



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/06961/2017

THE IMMIGRATION ACTS

Heard at: Manchester Civil Justice Centre
On 28th January 2019

Decision & Reasons Promulgated
On 21st May 2019

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

ED + 1
(anonymity direction made)

Appellant

And

Secretary of State for the Home Department

Respondent

For the Appellant: Ms S. Widdison, Counsel instructed by direct access
For the Respondent: Mrs H. Aboni, Senior Home Office Presenting Officer

DECISION AND DIRECTIONS

1. The Appellant is a national of Albania born in 1990. Her dependent is her daughter who is now aged 4. She pursues an appeal on human rights grounds, submitting, with reference to paragraph 276ADE(1)(vi) of the Immigration Rules, that there are very significant obstacles to her integration in Albania; she further submits that her private life in the United Kingdom is such that the refusal to grant her leave to remain amounts to a disproportionate interference with it.

2. The appeal comes before me as a result of my decision of the 24th September 2018, when I found that the First-tier Tribunal (Judge Brookfield) had erred in law in her approach to Article 8. A copy of my 'error of law' decision is appended, but in brief my reasons were that the Tribunal had failed to consider paragraph 276ADE(1)(vi) at all: this being the starting point for any consideration of Article 8, the decision was flawed for material error. Further I noted that the First-tier Tribunal's reasoning on Article 8 'outside of the rules' had turned on whether the Appellant and her daughter would have the support of their natal family if they returned to Albania. At its paragraph 10 (xvi) the Tribunal found:

"... I find the evidence before me suggests there is a reasonable degree of likelihood she would be able to return to live with her family in Shkoder and that her family would financially support her on her return to Albania".

This finding is flawed for two errors in approach. First, the Tribunal here apparently failed to have regard to material evidence, that the Appellant and her family are now in fact estranged. Second, the reasoning is premised on an inversion of the standard of proof. If it is only reasonably likely that her family will support her, the Appellant has made out her case – on the lower standard – that they will not.

3. For these reasons the First-tier Tribunal's decision, insofar as it related to Article 8, was set aside to be remade, and this is the matter now before me.
4. I record for the sake of completeness that the First-tier Tribunal also dismissed the Appellant's appeal on protection grounds, finding that whatever subjective fear she may have in respect of living in Albania, that fear is not objectively well-founded, since the authorities in Albania are generally willing and able to provide a sufficiency of protection against domestic violence and criminality: DM (sufficiency of protection – PSG – women – domestic violence) Albania CG [2004] UKIAT 00059. I found no reason to interfere in that decision and it is upheld.

Anonymity

5. This case concerns the human rights and best interests of a minor. I have had regard to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and the Presidential Guidance Note No 1 of 2013: Anonymity Orders and I consider it appropriate to make an order in the following terms:

"Unless and until a tribunal or court directs otherwise, the Appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies to, amongst others, both the Appellants

and the Respondent. Failure to comply with this direction could lead to contempt of court proceedings”

The Factual Matrix

6. The First-tier Tribunal found that the Appellant had discharged the burden of proof in respect of the following matters.
7. The Appellant is from a working class family from a town in northern Albania, Shkoder. Although her family are, in keeping with their origins, socially and religiously conservative, they permitted her to attend university and wanted her to pursue a career and marry someone educated. So it was that in 2009 when she met a local man who was largely uneducated, her family were not approving. His family were not happy either since they had wanted to arrange a marriage for him, but he and the Appellant were in love and decided to get married against the wishes of their respective families.
8. Not long after the marriage the Appellant’s husband’s behaviour changed. He drank heavily and often gambled. He subjected her to sustained mental and physical domestic abuse which continued even after their daughter was born in 2014. He fell into debt which resulted in men coming to the family home and threatening the Appellant. In 2016 the Appellant and daughter were evicted from their home after her husband stopped paying the rent. She returned to her family home for some months but left the country in 2016 after she became afraid that her by then estranged husband, or his family, would try and take her daughter away from her.
9. The Tribunal found, in findings that I have preserved, that
 - i) The Appellant’s fears in respect of her husband are subjectively real but are not objectively well-founded; *in particular*
 - ii) The Appellant’s child is not presently at risk of being abducted or otherwise harmed by her father or paternal family; *and*
 - iii) If any risk were to arise the Appellant and her daughter would be sufficiently protected by the Albanian state so as to obviate any need for international protection: DM (sufficiency of protection – PSG – women – domestic violence) Albania CG [2004] UKIAT 00059 applied.

