



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/14317/2018

THE IMMIGRATION ACTS

Heard at Field House
On 6th September 2019

Decision & Reasons Promulgated
On 8th October 2019

Before

UPPER TRIBUNAL JUDGE JACKSON

Between

EL
(ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr B Lams of Counsel instructed by Fadiga & Co
For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant appeals with permission against the decision of First-tier Tribunal Judge Hanbury promulgated on 12 June 2019, in which the Appellant's appeal against the decision to refuse her protection and human rights claims dated 19 November 2018 was dismissed.
2. The Appellant is a national of Albania, born on 21 December 1991, who claims to have arrived in the United Kingdom clandestinely on 30 August 2015, having travelled from Albania, through Italy and Belgium. The Appellant claimed asylum

on 10 February 2016, following which her case was referred through the National Referral Mechanism to consider whether there were reasonable grounds to believe that she was a victim of trafficking/modern slavery. A reasonable grounds decision was made on 17 February 2016, but on 28 November 2016, the Competent Authority made a negative conclusive grounds decision that the Appellant was not a victim of trafficking.

3. The Respondent refused the application the basis that it was not accepted that the Appellant had been trafficked, nor was there any risk of trafficking or objective fear of persecution by the Appellant's father. In any event, the Respondent considered that there was a sufficiency of protection available in accordance with the country guidance case of TD and AD (Trafficked Women) CG [2016] UKUT 00092 (IAC) and an option of internal relocation. For essentially the same reasons the Respondent did not consider the Appellant to be in need of humanitarian protection, nor that her removal would be in breach of Articles 2 or 3 of the European Convention on Human Rights.
4. In relation to family and private life, the Appellant did not have a partner in the United Kingdom and neither of her children, born in 2016 and 2018, were qualifying children. The Appellant did not meet any requirements of paragraph 276ADE of the Immigration Rules, primarily because there were no very significant obstacles to her reintegration in Albania. The Respondent considered that there were no exceptional circumstances to warrant a grant of leave to remain, having considered in particular the Appellant's two young children for whom education and healthcare would be available in Albania where there were extended family members.
5. Judge Hanbury dismissed the appeal in a decision promulgated on 12 June 2019 on all grounds. In particular, the decision of the First-tier Tribunal identified a number of inconsistencies in the Appellant's account which was found overall to lack coherence and the plausibility, such that less weight was attached to the medical evidence relied upon and overall the claim was not considered to be credible. In any event the First-tier Tribunal found that there would be a sufficiency of protection available to the Appellant and the option of internal relocation. There was consideration of the potential for discrimination and stigma in Albania for the Appellant returning there with two illegitimate children, but it was found that she was an educated and employable woman who would be able to reintegrate and support herself and her children. Overall there was no disproportionate interference with the Appellant's right to respect for private and family life under Article 8 of the European Convention on Human Rights.

The appeal

6. The Appellant appeals on five grounds as follows. First, that the First-tier Tribunal made errors of fact, primarily on the plausibility of the Appellant's account because her travel plans changed after her planned wedding in Albania was brought forward which increased the pressure for her to leave and the sequence of events she describes was consistent even if there were errors in the year referred to in interview.

Secondly, that the First-tier Tribunal failed to consider the best interests of the Appellant's children, in particular, the older child had speech problems and was suspected of being autistic. The First-tier Tribunal failed to give adequate reasons as to whether there were obstacles to reintegration in Albania for the family. Thirdly, the First-tier Tribunal erred in criticising the medical report due to the passage of time since the events referred to therein, without recognising that there had been earlier intervention for the Appellant's mental health. Fourthly, the First-tier Tribunal erred in finding that the Appellant could internally relocate, ignoring the expert evidence before it about the unaffordability of accommodation and childcare in urban areas even for those in employment and further ignored the risk of the Appellant being tracked by traffickers through the registration system in Albania. Finally, the First-tier Tribunal erred in fact by misunderstanding the evidence in relation to the Appellant's passports, in that there was one issued in Albania for travel to the United Kingdom and a second passport issued in the United Kingdom.

