



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

Appeal Number: PA/13373/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 14 June 2019**

**Decision & Reasons Promulgated
On 9 July 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE APPLEYARD

Between

**MISS K K
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms P Glass, Counsel.

For the Respondent: Ms S Cunha, Home Office Presenting Officer.

DECISION AND REASONS

1. The Appellant is a citizen of Albania who made an application for international protection. It was refused, and she appealed and following a hearing at Bradford, and in a decision promulgated on 20 February 2019, Judge of the First-tier Tribunal Cox dismissed her appeal.
2. The appellant made an application for permission to appeal. It was granted by First-tier Tribunal Judge E M Simpson on 9 April 2019. Her reasons for so granting were: -

"The appellant born on 21/01/1979, a national of Albania, applied for permission to appeal, out of time, concerning the decision of

First-tier Judge GM Cox promulgated on 20/02/2019 (the Decision) dismissing the appeal on asylum, humanitarian protection, and human rights grounds.

1. *Permission to appeal is granted because:*

(i) there was materially arguable that the Decision disclosed the Judge having erred in law when concluding that the appellant's relationship with her British citizen partner together with his presence in Albania were determining factors in the finding that there was not shown that she was "vulnerable to or at risk of being re-trafficked" (56), there appearing likely that there was at the fore the partner's characteristics of being a male figure/protector in the context of Albanian society, but absent of assessment of the partner's own potential for vulnerability, including with reference to a mental health history going back 10 years and resulting inability to work, and there appearing furthermore an absence of addressing his connections with Albania, if from Kosovo, notwithstanding evidence disclosed at the hearing of his deceased mother having had a property in Tirana;

(ii) having regard to the appellant's agreed history of having been a victim of trafficking from Albania to the UK, and basis of that trafficking i.e. into prostitution, combined with a history of abusive relationships which latterly did not appear to have been the subject of challenge, further combined with a history of miscarriages since arriving in the UK in 2015, namely in July 2016 and August 2018, there appeared prima facie arising from that history evidence of a likely vulnerability, of which there was arguable absence of account both when weighing her status as an adult witness before the court, and in the assessment of risk on return, of which a lack of medical evidence cited by the Judge would not reasonably fall to be determinative of her lack of vulnerability (52).

2. *Application lodged out of time, two weeks. Given likely importance of appeal to the parties and having regard to explanation provided by the appellant of facing difficulties obtaining advice when no longer having legal representatives acting for her, it is in the interests of justice that discretion be exercised and time extended.*

3. *Arguable error(s) of law disclosed."*

3. Thus, the appeal came before me today.

4. In the First-tier the Presenting Officer acknowledged at the outset of the hearing that following the NRM finding, the Respondent also effectively accepted that the Appellant genuinely fears returning to Albania. However,

the Respondent did not accept that she was objectively at risk if she returned to Albania now. It was argued by the Respondent that the man responsible for trafficking the Appellant would not have a continuing adverse interest in her and, in any event, would not know that she had returned. Further, and in the alternative, if her trafficker did have an adverse interest in her then in any event the authorities could provide sufficient protection.