Matters in Issue

10. The Applicant must demonstrate, on a balance of probabilities, that she meets the requirements of paragraph 276ADE(1) (vi) of the Immigration Rules:

276ADE (1). The requirements to be met by an applicant for leave to remain on the grounds of private life in the UK are that at the date of application, the applicant:

(vi) subject to sub-paragraph (2), is aged 18 years or above, has lived continuously in the UK for less than 20 years (discounting any period of imprisonment) but there would be very significant obstacles to the applicant's integration into the country to which he would have to go if required to leave the UK.

11. The Applicant seeks to demonstrate that such obstacles exist with reference to the following matters:

- (i) She is now estranged from her natal family;
- (ii) She has serious mental health issues for which she would not receive adequate assistance in Albania;
- (iii) She remains extremely fearful of her husband and his family and as such cannot return to her home area;
- (iv) There exists in Albania serious societal discrimination against single mothers/women who live alone.

12. If the Appellant fails to discharge the burden of proof in respect of paragraph 276ADE(1) she alternatively puts her case on the basis of Article 8 'outside of the Rules'. Since paragraph 276ADE(1)(vi) is exclusively concerned with the individual's private life in the country to which they are expected to return, any consideration of the quality of the individual's private life here can only take place outwith that framework. In this regard the Appellant relies on the matters (i)-(iv) outlined above, but in addition asks that significant weight be given to two matters: the best interests of her daughter, and the fact that in this country she enjoys considerable support from friends, clinicians and women's groups.

Paragraph 276ADE(1): Discussion and Findings

13. The primary factual issue that remains to be determined is whether or not the Appellant is now estranged from her own family, as she claims.

14. The Appellant states that her father was a security guard and her mother a tailor. They had worked hard and made sacrifices so that she could attend university and as a result they were extremely unhappy when she decided to marry her husband in 2009. He was not educated and worked in construction. The Appellant's mother in particular worried about the relationship. She told

the Appellant that after the marriage he would change; that men in northern Albania expected their wives to “stay and home and shut up”. She was right.

15. The Appellant was expected to move in with her in-laws after the marriage. They were extremely traditional and her father-in-law treated her mother-in-law “like a slave”. The way he spoke to her was “disgraceful” and she received no respect from him. Instead of resisting this, the Appellant’s mother-in-law accepted it as the way things should be, and resented the Appellant for the fact that she had been permitted to pursue her education. The Appellant was still at university when she got married and her in-laws did their best to interfere with her studies. They made it very difficult for her but she did manage to complete her degree in 2013. Shortly after this the relationship between the Appellant and her husband, and his parents, had grown so bad that they had to leave that house and rent their own place. When they did, the relationship deteriorated to the extent that the Appellant was regularly subjected to domestic violence, particularly when her husband was drunk, which was often. He continue to beat her whilst she was pregnant with their daughter.
16. In 2016 the Appellant was evicted from the home she shared with her husband because he had not paid the rent. Unable to return to his parents, she had no option but to return to her own parents’ house. In her statement she writes:

“My parents made it clear I could only return to their house because of my daughter. Money was difficult because my parents earned so little money. My parents had borrowed money for my education so they were paying off debts.”
17. At the hearing before the First-tier Tribunal the Appellant explained that her father, and brother, have become increasingly angry with her about the situation that she has placed them in. They are concerned not just about their own ‘standing’, but also the possibility that they will encounter difficulties with her in-laws. Her father is also furious with her that she went against his wishes to marry her husband, and now expects him to clean up her mess.
18. At the hearing before me the Appellant told me that since her arrival in the United Kingdom she has spoken to her mother on very few occasions. They have spoken by telephone perhaps 3-4 times. Last time they spoke her mother told her she should stay away. The Appellant does not know the full details but she knows that her mother is under pressure from her father and brother. Her brother is particularly antagonistic. He told his parents from the beginning that they shouldn’t help the Appellant. Her father now agrees with him and says that “she should get on with her own life”. There is no way that she could go back home now. The Appellant also said that she is concerned that her family have received threats from her in-laws and this has played some part in why her father has turned against her.