7. At the oral hearing Mr Lams relied on the written grounds of appeal and pursued these orally in further detail. In relation to the first ground of appeal, he submitted that there was clear confusion on the part of the Appellant as to the years given when asked about dates for specific events, with almost all dates being exactly one year out and the dates were corrected in correspondence shortly after the interview. The sequence of events was however said to be consistent. In relation to planned travel dates, it was submitted that the First-tier Tribunal ignored the evidence that the original plan was to travel to Belgium in August 2015, with the intended departure being brought forward to April of that year because the Appellant's arranged marriage had been brought forward to July. Mr Lams relied on the answers given by the Appellant in interview to questions 58, 110 and 111, the Appellant's written statement and the Respondent's understanding of her claim as set out in the decision letter to support the claim that the travel plans were brought forward because the marriage had been brought forward.
8. In relation to the second ground of appeal, it was submitted that there had simply been no best interests assessment in relation to either of the Appellant's two children at all. Such an assessment was required but of particular importance because of the likely reception of illegitimate children in Albania, a matter relevant to internal relocation, Article 8 of the European Convention on Human Rights and whether there would be obstacles to reintegration for the purposes of paragraph 276ADE of the Immigration Rules. There was evidence before the First-tier Tribunal on the stigma attaching to illegitimate children both in the country guidance case of TD and in the expert report before it. As to the position of the children, it was accepted that medical issues were raised only in the Appellant's written statement and there was no supporting medical or other evidence about them.
9. In relation to the third ground of appeal, the First-tier Tribunal attached little weight to the psychiatric report because of the passage of time between the alleged incidents and the date of assessment and report, the same being unfair given that the Appellant had received prior treatment for mental health problems and this was not a new issue.

10. In relation to the fourth ground of appeal, Mr Lams referred to detailed evidence in the expert report which was not addressed or considered by the First-tier Tribunal, particularly in relation to the likely circumstances of the Appellant and her children on return to Albania.
11. Finally, Mr Lams submitted that the First-tier Tribunal's finding in paragraph 17(v) of the decision that the Appellant's evidence in relation to her passport was inconsistent was based on a misunderstanding of fact, in that the Appellant had two passports, one issued in Albania for travel and one later issued in the United Kingdom. The evidence before the First-tier Tribunal clearly identified two separate passports, one of which had been cancelled.
12. On behalf of the Respondent, Mr Kotas relied on an overarching problem of confusion by the Appellant throughout her interview, relied upon by the First-tier Tribunal in paragraph 17(ii) of the decision. The Appellant did start off referring to what she says is the correct year in interview, the dates were then one year out until this was pointed out to her by the interviewer, following which one date was corrected. Following the interview, the Appellant clarified multiple dates given in the asylum interview, but it left the story skewed and it was submitted that this supported the view that it was a concocted account.
13. As to the claim that the Appellant's arranged marriage was brought forward, it was submitted that in her interview, the Appellant had made no suggestion that her arranged marriage would be in September, instead she clearly stated at the date was set in March for July of the same year. There is nothing in the evidence before the First-tier Tribunal that the date of marriage had changed. At best there was a general plan to leave Albania in August, which was brought forward after the marriage date was set.
14. In relation to the passport and findings in paragraph 17(v) of the decision, Mr Kotas submitted that if the Appellant did have more than one passport, that should have been abundantly clear. In any event the Judge was simply saying that the wrong year had been given in interview and that the Appellant's evidence of what had happened passport was inconsistent. In any event, this would not be a material error of law.
15. The Appellant has not made any challenge to the findings in paragraph 17(i), (iii) or (vi) of the decision and although it is accepted that not too much weight should be placed on a screening interview, the weight attached by the First-tier Tribunal was not inappropriate this particular case. As found by the Judge, there were a number of inconsistencies in the Appellant's account and even those which were corrected, such as dates, were not reasoned or explained. Further, the findings in paragraph 18 as to the plausibility of the Appellant's account have not been challenged by her and they were rationally open to the First-tier Tribunal on the evidence before it. There was also no challenge to the finding in paragraph 20 of the decision about the delay in making the asylum claim.

