



**Upper Tribunal
(Immigration and Asylum Chamber)
Number: PA/12972/2016**

Appeal

THE IMMIGRATION ACTS

**Heard at North Shields
Promulgated
On 24th November 2017
December 2017**

Decision

On 19th

Before

DEPUTY UPPER TRIBUNAL JUDGE FARRELLY

Between

**MRS.L Z
(ANONYMITY DIRECTION MADE)**

Appellan
t

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant:

For the Respondent: Mr Mills, Home Office Presenting Officer.

DETERMINATION AND REASONS

Introduction

1. The appellant has been given permission to appeal the decision of First-tier Judge Turnock who dismissed her claim for protection from her former husband. This was on the basis it was arguable the judge did not deal adequately with the question of sufficiency of

protection and relocation for the appellant is accepted victim of domestic violence.

2. She was born in May 1970 and married in December 1987. Her husband was born in 1962. They lived in the capital, Tirana. They had two sons, A, born in June 1989 and B, born in July 1992. She obtained a divorce in April 2004, having separated from her husband in 2003. Custody of the youngest child was to the appellant and custody of the elder to his father with mutual visitation rights. In fact the children lived with their father but they saw each other because they continued to live in a converted factory, each occupying separate parts. The appellant said her parents were deceased but she had siblings, some of whom were in Albania. She said they did not maintain contact but she remains close to her brother in Canada who funded the journey to the United Kingdom. She had previously moved to Italy but returned after several months.
3. The refusal letter accepts the appellant is Albanian and was the victim of domestic violence. However, it was not accepted that the Refugee Convention was engaged. The respondent concluded she was not part of a social group as the victim of domestic violence on the basis there was sufficiency of protection. In support of this, reference was made to the Albanian Constitution which proscribed the equality of men and women. There was also a reference to the Albanian criminal code which provided sanctions for domestic abuse, with sentences of 3 to 4 years for serious threats of violence and sentences from 3 to 15 years for injury. Reference was also made to country guidance material from 2015 which confirmed the existence of a police force in Albania. It was pointed out there were avenues of redress against police who would not act but the appellant had not pursued this. There was also mention of help lines and shelters for women in the appellant's position. The respondent felt that she could reasonably relocate to one of the two other cities in Albania which were over 130 km away which had shelters. There was nothing to suggest her husband was a man of influence with the police who could pursue her.
4. The appellant was not represented before the judge. There was no appeal bundle on her behalf beyond letters of support as set out at para 39 of the decision. The judge noted that it was accepted she was the victim of domestic violence. The judge heard evidence about the private life she had established in the United Kingdom.

The Upper Tribunal

5. In the Upper Tribunal the appellant was represented. It was pointed out that the decision only dealt briefly with sufficiency of protection and relocation and replicates the refusal letter. Even after the appellant had been divorced her husband continued to cause difficulties. There was reference to an updated Home Office

guidance of April 2016. This recorded domestic violence was a serious and widespread problem in Albania. It estimated 53% of women were affected on this issue. The guidance referred to the need for an individual assessment and pointed out that a woman's social status was relevant.

6. In response, the presenting officer acknowledged that the reasons given on sufficiency of protection were limited. However, the judge was faced with an unrepresented appellant and did not have evidence to call into question the material presented by the respondent in the refusal letter. As stated, it was acknowledged that she had been the victim of domestic violence but the provisions in the Constitution and the country information had been set out. Paragraph 45 was specific to the appellant and noted that she had worked in the past. There is an old country guidance decision, DM (Sufficiency of Protection - PSG - Women - Domestic Violence) Albania CG [2004] UKIAT 00059 which indicates a general willingness on the part of the authorities to act. The presenting officer suggested the appellant's difficulties were compounded by the fact that she lived in close proximity to her husband and if she relocated this would no longer be an issue.
7. By way of reply, the appellant's representative said that she wants to maintain contact with her children. However, this would mean that her former husband could trace her through them. The presenting officer pointed out at the time of divorce they were in their mid teens. They are now adults who should have an appreciation of their mother's position and would be more independent of their father.

Consideration

8. As stated, the appellant has experienced domestic violence. To this end there was a medical report which showed she had been admitted to hospital here complaining of chest pains in September 2016 and it was noted that there were three old fractures to her ribs. Although divorced in 2004 she continued to live in close proximity to her husband because they occupied the same premises. She had said she had worked in various jobs but the pay was poor and she could not afford to pay rent for alternative accommodation. The refusal letter had pointed out that she had been able to make the journey to the United Kingdom and settle here. By the same token it was considered reasonable to expect her to relocate within her home country.
9. The judge's decision is brief. It does not mean it was inadequate. The respondent had accepted the appellant was Albanian and had suffered domestic violence in the past. The outstanding issues were sufficiency of protection and relocation in Albania. The only objective evidence presented to the judge was that contained in the refusal letter. Based upon the evidence the judge was entitled to

reach the conclusion reached. Nothing at hearing in the Upper Tribunal has been presented to suggest such a conclusion was unreasonable or perverse. Consequently, I do not find a material error of law established.

Decision

The decision of First-tier judge Turnock dismissing the appellant's appealed shall stand. No material error of law has been established

Deputy Judge Farrelly of the Upper Tribunal