



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/07730/2019

THE IMMIGRATION ACTS

Remote Hearing by Skype
On 9th March 2021 and 4th May 2021

Decision & Reasons Promulgated
On 28th June 2021

Before

UPPER TRIBUNAL JUDGE MANDALIA

Between

F B
(Anonymity Direction Made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms M Butler, instructed by Duncan Lewis & Co Solicitors

For the Respondent: Ms F Petterson, Senior Home Office Presenting Officer

DECISION AND REASONS

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

Rules 2008

An anonymity direction was made by the First-tier Tribunal (“the FtT”). As the appeal raises matters regarding a claim for international protection, it is appropriate for an anonymity direction to be made. 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 or any member of his 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.

Introduction

1. The appellant is an Albanian national. Her appeal against the respondent's decision of 9th July 2019 to refuse her claim for international protection and leave to remain on human rights grounds was dismissed by First-tier Tribunal Judge Parkes for reasons set out in his decision promulgated on 7th February 2020.
2. The appellant was granted permission to appeal on one ground only by Upper Tribunal Judge Gill on 18th May 2020. That is: First-tier Tribunal Judge Parkes had arguably failed to consider whether the appellant's removal to Albania would be contrary to Article 3 ECHR because of the suicide risk. The 'error of law' appeal was decided by Upper Tribunal Judge Kekic under Rule 34 of the Tribunal Procedure (Upper Tribunal) Rules 2008, on the papers. At paragraph [13] of her decision promulgated on 28th September 2020, she said:

"The appellant's evidence clearly raised an Article 3 claim based on the risk of suicide. There is medical evidence that pointed to that and the judge's Record of Proceedings show that this was also raised in Counsel's submissions. Further, the risk of suicide was addressed in the skeleton argument produced in support of the hearing (at paragraphs 22 and 23 where article 3 suicide cases were cited, and at 55-56). The judge has failed entirely to engage with this aspect of the appellant's case. Mr Marvin points to shortcomings with the psychiatric report. That may well be the case, but it was for the judge to consider the evidence and point out any concerns he had with it. It is not for others to try and remedy the failings in the judge's assessment and decision making."

3. Upper Tribunal Judge Kekic refused to remit the appeal to the First-tier Tribunal for a de novo hearing and directed that the appeal is retained in the Upper Tribunal for a judge to consider and make a decision upon the appellant's article 3 claim of suicide risk.
4. Upper Tribunal Judge Kekic expressed the provisional view that the resumed hearing of the appeal can and should be held remotely on a date to be fixed. She gave the parties the opportunity to express any objection to a remote hearing. By letter dated 5th October 2020, the appellant's solicitors objected to a remote hearing and submitted that a face-to-face hearing is required because of the appellant's

vulnerabilities and the need to give evidence via an interpreter. Upper Tribunal Judge L Smith considered the representations, and on 21st October 2020, she directed that the resumed hearing should be listed for a face-to-face hearing.

5. The appeal was listed for a face-to-face hearing on 22nd January 2021 at Field House but could not proceed because of measures implemented on 5th January 2021 to reduce the spread of Covid-19. The hearing therefore proceeded as a Case Management Review Hearing. At that hearing, Upper Tribunal Judge Gleeson canvassed whether it would be possible for facilities to be provided at the offices of the appellant's solicitors, to enable the appellant to give evidence in a comfortable and secure environment, remotely. On 22nd January 2021, the appellant's solicitors wrote to the Tribunal in the following terms:

“The appellant does not object to the hearing being a remote hearing, although I understand that this is not ideal, given her vulnerabilities and mental health issues. The appellant's legal representatives are willing to assist the appellant to utilise their offices to enable her to participate in a remote hearing, given that it is relatively close to the appellant and will hopefully pose less of a risk in terms of travelling during the Covid 19 pandemic. The appellant wishes to attend her legal representatives offices in Birmingham to be able to participate in a remote hearing.”

