



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

Appeal Number: PA/11005/2016

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 1<sup>st</sup> August 2017**

**Decision & Reasons Promulgated  
On 1<sup>st</sup> August 2017**

**Before**

**UPPER TRIBUNAL JUDGE COKER**

**Between**

**AB  
(Anonymity direction made)**

Appellant

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms R Moffat, instructed by ATLEU

For the Respondent: Ms J Isherwood, 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 AB. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings**

1. AB, an Albanian citizen, appealed a decision to remove her following refusal of her claim for asylum/humanitarian protection/protection on human rights grounds. Her appeal was heard by First-tier Tribunal Judge A D Baker on

13<sup>th</sup> March 2017 and dismissed in a decision promulgated on 10<sup>th</sup> May 2017.

2. AB's claim was that she had been trafficked to work as a prostitute in Brussels, had managed to escape and had returned to Albania but on hearing that the traffickers were after her she fled Albania and came to the UK. After a period of time she had a relationship with a man with whom she had a child. That child is her dependant in these proceedings. That man then rejected her and she then sought asylum. She was referred to the NRM but although an initial positive reasonable grounds decision was taken on 18<sup>th</sup> February 2016 a decision was taken by the NRM on 19<sup>th</sup> August 2016 that she had not been trafficked. That decision of the NRM was, at the date of the First-tier Tribunal hearing, the subject of a judicial review application.

3. The First-tier Tribunal judge sets out with clarity the evidence before her and concludes, drawing all the findings together and concludes that the adverse findings go the "very" core of her account. And that

"No part of her account can be relied on save for the admitted facts as to her nationality, age, name, that she has a daughter and that the appellant suffers from PTSD."

4. Permission to appeal was sought and granted on the grounds that despite the First-tier Tribunal judge stating that the psychologist's report was reliable and should be given weight, she has not placed any weight upon that report at all and has not made any findings on the report in the context of the appellant's claim for international protection. It was arguable that no reasons had been given to reject the conclusions of the Psychologist.

5. Permission was also granted on the grounds

(a) that it was arguable the First-tier Tribunal judge had failed to provide reasons for accepting some but not other parts of the country expert report

(b) that it was arguable the First-tier Tribunal judge had failed to consider the appellant's claim against the background material but had rejected elements of her claim on the basis of inherent implausibility.

(c) It was arguable the First-tier Tribunal judge failed to engage at all with the possible risk on return of the appellant with a young child born out of wedlock, and

(d) That it was arguable the First-tier Tribunal judge had failed to make any findings under paragraph 276ADE and in particular whether she would face very significant obstacles to reintegration.

6. The First-tier Tribunal judge has phrased her findings in terms of it being "not inherently not credible". This is a rather confusing formulation. Although the judge has made specific findings on many elements of the appellant's account she has not, in reaching her final conclusion referred to the weighty evidence of the psychologist that the appellant's symptoms were consistent with the trauma claimed of sexual abuse and the emotional trauma of being

abandoned by her partner. No adverse submissions were made by the respondent on the psychologist's report which considered the appellant's symptoms in the context of the psychologist's accepted experience of dealing with victims of sexual abuse, those who have been trafficked and whether the appellant was exaggerating or making up her symptoms. The failure of the judge to consider this and place weight upon it, as she had said she should, is a material error of law.

7. The report by the expert was not challenged by the respondent. The evidence she gave has again not been engaged with in any meaningful way, particularly when considered in the context of the background evidence overall and the country guidance case of *TD and AD (trafficked women) Albania CG* [2016] UKUT 00092 (IAC). The First-tier Tribunal judge has provided no reasons for discounting elements of the expert's report.
8. Ms Isherwood conceded there were material errors of law such that the decision be set aside to be remade. There is without doubt a lack of adequate reasoning for the conclusions reached by the First-tier Tribunal judge.
9. I set aside the decision to be remade.
10. The nature and extent of any judicial fact finding which is necessary in order for the decision in the appeal to be re-made is such that, having regard to the overriding objective, it is appropriate to remit the case to the First-tier Tribunal.

Conclusions:

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

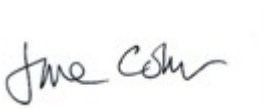
I set aside the decision and remit the appeal to the First-tier Tribunal.

**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 1<sup>st</sup> August 2017



Upper Tribunal Judge Coker