Singh submitted that the judge's findings were open to her. In any event, the judge's finding rejecting the appellant's account of her father's role as chief of narcotics did not infect the rest of the credibility findings, as the adverse findings at [44] were nothing to do with her father's role.

14. In response Ms Dirie reiterated the points previously made and submitted that the judge's adverse findings were based on speculation and conjecture.

Consideration and findings.

15. I would point out as a preliminary matter that the appellant appeared to be very distressed at the hearing and indeed that is borne out by the correspondence from her consultant psychiatrist and her senior clinical psychologist, which was produced before me. However, whilst I have every sympathy for the appellant, who is clearly having difficulty coping with the asylum process, the appeal before me is not related to her health issues or findings on that matter, but is solely related to the lawfulness of the First-tier Tribunal's adverse credibility findings on her asylum claim.

16. With regard to those adverse findings, I cannot see any basis for concluding that Judge Nolan erred in law. Her decision is a thorough and careful

one, based upon a detailed assessment of the evidence, taking full account of the appellant's youth, and providing clear and cogent reasons for the adverse conclusions reached. I find nothing unreasonable or irrational about the judge's findings with respect to the role the appellant's father held in the police. The appellant's claim was that her problems arose as a result of her father's senior position in the narcotics unit of the police and she claimed that he had previously held the role of the chief of police in Kukes. Yet the documents she had produced confirmed that he had been a police officer in the anti-money laundering section of the police in Kukes and that he was currently a police employee working as a crime specialist in the police directorate in Durres. Clearly the judge was entitled to find that the documents did not support the appellant's claim as to the nature and seniority of her father's past and current roles and to consider that that undermined her claim as to the level of adverse interest that he would have attracted. Her adverse findings were not based simply on an absence of documentary evidence corroborating his role in the narcotics unit, as the grounds suggest, but upon the fact that the nature and seniority of his role as claimed by the appellant to have given rise to her problems, was not supported by the evidence. Accordingly I find nothing unreasonable, irrational or unlawful in the judge's findings in that respect.

17. I am, furthermore, in agreement with Mr Singh's submission that the judge's adverse findings on the appellant's father's role were not central to her other adverse credibility findings. The judge gave detailed reasons, at [44], for rejecting the appellant's claim to have been harassed and threatened by criminal elements, independent of her findings on her father's role in the police. The judge did not find it credible that the appellant, a child, would have been followed every day after school for a year, without anyone noticing. She did not find it credible that such criminal elements would invest so much time and so many resources in following a policeman's daughter to and from school for a year. She did not accept that three large criminals would cease their efforts to kidnap her simply because someone heard her screaming or that a teenage girl would be able to fend off three large men. The judge did not find it credible that the appellant would not have told her parents about the problems she was facing or that she would have thought that her father would be forced to leave his job if she told him. All of these concerns were, it seems to me, perfectly rational and reasonable and I do not agree that they amount simply to speculation and conjecture as the grounds assert.

18. It is also relevant to note that the judge provided reasons, at [45], for finding other areas of the appellant's evidence to be lacking in credibility, namely her claim as to her family disowning her and as to a lack of, or limited, contact with her family. Those reasons were perfectly cogent ones. It was the judge's overall conclusion, at [45], that the appellant's parents were colluding with the appellant in concocting an asylum claim. Contrary to the suggestion in the grounds, this was not a case where the judge found the appellant to be telling the truth but then rejected her claim due to a lack of corroborative evidence. The judge simply did not accept any of the appellant's claim, other than that her father was a police officer, as that was confirmed in the documentary evidence provided. The judge provided full and cogent reasons


for reaching such a conclusion and for making the adverse findings that she did. There was nothing unlawful, unreasonable or irrational about her findings.

19. For all of these reasons I conclude that the grounds of appeal do not disclose any errors of law in the First-tier Tribunal's decision.

20. Returning to the preliminary matter referred to above at [15], the grounds of challenge and the issues relevant to the error of law were not related to the appellant's mental health concerns, as I have already said. No challenge has been made to the judge's findings in that regard and indeed the judge gave full and careful consideration to the matter at [51]. Should there be further concerns about the appellant's mental health as a result of the negative outcome of these proceedings, that may be the subject of further representations, but for the purposes of the appeal before me, however, I find no reason not to uphold the findings and conclusions of the judge.

DECISION

21. The appellant's appeal is accordingly dismissed. The making of the decision of the First-tier Tribunal did not involve an error on a point of law. I do not set aside the decision. The decision to dismiss the appellant's appeal therefore stands.

Signed 
Upper Tribunal Judge Kebede
2017

Dated: 24 July