16. Overall, it was submitted by Mr Kotas that the First-tier Tribunal had the benefit of hearing all evidence and even if there may have been a mistake of fact in relation to the passport, this could have had no material impact on the credibility of the claim in the scheme of the other findings made.
17. As to the second ground of challenge, on the basis that the adverse credibility findings are upheld, then the position is that the Appellant continues to have family in Albania and Mr Kotas submitted that there was nothing to suggest that a best interests assessment for her two very young children would change anything and it was noted that there was very little evidence specifically in relation to them and no supporting documents.
18. In relation to the psychiatric report, it was noted that this was based solely on the Appellant self-reporting to the doctor, no GP records were provided and neither was the negative conclusive grounds trafficking decision which is highly pertinent as to the reasons why the Appellant's claim had not been accepted. In these circumstances it was submitted that the First-tier Tribunal placed appropriate weight on the report.
19. Mr Kotas submitted in relation to the fourth ground of appeal that issues of internal relocation only arise in the context of the asylum claim and if it is accepted that the Appellant would not be at risk from acclaimed trafficker and/or family on return to Albania. In the absence of such a risk being accepted, it is not strictly necessary to consider internal relocation and in the event that there is no risk on return, then the Appellant has a support network from her family. Further and in any event, the Appellant could live a relatively normal life in her home country, she has qualifications and has worked as a nurse in Albania.
20. In reply, Mr Lams submitted that the position of the Appellant's children as illegitimate children was a freestanding point regardless of whether her trafficking or asylum claim was accepted. Overall, even in the absence of some findings not being directly challenged in this appeal, when taken together in the round, it is not possible to say that if the Appellant is successful in any all of her grounds of appeal that that would not have had a material bearing on the outcome of the appeal or specifically the first ability findings. It was also submitted that some of the credibility points could have easily gone either way.

Findings and reasons

21. To determine the grounds of appeal, it is necessary to set out in more detail the findings and reasons of the First-tier Tribunal and the evidence before it.
22. At the start of the section on findings in the decision of the First-tier Tribunal, reference is made to the Child, Vulnerable Adult and Sensitive Witnesses Guidance and that this has been taken into account and applied given the Appellant's claim to be a victim of trafficking who suffers from mental illness and as potentially therefore a vulnerable person. However, there is no further mention of the guidance or of its application when considering, in particular, the Appellant's credibility.

23. The key credibility findings appear in paragraphs 17 and 18, which are necessary to set out in full.

“17. However, there are a number of additional inconsistencies in the appellant’s account which it is impossible to ignore. I do not intend to list all of these. The appellant is an adult and does not apparently have any mental health problems other than suffering from PTSD. The appellant is clearly a reasonably intelligent lady who has been educated to degree or diploma standard it would be expected to remember key dates [sic]. Yet there are numerous inconsistencies, for example, there were inconsistencies between the screening interview conducted on 10 February 2016 shortly after her claim to asylum in the UK and a substantive interview conducted on 14 June 2016. Among the inconsistencies I identified, in addition to those already referred to in passing above, I felt the more important ones included the following:

- (i) The appellant stated at question 3.4 of the screening interview that she had “no” family in “any European country” yet her substantive interview revealed that she had parents, a brother, sister and grandmother in Albania. Only her grandmother had passed on (see question 8).*
- (ii) There is confusion throughout the interview as to the correct year of the events. In the first interview (the screening interview) the appellant thought she travelled to Italy and then to Belgium in the middle of April 2015 but in a second interview (see for example question 111 at B12 of the substantive interview) she claimed to have travelled Belgium stopping in Italy on 13 April 2016.*
- (iii) In the screening interview she claimed that she became involved with [B¹] and travelled Belgium by Italy in April 2015. She claimed she work as a prostitute from mid-April to August 2015. However, in her substantive interview and her oral evidence before the tribunal the appellant claims that she worked the cleaner first and later was required to become involved in the world of prostitution.*
- (iv) Whichever year events she describes place (be it in 2015 or 2016 depending on whether one reads the appellant’s screening interview or her substantive interview) she claims to have travelled that year to avoid marriage which was due to take place in July (2016) (see question 58 at the nine of the substantive interview). It therefore made no sense for the appellant to plan with [B] to “(go) in August (2015/2016) ...” with the intention that they would “... attempt to go together to Belgium” in August of that year. Given that the appellant’s wedding to [BK] was said to have been set in March of that year (be it 2015 or 2016) (according to Q110 of the substantive interview), the date of the wedding was set for July of that year (thought by the appellant to be 2016 in her substantive interview). It therefore made no sense arrange to go to Belgium in August, as it would not enable her to avoid an unwanted marriage the previous month.*

¹ The identity of the Appellant’s claimed trafficker has been anonymised throughout this decision to ‘B’ to preserve the Appellant’s anonymity.