6. The hearing before me on 9th March 2021 took the form of a remote hearing using skype for business. There was no objection by either party. I sat at the Birmingham Civil Justice Centre. The appellant joined the hearing remotely from the offices of her solicitors. The appellant and an interpreter arranged by the Tribunal both communicated with each other and I was satisfied that the appellant and interpreter were able to see and hear each other throughout the hearing, and that they clearly understood each other. I was addressed by the representatives in exactly the same way as I would have been if the parties had attended the hearing together. I was satisfied no party has been prejudiced; and that, insofar as there has been any restriction on a right or interest, it is justified as necessary and proportionate. I was satisfied that it was in the interests of justice and in accordance with the overriding objective to proceed with a remote hearing because of the present need to take precautions against the spread of Covid-19, and to avoid delay. I was satisfied that a remote hearing would ensure the matter is dealt with fairly and justly in a way that

is proportionate to the importance of the case, the complexity of the issues that arise, and the anticipated costs and resources of the parties.

The appeal

7. The appellant has appealed under s82(1) of the Nationality, Immigration and Asylum Act 2002 against the decision of the respondent to refuse her claim for asylum and humanitarian protection. The appellant claims to be a refugee whose removal from the UK would breach the United Kingdom's obligations under the 1951 Refugee Convention. Alternatively, she claims that her removal to Albania would be contrary to Articles 3 and 8 ECHR.
8. The appellant bears the burden of proving that she falls within the definition of "refugee". In essence, the appellant has to establish that there are substantial grounds for believing, more simply expressed as a 'real risk', that she is outside of her country of nationality, because of a well-founded fear of persecution for a refugee convention reason and she is unable or unwilling, because of such fear, to avail herself of the protection of that country. Paragraph 339C of the immigration rules provides that an applicant who does not qualify as a refugee will nonetheless be granted humanitarian protection if there are substantial grounds for believing that if returned, they will face a real risk of suffering serious harm and they are unable, or, owing to such risk, unwilling to avail themselves of the protection of that country.

The hearings before me

9. In readiness for the resumed hearing of the appeal, the appellant made a further witness statement dated 19th November 2020. The appellant gave evidence at the hearing on 9th March 2020. During the course of her evidence the appellant claimed she had provided her solicitors with evidence to support some of the claims made in her witness statement, including a copy of the Facebook post that is referred to in paragraph [11] of her witness statement, and a recording of the threat made to her, that is referred to in paragraph [13] of the statement. After the appellant had

finished giving evidence, and before hearing the parties closing submissions I was informed by Ms Butler that she had spoken to her instructing solicitors and they had indeed confirmed that the appellant had provided the material to them, but they had decided, for reasons that were neither apparent nor explained, that the material did not need to be disclosed and exhibited to the witness statement. Ms Butler submitted that I should either adjourn the hearing part heard, for that material to be filed and served, and for the parties to return to make their closing submissions, or alternatively, the appellant should have permission to file and serve the documents and the parties should make written submissions regarding that material. I considered the latter to be a wholly unsatisfactory way of proceeding in circumstances where neither the Tribunal nor the respondent has had any opportunity of seeing the material that has been provided by the appellant to her solicitors. In the circumstances the hearing was adjourned, part heard, so that the material could be disclosed, and the Tribunal could hear the parties closing submissions once the material is available.

10. Prior to the resumed hearing before me on 4th May 2021, the appellant's representatives filed a witness statement made by Liza Tilley dated 9th April 2021. The statement confirms that on 16th May 2020, the appellant informed her representatives that she had been threatened by her ex-husband, who I shall refer to as AC in this decision, and on 18th May 2020, the appellant sent her, via WhatsApp, messages from a woman who had threatened her, and video recordings of the appellant's phone calls with AC. The appellant also provided a copy of a police report filed in Tirana, by the appellant's brother. On 5th November 2020, the appellant provided, again via WhatsApp, a single screenshot of AC's profile on Facebook. The failure to provide the Tribunal with evidence that was relevant to the issues is explained as an 'oversight' and error caused by a failure to seek advice from her supervisor. The appellant's representatives have confirmed that they will not be charging the public purse for the costs of preparation for the further hearing.
11. The appellant's representatives filed and served the documents that they had been provided with by the appellant. The matter was listed before me to hear the parties

closing submissions on 4th May 2021, remotely. The appellant did not join that hearing. At the outset of the hearing, I informed Ms Butler that the 56-page bundle of documents filed with the Tribunal was in a format that was difficult to follow. There were a number of photographs that on their own, were meaningless and the translations of a WhatsApp exchange were difficult to read. Arrangements were made for the appellant's solicitors to deliver a copy of the bundle relied upon by the appellant to the Tribunal. I received a clearer copy of the bundle. At the end of the hearing I was satisfied that both parties had been able to participate fully in the proceedings.

