



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

Appeal Number: PA/02876/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 9th April 2019**

**Decision & Reasons Promulgated
On 23rd April 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

**KH
(ANONYMITY DIRECTION PRESERVED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms M Cohen, Counsel instructed by Migrants Resource Centre

For the Respondent: Ms S Jones, Home Office Presenting Officer

DECISION AND REASONS

1. The Respondent refused the application for asylum or ancillary protection on 11 February 2018. The Appellant's appeal against this was dismissed by First-tier Tribunal Judge Grant following a hearing that took place on 13 and 29 November 2018.
2. In summary, the judge did not accept that the Appellant had given a truthful account regarding the circumstances by which she had left Italy. The two hearing dates before Judge Grant were due to the fact that after having concluded the hearing on 13 November, in preparing the decision

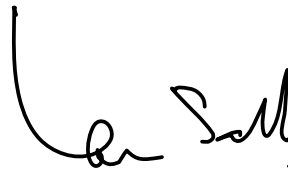
and going through the voluminous amount of paperwork provided for the appeal, she identified a particular document that caused her to feel that additional enquiries needed to be made of the representatives and the matter was therefore brought back before the Tribunal on 29 November. The relevance of a document dated 6 December 2016 issued by the British Embassy in Tirana which had been redacted became essential to the assessment by Judge Grant of the credibility of the Appellant and in particular how she had left Albania.

3. The judge at [29] stated “Contrary to what was submitted to me by Counsel for the Appellant, this evidence did not come to light after the NRM issued the decision accepting that the Appellant was a victim of trafficking”.
4. Permission to appeal was granted by Upper Tribunal Judge Chalkley on 13 March 2019 as “it is possible the First Tier Tribunal Judge *may* have erred by thinking that the Albanian Interior Ministry Report was received after the decision to recognise the appellant as a victim of trafficking.”
5. It is accepted by Ms Jones that there was an error as the Respondent did have the document before issuing the Conclusive Ground letter. The issue for me is whether that error is material.
6. Ms Cohen sought to persuade me to adjourn the hearing to enable Mr Steven Harvey to prepare a specific report in relation essentially to corruption within the various stages of the Albanian state such as to cast doubt on the information they provided the Respondent with that led to the letter of 6 December 2016. I refused the application as I was not satisfied that such a specific report was necessary for me to determine whether the judge had materially erred in relation to the chronology.
7. There was no Rule 24 notice. Ms Jones submitted, in essence, that the adverse credibility findings, for example at [28], stand on their own.
8. I do not agree. That paragraph falls in the middle of consideration by the judge of the documentation she had brought to light from the Albanian Interior Ministry. It is referred to at [22]. At [23] and [24] there is a discussion surrounding that evidence. [25] refers to obtaining the provisions of the Memorandum of Understanding. [27] lists documents before a Dr Agnew Davies. [28] deals with the Appellant’s statements as to how she had left Albania and adverse criticisms are made within that. The judge then refers back to the Albanian authorities’ documentation at [29]. It cannot be said to stand alone.
9. In those circumstances I am satisfied that having made an adverse finding in relation to the chronology, that adverse finding infected the rest of the findings on credibility. The heart of the is whether the Appellant is reasonably likely to be the victim of trafficking upon return to Albania, with it being argued that she had been trafficked, escaped and then been re-trafficked. It cannot be said to be immaterial when a Conclusive Grounds

decision went in her favour for the judge then essentially to say that the Appellant was lying about how she got out without additional information.

10. If I have not already done so I make it clear that there is no criticism at all of Ms Cohen not applying for an adjournment on 28 November, bearing in mind the expert was out of the country and simply was not able to prepare a report. Had she been in a position to do so, no doubt the judge would have considered an adjournment application because that information is plainly relevant.
11. I am therefore satisfied that there was a material error of law in the decision of Judge Grant. Having considered the submissions by both representatives, I am satisfied it is appropriate to set the decision aside and remit the matter to the First-tier Tribunal for a de novo hearing not before Judge Grant at Birmingham for reasons that are not needed to be recorded here. I am not issuing any directions in relation to that save that the hearing shall not be before 1 July 2019 to enable a report from Mr Steven Harvey of a specific nature in relation to corruption at all levels of the Albanian Ministry of Interior to be filed and served.

Deputy Upper Tribunal Judge Saffer
17 April 2019



Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Deputy Upper Tribunal Judge Saffer
17 April 2019



FEE/COSTS AWARD

The matter is ongoing, and I therefore make no fee or costs award.

Deputy Upper Tribunal Judge Saffer



17 April 2019