- (v) *The appellant appears to have travelled on her own passport and she must have had identification documents. Alternatively, she claims to have had these removed by people traffickers. Alternatively, she claims to have lost these. It is interesting to note that questions 114 and 115 in her substantive asylum interview she says that she obtained a passport in late March or early April 2016. However, in her screening interview she referred to obtaining a passport "in October 2015" (question 3.2).*
- (vi) *Numerous other inconsistencies were pointed out to me by Miss Ahmed in her helpful submissions and I adopt the summary of those inconsistencies in the above detailed account the evidence and submissions made.*

18. *The whole account lacked coherence and had the character of an account which had been invented and was significantly embellished. For example:*

- (i) *I was unable to accept that approximately 12 "girls" with the appellant were taken by "two men" (see question 2.5 in her screening interview) but were allowed to simply escape from their control. The appellant's account of the details of that escape are hazy and it does not seem plausible that they would be able to do so in such circumstances.*
- (ii) *It does not seem credible that [...] would know nothing about [B's] history or intentions towards her friend. In fairness the appellant does say that [...] "did not know him". Nevertheless, a cousin of hers did and had been "friends with him since childhood" (see Q 73 in the substantive interview at B 10). It seems unlikely that [B] suddenly turned into a people trafficker and pimp without anyone knowing of it."*

24. The Appellant's first ground of challenge is in two parts, first that the First-tier Tribunal attached too much weight to the error in dates in her substantive asylum interview and secondly that the Judge misunderstood the evidence in relation to the timing of her departure from Albania. On the first issue, this is not simply a case where the Appellant had identified all dates incorrectly by one year, but that the years were muddled at some points in interview but not others. At questions 5, 16, 27, and 32, the Appellant appears to identify the correct dates and years, with no subsequent correction to these after the interview. These are questions about how long she lived in Albania, her last contact with family members, study and work. The dates and years get muddled from question 38 onwards (dealing with the substance of the Appellant's claim) until it was pointed out to the Appellant by the interviewer at question 157 that the date referred to had not yet happened, at which point the year was corrected for the answer to the previous question only. There then followed further confusion in the dates towards the end of the interview.
25. The Appellant's solicitors wrote to the Respondent to correct some of the answers given on 25 July 2016 and 5 August 2016, in which it was explained that the Appellant was interviewed with her young baby, it was difficult for her to concentrate and a number of dates and answers were corrected, primarily in relation to the years given but also in relation to dates and months for some answers.

26. The decision under challenge refers on a number of occasions to the inconsistency in dates given by the Appellant, but only really relies upon this in paragraph 17(ii) of the decision as a specific inconsistency. It is certainly not the only one relied upon in the decision and it is not clear that any particular or significant weight is given to this other than it being just one of many examples of inconsistencies in the evidence; not all of which have been challenged in the course of the further appeal. Although there was no detailed explanation of the inconsistencies before the First-tier Tribunal, there was reference to the circumstances of her interview and the dates were corrected relatively promptly after the interview and before the decision under challenge. There is nothing on the face of the decision to indicate whether the First-tier Tribunal considered the explanation that had been given, of the impact of any vulnerability of the Appellant on the inconsistencies; nor whether overall, they had a material adverse effect on her credibility.
27. On the second issue, there is no basis at all in the evidence for the proposition made in the grounds of appeal and repeated orally by Mr Lams that the First-tier Tribunal misunderstood or ignored the evidence that the travel plans were brought forward because the arranged wedding had been brought forward.
28. The Appellant's evidence about her planning to leave Albania with B is contained in her written statement and her asylum interview. The three relevant questions in interview on this point were as follows:
- Q. 58 – when were you due to get married? July 2016*
- Q. 110 – When did your problems begin? In March 2016 the family of fiancé called around to set the marriage date. Then I told [B] that the marriage was fixed for July. We made a plan that [B] would come in August and that we will attempt to go together to Belgium.*
- Q. 111 – Why was he going to come in August if you were getting married in July? I did not want to get married. Initially we did not know the marriage date would be in July therefore the plans changed and on the 13th April 2016 I set off to Belgium. Initially I stopped in Italy.*
29. In the letter from the Appellant's solicitor dated 25 July 2016 correcting some the answers given in her asylum interview, in relation to question 58, the answer was corrected to the Appellant being due to get married in September 2015, not July 2016. There was no suggestion that the date of the wedding was changed or brought forward, simply that the wrong date had been given interview. The September 2015 date was not however maintained in the Appellant's later evidence for her appeal.
30. In her written statement, the Appellant stated that in February 2015, B returned to Albania from Belgium for two or three days and they agreed that when he came back to Albania in August, they would return together to Belgium. The date for the Appellant's arranged marriage was set in March 2015 for July 2015, following which, the Appellant and B agreed that she should leave Albania and travel to Belgium where he would wait for her. The Appellant left Albania on 13 April 2015.