The appellant's vulnerability

12. It is also appropriate to record at this point that I was invited by Ms Butler to treat the appellant as a vulnerable witness, and the appellant has throughout been treated as a vulnerable witness. I have helpfully been provided with a report from Dr Nuwan Galappathie, a Consultant Forensic Psychiatrist dated 12th November 2020. The appellant has been diagnosed as suffering from a 'recurrent depressive disorder', 'generalised anxiety disorder' and 'post-traumatic stress disorder'. My attention was drawn to paragraphs [148] and [149] of the report in which Dr Galappathie expresses concern about the appellant giving evidence in relation to her past experience of trauma. He recommended that there should be a sensitive and non-confrontational approach with the appellant, and she should be asked questions one at a time, using ordinary language and allowed time to answer each question. He recommended, if possible, questions relating to her past history of trauma are avoided as they are likely to be highly re-traumatising. Those recommendations were adopted during the course of the hearing. The appellant was also given appropriate breaks when she was giving evidence and when she was visibly distressed. I have also had regard to the Joint Presidential Guidance Note No.2 of 2010: Child, Vulnerable Adult and Sensitive Appellant Guidance, and my assessment of the appellant's credibility has been considered in the round, taking due account of the medical evidence and making due allowances for the fact that many asylum seekers that have been subjected to abuse will have problems giving a coherent account.

The evidence

13. I have before me various bundles:

- i) The respondent's bundle
- ii) The appellant's bundle comprising of 207 pages that was before the First-tier Tribunal
- iii) The manuscript letters from the appellant's mother and her brother forwarded by the appellant to Liza Tilley on 19th December 2019, together with translations
- iv) The statement of Liza Tulley dated 24th January 2020
- v) The appellant's supplementary bundle attaching the expert report of Dr Enkeleida Tahiraj that was filed in readiness for the hearing before the FtT listed on 27th January 2020
- vi) The appellant's bundle of new evidence filed in response to directions made by Upper Tribunal Judge Gleeson dated 27th January 2021
- vii) The appellant's bundle of evidence filed in response to directions made by me on 9th March 2021

14. A full account of the evidence and the submissions made before me is set out in my record of proceedings. At the end of the hearing before me, I reserved my decision. I informed the parties that my decision will follow in writing, and this I now do. In reaching my decision I have fully considered all the evidence that was before the Tribunal, whether it is expressly referred to in this decision or not.

The evidence of the appellant

15. At the outset of the hearing before me on 9th March 2021, Ms Butler confirmed that the appellant relies upon the evidence set out in her witness statement dated 19th November 2020, the psychiatric report prepared by Dr Nuwan Galappathie, three letters from the appellant's GP, Dr F Ahmed (dated 19th February 2020, 6th and 13th

October 2020), and the country expert report of Dr Enkeleida Tahiraj, dated 21st January 2020 that was before the First-tier Tribunal previously.

16. The appellant was called to give evidence. She confirmed that she understood the interpreter. The appellant adopted her witness statement dated 19th November 2020 and confirmed that the statement had been read to her in a language that she understands, and the content of the statement is true and correct. In cross-examination, the appellant confirmed that the last time that she got in touch with her brother was on 16th May 2020 when he had sent her a photograph, by social media, of a report that he had made to the police in Albania regarding the events of 16th May 2020. She confirmed that she had not spoken to him since that photograph was sent to her. She confirmed that she had received a call on 17th May 2020 from a woman that had threatened her. She was asked whether she had contacted the registry office in Albania on the same day. She initially said she contacted them several days after. When it was put to her that that is not what she had said in her witness statement, she said that she had made the contact with the registry office one or two days afterwards. The appellant confirmed that she speaks to her son every two or three days. He does not have his own mobile phone and she communicates with him using her mother's mobile telephone number. She maintained that she thinks her family do not want her son to speak to him even though they allow her to speak to him every two or three days. She was asked whether she had heard anything about her ex-husband since the events in May 2020. She said that she has not heard anything about him since, and neither does she wish to.
17. After cross-examination, I informed the appellant and the parties that I had a few questions for the appellant to ensure that I properly understood the evidence set out in her most recent witness statement. I was conscious of the appellant's vulnerability and the distress that was apparent when she spoke about her family and in particular, her son. I adjourned the hearing for the appellant to have an opportunity to get some fresh air, compose herself, and to have some lunch before the hearing continued.