19. As Judge Brookfield notes, this was a family who had supported the Appellant in the past. Although they were unhappy that she had chosen to marry her husband they had taken her and her daughter in after they were evicted in 2016 and had looked after them for approximately 6 months before paying for them to leave Albania. I have borne that in mind when I evaluated the evidence that the family are now estranged. Having considered all of the evidence in the round however, including the fact that the Appellant has been found to have given generally credible evidence (in respect of her origins, the domestic violence etc) I am satisfied on balance that she is now estranged from her parents and brother as she describes. She has consistently stated that her father is a traditional northern Albanian man who regards the *kanun* as his personal law. As such it is not at all implausible that he would “wash his hands” of the Appellant in the manner she describes. The Appellant went against his wishes when she married, and connected him through marriage to a family of whom he did not approve; she then brought him ‘shame’ by leaving her husband and returning to the family home with a child. He has been left in debt by his financing of her education and latterly her journey to the United Kingdom. In those circumstances I accept that he is now hostile towards his daughter.
20. That being so I accept that there is no realistic possibility of the Appellant and her daughter returning to Shkoder. Since Mrs Aboni also accepted this to be the case, I can be brief in setting out my reasons why. They are threefold. First, the Appellant cannot return to her family. Second, the social mores in the north are such that it would be extremely difficult, if not unheard of, for a young woman with a child to be living alone. Third, notwithstanding the findings of Judge Brookfield as to objective risk, I (and Judge Brookfield) accept that the Appellant has a very real subjective fear of her former husband, borne of many years of serious domestic violence. The Appellant’s GP, support group MRANG and Dr Ghosh all speak of the Appellant’s serious anxiety and trauma arising from her past experiences and I was able to see for myself at the hearing the extent of her fear, since she was crying and extremely anxious throughout much of the hearing.
21. The question remains whether the Appellant is able to demonstrate that there are very significant obstacles to her integration in Tirana. In her submissions Mrs Aboni referred me to the December 2018 Country Policy and Information Note *Albania: Domestic abuse and violence against women*. Relying on the evidence in that document Mrs Aboni submitted that by any measure, the Appellant could not meet the test in the Rule.
22. First, because she would have access to housing. In the short term this could be limited to access to a shelter:

6.1.4 The HO FFT further stated: ‘Although women in the more rural and remote areas of Albania may find it difficult to access services locally, women who relocate to Tirana can obtain help and shelter there. Shelters are provided to house victims of domestic abuse (both state- and NGO-run)

which: have sufficient capacity, are professionally run, have effective safeguards against being detected; and a re-integration programme to help women re-establish themselves into the community...

But in the longer term could include state-provided social housing:

7.4.2 The FCO explored the position of a single woman, previously the victim of domestic violence, returning to Albania with a child. In a letter dated January 2017, they noted, 'During a meeting with the senior official of the Ministry of Social Welfare, the British Embassy was told that the municipalities have housing offices, where returned citizens who do not have accommodation can register to benefit from the status of a homeless person and subsequently to benefit social housing. We therefore conclude that social housing would be available to the subject.'

Or alternatively housing in the private sector, paid for with the assistance of NGOs/local government:

7.4.1 The HO FFT reported: 'In some cases, as a result of social stigma, victims may be reluctant to return to their home community, or may be rejected by their families. If no family support is available to the victim when they leave the shelter, D and E assist with/subsidise payment of rent for their new accommodation, typically for 6-12 months. The Municipality of Tirana also assists with this (this is the only municipality which does). This "Lease Bonus Programme" is paid for a year and if the woman's situation is still the same after a year the Municipality carries on paying it, but they try to empower the woman to become independent. The Municipality of Tirana said that they don't have a minimum level of rent and they have a scoring formula to work out how much help a woman needs; 18 VDV had benefited from the Lease Bonus Programme in 2017 (up to 6 November) with eight in 2016. The Ministry for Health and Social Welfare said that the ministry which deals with social housing deals with the payment of rent bonuses.

23. Second because the Appellant's daughter would have access to education, enabling the Appellant to work:

7.6.1 The HO FFT were told: '[...] there is a directive from the Ministry of Education which requires that all educational facilities must accept people back into schools who have returned from the diaspora abroad - whether a VoT or just as a migrant. The Ministry of Education said they also support returning migrants by providing special help with teachers or free books to help them get back into education. This might include women who left school or are older than schooling age - but it is also done alongside working: they can do both half and half.

'The Ministry of Education told the FFT that it works with the shelters. "It's a full-scale collaboration. The Ministry gets constant requests from the shelters from women who want to go to school. The same level of collaboration exists with the VoT shelters." [...]

...