31. The evidence before the First-tier Tribunal was therefore relatively consistent that the date of the wedding was fixed for July in the preceding March and that at most there was some suggestion that it was only the travel plans brought forward from August to April to avoid the arranged marriage in July, once the date had been set. I do not therefore find any error of law as claimed by the Appellant on this matter and find that given the answer to question 110 in interview in particular as well as some inconsistency as to the sequence of events, it was open to the First-tier Tribunal to find that it made no sense for the Appellant to arrange to travel in August, after the wedding and, as in the Appellant's own words, after the date the arranged wedding had been fixed for.
32. There is a clear error of law on the second ground of appeal. The First-tier Tribunal was under a duty to consider the best interests of the children which the Judge failed to do. There was no attempt at all to consider the position of the two children and although there was very little evidence from the Appellant about them and no supporting evidence, for example as to the elder child's health/education needs, it was squarely before the First-tier Tribunal that the Appellant and her children would face discrimination because the children were illegitimate. The best interests of the children and likely situation of the family on return to Albania was at least potentially relevant to the question of whether internal relocation would be unduly harsh; to the application of paragraph 276ADE of the Immigration Rules and the proportionality of removal pursuant to Article 8 of the European Convention on Human Rights more widely.
33. The third ground of appeal concerns the weight attached to the psychiatric report by the First-tier Tribunal. Although the weight to be attached to evidence is largely a matter for the Judge, I find an error of law in paragraph 19 of the decision as to the weight attached to this report for the reasons given. The Judge was not satisfied that the medical evidence was sufficient to show that the Appellant's PTSD was caused in the manner described, i.e. as a result of abuse as a victim of trafficking and it was not therefore accepted as corroborative of the claim. The reasons for this were first, that the diagnosis of PTSD was inconsistent with the Appellant's answers in her screening interview that she had no medical disabilities and had nothing to say about her mental health; and secondly, because of the length of time between the events complained of and the date of assessment/report more than two years later.
34. The First-tier Tribunal has erred in attaching too much weight to the screening interview to undermine a detailed medical report, on a matter which the Appellant may or may not have had any particular insight into at the point when she claimed asylum. It is not clear from the evidence when the Applicant was diagnosed with PTSD, but it is evident from the medical report itself and some further supporting documents that the Appellant had sought and obtained help for her mental health since her arrival in the United Kingdom and prior to her asylum claim. In any event, there is no reasoned basis as to why the passage of time would affect a continuing (not historic) diagnosis and treatment for PTSD and no rational basis for reducing the weight to be attached to the report for this reason. Although there are concerns that can be raised about the report, which appears to proceed on the basis that the

Appellant's account is true and in the absence of relevant documentation such as the negative conclusive grounds decision; these are not reasons relied upon by the First-tier Tribunal.

35. In relation to internal relocation, the First-tier Tribunal considered this in paragraph 26, albeit in the alternative following the finding that the Appellant does not have a well-founded fear of persecution on return to Albania, or her home area within Albania, from B or her own family.

"26. ... although Albania has a relatively small population (...) there are many rural parts as well as urban areas. If the appellant would find it difficult to avail herself of the numerous shelters for victims of trafficking that exist in larger cities such as Tirana and Vlore, she would be to go to another part of Albania. She is part of the majority Muslim population. Albania now permits religious freedom. As I have indicated, the appellant is educated to a high standard and has a reasonable prospect of obtaining employment. If, as she claims, she could no longer see her family, she is unlikely to see her trafficker, if he is indeed trafficker and if indeed he returned to Albania. Additionally, there is little risk from non-state agents in my view. [B] would not be able naughtily seek to relocate to a rural area, if she went go to such an area, for example. It is not ideal for the appellant have to relocate with young children but is reasonably available to her as an option. Her family all live in the Koplik area and they would not have the motivational desire to find her out in any part of that country. It seems that the future may be to settle in different part of Albania, therefore. In any event, the appellant seems to give you that his family did not represent a threat (see a screening interview question 4.1 and asylum interview substantive interview at questions 35, 40, 55, 60 and 63). In addition, there are a large number of hostels in Tirana were peopled and settled another part of Albania. I fully accept the appellant find it more difficult to set him on the rule areas but there may be exceptions it is certainly an option to settle in one of the big cities mentioned."