5. The Judge went on to apply the factual matrix to relevant case law and the authority of **TD and AD (Trafficked women) (CG) v SSHD [2016] UKUT 00092 (IAC)**. He also considered an expert report prepared by Antonia Young in respect of another victim of trafficking from Albania. That report was dated 20 February 2018. The Judge considered comments therein in relation to the issue of internal relocation. The Judge found Ms Young's observations to be consistent with the findings in **TD and AD** (above). The Judge considered additional background material highlighted by the Appellant's representative. The Judge looked at the Appellant's personal circumstances and concluded at paragraph 42 of his decision that on the totality of the evidence he was satisfied that Albanian society would view the Appellant as having deviated from tradition and that this is likely to be the main barrier preventing her from returning to her family home. He accepted that she would be unable to go and live with her parents.
6. However, the Judge was not satisfied that the Appellant's parents would not support her at all. The Judge recorded that the Appellant's parents had previously provided her with a roof over her head and that in his view if the Appellant returned to Albania they would provide some support albeit on a discreet basis.
7. The Judge took account of the Appellant's current loving relationship with a Mr J M and noted their ultimate wish to marry and have a family. The Judge recorded at paragraph 47 of his decision evidence from Mr M that if the Appellant had to return to Albania that he would go with her and that he had been to Tirana in September 2018 for three days because his own mother had passed away. In coming to his conclusions, the Judge took account of Mr M's history of mental illness and noted that there was no medical evidence before him as to the nature of the issues or whether he is likely to be affected, if he went to live with the Appellant in Albania. In the circumstances the Judge took Mr M's evidence "at face value" and was satisfied that he would support the Appellant and go to Albania with her.
8. The Judge concluded at paragraph 53 of his decision that the Appellant had previously managed to live alone in Albania and found a way to make some money. This may have made her vulnerable. However, she is now in a relationship with Mr M who indicated a preparedness to live with her in Tirana. His presence, the Judge concluded, if only for a short time, would make the Appellant's circumstances very different. In particular Albanian society would not consider the Appellant to be a single woman.

9. The Judge placed importance on the Appellant having the support of her partner and found that their relationship and his presence in Albania were determining factors. Accordingly, the Appellant had failed to demonstrate that she would be vulnerable to or at risk of being re-trafficked. The Judge noted that she had managed to escape from her trafficker who, in the four years since the Appellant escaped from him in England has not been in contact with the Appellant's parents in her country of origin. The Judge found the risk of the Appellant's trafficker and his cohorts seeking retribution against the Appellant to be highly speculative and that there was insufficient evidence within the appeal to suggest that they would take active measures to seek out the Appellant.
10. Coupling all these factors together the Judge concluded that there was not a reasonable degree of likelihood that the Appellant will be at risk of suffering serious harm if returned to Albania.
11. Ms Glass relied upon the grounds seeking permission to appeal. Her submissions were very little more than an argument with the Judge's findings. She urged me to accept that the Judge had materially erred in concluding that the Appellant would be safe in Albania if returned. Her partner had mental health issues and the Judge has failed to appreciate the totality of her vulnerability. Beyond that there is an inadequate analysis of Article 8.
12. She argued that the Judge's findings at paragraph 53 of his decision were pivotal and that contrary to the finding that Mr M could return to Albania with her the Judge had failed to recognise his mental ill-health and depression and suggested to me that he would be unable to return with her.
13. Ms Cunha submitted that the Judge had not materially erred. He had carefully considered the vulnerabilities of the Appellant and following his assessment he was entitled to come to the findings that he did. The Appellant's trafficker had not tried to locate either the Appellant herself or her parents. The Appellant would have the support of Mr M including financial assistance from him. There is no reason why he could not return to Albania with her, as found by the Judge.
14. I find that there is here no material error of law whatsoever. The Judge has carefully considered the totality of the evidence and made factual findings in relation to the Appellant's circumstances. The factual matrix has then been set into the context of the background material including case law, expert evidence and other background material. The Judge has assessed the Appellant's claimed vulnerabilities but has found, on the individual facts of this case, that they are met by the support that the Appellant has not only from her current partner, but also her parents alongside a finding that the Appellant's trafficker has not sought to contact her since her fleeing from him and similarly has not sought to contact her parents. The Judge was entitled to come to the conclusions that he did. The arguments put forward are no more than a disagreement with findings that were open

to be made on the totality of the evidence. Ms Glass raised the issue of Article 8 but that was not a matter raised in the grounds seeking permission to appeal or indeed in the subsequent grant.

15. There is here no arguable error of law.

Notice of Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

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 him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date: 3 July 2019

Deputy Upper Tribunal Judge Appleyard