In a letter dated January 2017, the FCO reported: 'According to the Strategy ['On the Reintegration of the Returned Albanian Citizens,' introduced in 2010 (the Strategy was meant to be in effect until 2015, but according to a senior official at the Ministry of Social Welfare it is still the document they used as guidance)] and [a] senior official from the Ministry of Social Welfare, children of returned Albanian citizens will have priority to be registered in schools in Albania and extra lessons of Albanian language will be offered to them. Any previous diploma/qualifications earned abroad will also be recognized.

24. If the Appellant were unable to find work, or considered herself too unwell to do so, she would receive financial support:

7.5.1 The HO FFT were informed of economic assistance available: 'The Municipality of Tirana offers support to daily centres which provide lunch for women and their children. A food package for use at home can be provided for women who do not want to be identified....

'The Ministry of Interior told the FFT that the state can and does support women with children. For example, there is financial support to pay for kindergarten; they can also support paying for food/meals. Although acknowledged as not perfect, the basic needs are met. A single mother can send a child to nursery for free.

7.5.2 The FCO explored the position for a single woman, previously the victim of domestic violence, returning to live in Tirana with a child. In a letter dated January 2017, the FCO reported: 'According to Directive No. 8, dated 23.6.2004 "On the calculation of the social welfare benefit" of the Minister of Social Welfare and Youth, to receive social welfare benefits the returned citizen should apply at the Offices of the Social Services situated within the municipalities. The amount of the social welfare benefit in the case [of a single woman, previously the victim of domestic violence, with a child would be]:

- ALL 5,700/ £ 36 per month:
- ALL 1800 the first member of the family
- ALL 900 for children under 18 years old
- ALL 3000 for victims of domestic violence (the status of domestic violence victims is given by a court decision which has reviewed the case and has issued a restraining order).'

7.5.3 The FCO conducted an open-source internet search, to establish whether a single woman with a child would be able to live on this level of benefits. They concluded that, 'Sources [...] vary with regard to the proportion of the Albanian population believed to be living in poverty – ranging from 14.3%, to almost a quarter – but it is clear that all sources agree the proportion is extremely high. Moreover, the various sources consulted consistently maintained that a) poverty is worst in rural areas and that b) women are disproportionately affected by it. 'We therefore

must unfortunately conclude that a significant number of Albanian families survive on incomes comparable to, or less than, the ALL 5,700 per month which the subject of your query [a single woman, previously 81 HO FFM, Section 5.3, February 2018, URL 82 Letter from FCO, 30 January 2017, Annex B Page 42 of 67 the victim of domestic violence, with a child] would receive in social welfare benefits were she to return to Albania.'

25. The next matter in issue is the extent of the Appellant's mental health issues, and the extent to which these could be adequately treated in Albania. Mrs Aboni relies on the evidence in the CPIN that such services are widely available, in general and specifically in the women's shelters:

7.3.2 The HO FFT were also told about mental health provision within shelters: 'At the meeting with the Directors of the NRCVHT, NRCVDV and the Albanian Social Services the FFT was informed that, as in line with Albanian legislation, every person who approaches the shelters is subject to a mental health assessment and a report is produced. Depending on the level of treatment required and severity, it can be dealt with in either the shelter or the person can be sent to a specific centre. The Director of the NRCVHT spoke of a specific example of a person who has mental health issues, and they have been undergoing treatment in the centre for two years now. 'Normally, the shelters are equipped with a psychiatrist. The law provides that every person in a shelter has the right to the same level of treatment as any other citizen. The Head of Mental Health and Addictology at the Ministry of Health said psycho-social support is offered to people who come out of shelters, they will get more support than others and there is no time limit on how long they are monitored in the community - it depends on the diagnosis.'

26. For the Appellant Ms Widdison accepted (with reservations) that there may be some practical support for the Appellant if she were to live in Tirana, whether supported by NGOs or the state. She submitted however that it was important to consider what the point of the rule was. It is to protect private life, and in this respect she asked me to consider the likelihood of the Appellant being able "to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life": see Kamara v Secretary of State for the Home Department [2016] EWCA Civ 813. In evaluating this test Ms Widdison asked me to bear two important matters in mind.

27. First of all the extensive evidence provided by the Appellant's GP, by 'MRANG' (Merseyside Asylum Seekers and Refugee Pre and Post Natal Support Group), and by Mersey Care NHS Trust that the Appellant has consistently been receiving treatment for anxiety and depression since January 2017. These treatments have included talking therapies, CBT and medication: she continues to be prescribed 45mg per day of mirtazapine (this being the maximum recommended daily dose). This evidence is consistent with the views expressed by Consultant Forensic Psychiatrist Dr Chandra Ghosh who makes a diagnosis

of PTSD. I am asked to pay particular attention not just to the diagnosis, but to what Dr Ghosh finds in respect of the Appellant's abilities to 'integrate', ie to form relationships with others in the sense understood in Kamara:

"In the case of [the Appellant], she has been threatened with violence within her relationship, which has resulted in her developing fear and feelings of helplessness and horror. In terms of characteristic symptoms, she suffers from psychological distress when she is exposed to stimuli and remind her of her violence....