36. This paragraph is confused and difficult to understand because it appears to cast doubt on whether the Appellant was trafficked or not and whether she would be at risk from, or at least not supported by her family or not. The Judge appears to set out a range of options and conclude that none would be unduly harsh because the Appellant has a reasonable prospect of obtaining employment and although difficult, could settle in a rural or urban area. The First-tier Tribunal does not consider in any detail a specific or identified location for internal relocation, nor consider in any detail the Appellant's likely position on return with two young children, in circumstances where there was specific evidence on this in the expert report.
37. Further, the First-tier Tribunal fails to engage with the Appellant's claim, at least arguably supported by expert evidence, that she could easily be traced in Albania through the registration system and the possibility that her family may be motivated to do so because of the shame of the Appellant's actions (which could include at a minimum her return with two illegitimate children even if the remainder of her claim

about the circumstances in which she left Albania were not accepted), which would be consistent with the strong concept of family honour in northern Albania.

38. Whilst there is no requirement on a Tribunal to engage with each and every piece of evidence before it, I find that the First-tier Tribunal has erred in law in its consideration of internal relocation in this case by not expressly identifying a place of internal relocation nor considering in any detail whether it would be safe and not unduly harsh for the Appellant to relocate there. These factual issues and failure to make findings on the same are even more pertinent to the Article 8 issues in this appeal which I consider below.
39. In relation to private and family life, this is dealt within paragraph 27 of the decision of the First-tier Tribunal. It is accepted that the Appellant has established family life in the United Kingdom but respect for the same would not outweigh other considerations and in particular the need to enforce proper immigration controls. It was not accepted that there was any basis for the Appellant to remain under the provisions of the Immigration Rules. The Appellant is a single mother with two illegitimate children but it was not accepted that there would be very significant obstacles to her safe return to Albania in all of the circumstances.
40. This conclusion appears to follow from a suggestion in paragraph 21 that the Appellant had a substantially family in Albania to whom she could potentially turn (albeit with no express findings as to whether she could do so or whether her family have disowned her as claimed, even if she is not at risk of persecution from them and in apparent contradiction to the findings in paragraph 26 set out above) and the findings in paragraph 24, which are as follows:

"24. ... Nevertheless, I acknowledge the violence against women is prevalent in Albania and that an Albanian female will undoubtedly face difficulties on return. Albania is a patriarchal society where family support is expected, whether this comes from the nuclear family or the extended family. Generally speaking, whilst I found Ms Kosumi's report helpful for providing background material, it was very general in character. Obviously, it is based on the appellant's own account being correct, but I rejected this and my findings above. I take on board that the appellant has two illegitimate children and there may be a degree of social stigma to her status. I have fully considered the appellant's expert when she draws attention to the difficulties faced by single female with illegitimate children to support returning to Albania. This will exacerbate her difficulties on return. Nevertheless, the appellant is educated to degree level, having obtained a degree/diploma in 2014 (question 26 of the substantive interview) and therefore does have the potential to obtain gainful employment on her own."

41. As above, the First-tier Tribunal focuses in general terms on the Appellant's potential to obtain employment in Albania without any further or more detailed consideration of integration or the position of the family on return. The complete failure to consider the best interests of the children is again highly relevant here. The conclusions contain no structured assessment of Article 8 at all.

42. I also find an error of law on the final ground in paragraph 17(v) of the decision, in which there is a failure to appreciate that there is no inconsistency about the date on which the Appellant obtained a passport because there was sufficient evidence before the First-tier Tribunal to show that she obtained two on two different dates, one in Albania and one in the United Kingdom. Whilst the other inconsistencies identified in this paragraph are not challenged, the latter is based on a mistake of fact.
43. For the reasons identified above, the decision of the First-tier Tribunal contains numerous errors of fact and law. Although individually the errors identified above may not have been sufficient to establish a material error of law capable of affecting the outcome, taken together it can not be said that the errors would not be material to the outcome of the appeal, even when the unchallenged findings of the First-tier Tribunal and taken into account. As such, it is necessary to set aside the decision of the First-tier Tribunal. Due to the nature of the errors identified, which at their heart go to the credibility findings and/or identify a failure to make relevant findings at all; it is not possible to preserve any findings from the decision. I remit the matter to the First-tier Tribunal because of the extensive findings required to determine this appeal afresh.

Notice of Decision

The making of the decision of the First-tier Tribunal did involve the making of a material error of law. As such it is not necessary to set aside the decision.

I set aside the decision of the First-tier Tribunal and remit the appeal for a de novo hearing before the First-tier Tribunal (Taylor House hearing centre) before any Judge except Judge Hanbury.

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

7th October 2019

Upper Tribunal Judge Jackson