



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal number: PA/03334/2020 (V)

THE IMMIGRATION ACTS

Heard Remotely at Manchester CJC  
On 5 July 2021

Decision & Reasons Promulgated  
On 20 July 2021

Before

UPPER TRIBUNAL JUDGE PICKUP

Between

EC

(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS (V)

For the appellant: Ms M Cleghorn of Counsel, instructed by Latif Solicitors

For the Respondent: Mr A McVeety, Senior Presenting Officer

This has been a remote hearing which has been consented to by the parties. The form of remote hearing was video by Skype (V). A face-to-face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing. At the conclusion of the hearing, I reserved my decisions and reasons, which I now give. The order made is described at the end of these reasons.

1. The appellant, who is a national of Albania with date of birth given as 9.5.86, has appealed with permission to the Upper Tribunal against the decision of the First-

tier Tribunal promulgated 18.1.21 (Judge Forster), dismissing on all grounds his appeal against the decision of the Secretary of State, dated 21.5.20, to refuse his claim for international protection as the victim of domestic abuse.

2. Permission to appeal was refused by the First-tier Tribunal on 4.2.21. However, when the application was renewed to the Upper Tribunal, Upper Tribunal Judge Plimmer granted permission on all grounds on 3.3.21, considering that whilst the other grounds had less merit, it was nevertheless arguable that the First-tier Tribunal failed to apply the relevant country guidance when considering prospective risk and relocation in Albania.
3. Although Judge Plimmer observed with regret that the country guidance decisions referred to in the renewal grounds, dated 20.1.21, "contain no citation and no specific references had been drawn to relevant paragraphs in support of the propositions relied on", the correct citations and references, including for AM and BM (Trafficked women) Albania CG [2010] UKUT 80 (IAC) and TD and AD (Trafficked women) CG [2016] UKUT 92 (IAC), were subsequently provided at [2] of Ms Cleghorn's somewhat lengthy skeleton argument, dated 31.3.21.
4. I have carefully considered the decision of the First-tier Tribunal in the light of the written and oral submissions and the grounds of application for permission to appeal to the Upper Tribunal.
5. The relevant background is that the appellant fears her husband, who raped her when she was 13 and the abuse continued after marriage. Her husband also assaulted her son. She sought and obtained a Protection Order in 2018 but her husband followed her. Afraid to go to the authorities again, she fled Albania. Her factual account has been accepted by the respondent, who rejected the claim as not objectively well-founded. It follows that the appeal turned on issues of internal relocation and sufficiency of protection by the Albanian authorities.
6. The interrelated grounds first submit that in making adverse credibility findings the judge failed to put the appellant's case in context and in light of the case authorities, which would have revealed the stigma attached to victims of sexual abuse and to single women without the support of a husband. More significantly, it is submitted that the judge was simply wrong to disregard the country guidance cases.
7. It is clear that at [41] of the decision the judge entirely dismissed Ms Cleghorn's reliance on TD and AD, and AM and BM as cases relating to trafficked women and the difficulties they face in reintegration in Albania. The judge did not accept that these authorities had any bearing on the appellant's case. It is submitted, however, that the two cases address internal relocation and sufficiency of protection for female victims of sexual violence and that the appellant is in a similar situation to the situation discussed in those cases in that it is claimed her husband would be able to trace her and has the motivation to do so. It is also

submitted that the judge failed to adequately address the best interests of the appellant's child, also a victim of domestic violence, in the context of the ability to relocate of a single woman with a child.

8. For the reasons cogently set out in the grounds and skeleton argument, I find that there was a material error of law in the decision of the First-tier Tribunal. The two country guidance cases deal with the sufficiency of protection and internal relocation options for single women on return to Albania and not just those who have been trafficked. For example, at [140] of AM and BM suggested that for each individual it was necessary to make an assessment taking into account that person's particular factors, including that "If the victim is at real risk of persecution from her family or her husband then there is little evidence that the State would intervene, particularly in the north of the country." At [187] of the same case the Upper Tribunal referred to "the difficulties for a single woman to reintegrate into a society where the family is the principle unit for welfare and mutual support..." There is also the difficulty highlighted at [51] of TD and AD that single women who return to Albania are in most cases considered as abandoned by their families because they are 'kurva' (whores), a label which carries with it a lot of hate, discrimination and the risk of exclusion from social groups. It is also said that there are the additional difficulties that the police conform to traditional patriarchal norms, where domestic abuse is regarded as private, family matters. Victims of domestic violence are often returned to their families and the perpetrators released without charge after a cooling off period. Issues of corruption and bribery in the police force is said to be a serious problem.
9. The above and other concerns raised in the country guidance cases relied on by the appellant would have assisted the judge to form a more rounded assessment of the difficulties of the appellant's circumstances. To completely refuse to consider them on the basis that they deal primarily with trafficked women is short-sighted and, I am satisfied, in error of law.
10. In the circumstances and for the reasons set out above, I find such error of law in the decision of the First-tier Tribunal so that it must be set aside to be remade in its entirety with no findings preserved.
11. Where the facts and findings are unclear and need to be remade entirely, the appropriate course is to remit this matter to the First-tier Tribunal to be remade, on the basis that this is a case which falls squarely within the Senior President's Practice Statement at paragraph 7.2. The effect of the error has been to deprive the appellant of a fair hearing and that the nature or extent of any judicial fact finding which is necessary for the decision in the appeal to be re-made makes it appropriate to remit this appeal to the First-tier Tribunal to determine the appeal afresh.

## **Decision**

The appeal of the appellant to the Upper Tribunal is allowed

The decision of the First-tier Tribunal is set aside in its entirety

The remaking of the decision in the appeal is remitted to the First-tier Tribunal at Newcastle.

I make no order for costs.

Signed: *DMW Pickup*

Upper Tribunal Judge Pickup

Date: 5 July 2021

## **Anonymity Direction**

I am satisfied, having had regard to the guidance in the Presidential Guidance Note No 1 of 2013: Anonymity Orders, that it would be appropriate to make an order in accordance with Rules 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 in the following terms:

*“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 his family. This direction applies to, amongst others, both the appellant and the respondent. Failure to comply with this direction could lead to contempt of court proceedings.”*

Signed: *DMW Pickup*

Upper Tribunal Judge Pickup

Date: 5 July 2021