The individual tends to avoid stimuli which is associated with trauma and also makes deliberate attempts to avoid thoughts, feelings or conversations that are associated with trauma. This is a particular feature of individuals who have been subjected to domestic violence, such as [the Appellant]. She also avoids any reminders of important aspects of the traumatic event. She does find it very difficult to socialise and feels quite detached and estranged from other people. She said that this has been a feature for her throughout her childhood and adult life, and she finds it extremely difficult to express emotions and feelings. This inability to express feelings and emotions is led to difficulty in her trying to form relationships....

She finds it difficult to fall asleep and is currently being treated with medication by her general practitioner. She suffers from very severe nightmares, and she also suffers from hypervigilance and exaggerated startle response. Like other individuals who have been subjected to domestic violence, she has other associated symptoms, which include a sense of fearfulness horror and a loss of self-esteem. The individual also feels that they cannot engage with other people and there tend to be social withdrawal. There are associated symptoms of self-harm and suicidal attempts because of the loss of sense of self. "

28. Dr Ghosh identifies *inter alia* that the Appellant suffers from the following diagnostic criteria: psychological distress when exposed to stimuli that remind her of the violence that she has experienced, nightmares and flashbacks, anxiety, stress and heightened arousal. As set out above, other symptoms consistent with the diagnosis include the Appellant finding it difficult to relate to others, feeling detached and estranged from people around her. Dr Ghosh describes the Appellant as "extremely fragile". Survivors of domestic violence fall into a sub-category of PTSD which manifests itself as ongoing "terror" of the violence being repeated: in the Appellant's case this is centred on her fears that her daughter will be snatched from her. Dr Ghosh concludes that if returned to the scene of the harm (Albania) there is a "serious risk of her mental state deteriorating and therefore her health and safety will be put at risk. It would also endanger the health and safety of her daughter".

29. The second matter relied upon by Ms Widdison was in respect of the social consequences to be faced by single mothers in Albanian society. Whilst it may be the case that provisions such as shelters etc do exist, in the medium to long

term women living on their own continue to face significant discrimination and “negative attitudes” from those around them. Ms Widdison placed reliance on the country guidance case of TD & AD (trafficked women) CG [2016] UKUT 92 (IAC) [at 51]:

“A further problem lies in the isolation of the VOT once she leaves the shelter. The family remains of central importance in Albanian society and women such as VOTs or victims of domestic violence who live alone stand out. Being a single woman is always a factor that attracts unwanted attention. For instance harassment in the workplace is something which occurs, but is less likely to happen to women who have the protection of a family around them. Although there is no data or recent research on the situation for single women who return to Albania and live alone, in Professor Haxhiymeri’s experience they are “in most cases considered as abandoned from their families because they are ‘kurva’ (whores). This label carries a lot of hate, discrimination and risk of exclusion. They are not welcomed in social groups. Even when employed, people try to stay away from them. Employers try to exploit them by making them work long hours, harder and pay them less.” Professor Haxhyimeri observes that such individuals do not make a lot of money but sometimes “it is enough to survive”.

30. Ms Widdison further asked that I consider the evidence as to the practical support available in light of these twin vulnerabilities of the Appellant. There are limited spaces in the shelters, and where medical assistance, including psychological support, is offered it is of extremely limited quality (see TD & AD at §101):

Taking all of the evidence in the round we are satisfied that there is a basic level of healthcare provided in the shelters, but that there must remain concerns about the quality and extent of it, particularly in relation to mental health treatment. On the evidence before us, such care is limited to the prescription of anti-depressants and where available, counselling by shelter staff who have no formal training in psychiatry or psychology.

Furthermore, the Appellant faces considerable obstacles in obtaining paid employment. She has a young child to care for, has her own mental health issues and has little to no work experience.

31. I remind myself that paragraph 276ADE(1)(iv) is concerned exclusively with the conditions in the country to which the applicant is notionally to be returned. It does not involve a comparison between the Appellant’s life here, and what her life might be there. The test is simply whether the Appellant will be able to establish a private life for herself in that country.
32. It is apparent from the information contained in the December 2018 Country Policy and Information Note *Albania: Domestic abuse and violence against women* that there are in place for victims of domestic violence a number of safeguards

in Tirana. The Home Office Fact Finding team who visited the country in 2017 found there to be a number of shelters in the city, which had sufficient capacity to meet need. Beyond the shelters the finding of the FCO is that there is social housing available, and it is reported that there are a number of schemes to assist women with paying the rent. The NGO 'Different but Equal' can subsidise rental payments for typically between 6-12 months, and the Municipality of Tirana has a specific program which had assisted 18 victims of domestic violence during 2017. I have no reason to doubt the evidence in the CPIN indicating that the Appellant's daughter would have access to education or before she starts primary school, a nursery place. I am therefore satisfied that the Appellant would be able to access housing and education for her daughter.

33. I am however unable to be satisfied as to the level of support that the Appellant might receive from the state should she fail to find employment. The figures cited in the CPIN in respect of the Ministry of the Interior social welfare benefit do not all appear to be available to the Appellant. Although it appears that she would receive ALL 1800 for herself, and a further ALL 900 for her daughter, according to the FCO research she will not receive the additional ALL 3000 for victims of domestic violence, since her case has not been reviewed by a court and a restraining order issued. At the date of writing the bare benefits mentioned equate to approximately £18 per month¹. Whilst I appreciate that a lot of people in Albania live in poverty, and that many do so on an income of ALL 5700 or less, I remain to be satisfied that £18 per month could meet the Appellant's "basic needs". Unless she is able to work I consider it very likely that she and her daughter will become dependent upon charity handouts such as the food parcels mentioned in the CPIN.
34. I do not consider it likely that the Appellant is going to be able to work, at least not in the foreseeable future. Whilst there clearly are some opportunities provided by the NGOs and state shelters mentioned in the CPIN it is apparent from the medical evidence that her mental state is extremely "fragile" and that she finds it difficult to cope with daily life. In those circumstances it is very unlikely that she will be able to obtain, and sustain, employment.
35. I am therefore satisfied that the Appellant and her daughter will be accommodated by the state. I am satisfied that the little girl will be able to go to school. If she is feels able to, the Appellant can obtain support from the various women's groups mentioned in the CPIN. This includes some degree of mental health treatment which is available in shelters and in other settings. All of these factors point towards her being able to return to Tirana. I remain however deeply concerned that the Appellant does not at present have the mental resilience to avail herself of the opportunities that are, on the evidence, available to other similarly situated women. Her ability to negotiate the social

¹ <https://www.oanda.com/currency/converter/> accessed on the 5th March 2019

welfare system, and to get access to the services mentioned, is at present severely compromised by her own mental ill-health. The practical assistance that is available must be measured against the cumulative challenges she faces: a powerful and pervasive subjective fear of further violence; the social stigma and isolation of single parenthood; the lack of family support, and what Dr Ghosh describes as her extremely fragile mental state. The reality is that I cannot see any prospect of the Appellant establishing a meaningful *private* life for herself in Tirana. She may be able to secure a roof over her head but her ability to integrate and build relationships with others is, at present, fundamentally undermined by the legacy of the serious violence to which she has been subjected. I am wholly satisfied that she would live a life of extreme isolation and fear should she be returned to Albania.

36. Accordingly I must find that the Appellant would face very significant obstacles to her integration in Albania today.
37. That being my finding I need not deal with Article 8 'outside of the rules' but I do so only to mark my obligations under s.55 of the Borders Citizenship and Immigration Act 2009, since paragraph 276ADE(1)(vi) appears to focus exclusively on the individual – that is to say adult – applicant. It is perhaps obvious from my conclusions above but I find that it would be wholly contrary to the best interests of the Appellant's child if she were to be removed to Albania with her mother. Her basic physical needs may be met but she would be left in the very difficult position of living alone with her mother – already fragile but likely to be increasingly distressed. That would be a bewildering and frightening turn of events for a child who is settled and prospering in the United Kingdom, where her mother has a support network to whom she can turn. I find that it would likely have a profoundly damaging impact upon her. I cannot think that this would be an acceptable or proportionate consequence of the need to maintain immigration control.

Decision and Directions

38. The decision of the First-tier Tribunal contains errors of law such that the decision is set aside to the extent identified above.
39. I remake the decision by allowing the appeal on human rights grounds.
40. There is an order for anonymity.

Upper Tribunal Judge Bruce
10th March 2019