18. When the hearing resumed, the appellant confirmed she was well enough to continue. I asked the appellant about her contact with her son. She said that primarily, it is she that calls him and that she does so, almost every day. She said that sometimes he will not answer and when others are around, he only speaks to her a little. However, when he is alone, he opens up and tells her that he loves her and misses her. He asks her when they will be together again. The appellant said she had asked her son why he sometimes avoids her, and he had said to her that he doesn't want to communicate when others are around. She said that when others are around, he does not openly express his love towards her. Her evidence was that her son will occasionally call her when no one else is at home, and that is why she believes it is her family that force him not to be close with her. She said that her son does not say anything about the family and that is what makes her suspicious. I asked the appellant whether her mother is present during the calls, if her son is using her mobile phone. She said that when other people are around, her son will say "what do you want", "I am doing my homework", and he appears to be distant. However she is able to speak to him when others are not around, because her mother's mobile phone is left in the house if she is in the garden or out shopping. The appellant said that her mother never picks the mobile phone up, and she had come to the realisation that her mother does not wish to know of her existence when she heard of the statement that had been made by her mother previously.
19. After a further short break, I asked the appellant about the Facebook posts. She confirmed that a false Facebook account had been set up by her previously to aid the police in the arrest of AC. It was closed after his arrest in 2016. She confirmed that when her son was about 9 ½ years old, he had persuaded her to open a Facebook account for him, because all his schoolfriends had a Facebook account. She maintained access to the Facebook account. On the morning of 16th May 2020 her son had seen a photograph of the appellant that had been posted on Facebook by AC. When her son had told her that morning of the picture that he had seen and the derogatory comments made, the appellant had viewed the post herself. It was a new post and not something that had been posted or published previously. I asked her whether a copy of the Facebook post was available, and she said that she had taken

the post to be a threat and provided copies of the Facebook post to her solicitors in May 2020. She had closed down her son's Facebook account but had been able to access the posts from the Facebook account of a friend. The appellant said that AC had also re-posted pictures that had previously been published/posted of him carrying a weapon. The appellant believes that AC had posted/published the photograph of her with derogatory remarks on 16th May 2020, as a way of intimidating her.

20. The appellant said that she had contacted her cousin the same day and her cousin had called her back providing her with AC's telephone number. The appellant had then contacted AC the same day, and the call had been recorded because she was scared about what he was saying. The appellant said that she had provided her solicitors with the recording. That day, she had also contacted her brother, but he did not answer her calls. She therefore sent messages to him asking him to answer her calls. She could see that he was reading the messages but not replying. She sent several messages to him and told him that she had been threatened by her ex-husband. She had told her brother that AC would be unable to harm her because she is so far away, but the family should take care of themselves. She said that she sent him the videos that she had recorded and said that he should go to the police. She herself then contacted the Albanian police but was told that she could not lodge a report. The appellant said that her last ever communication with her brother was the picture that she received from him of the report that he had made to the police. She has not contacted him since. She said that to the best of her recollection, the last time she spoke to her brother and her mother was in January 2020.

Other evidence

21. in reaching my decision I have had regard to the report of Dr Nuwan Galappathie, which I address in my consideration of the appellant's Article 3 claim and the three letters from the appellant's GP, Dr Ahmed. I have also regard to the evidence that

was previously before the First-tier Tribunal including the medical reports of Dr Arnold and Dr Waheed. I have also considered, in particular, the report of Dr E Tahiraj dated 21st January 2020 that was in the appellant's supplementary bundle filed in readiness for the hearing on 27th January 2020. I have also carefully considered the evidence set out in the appellant's bundle filed following the directions made by Upper Tribunal Judge Gleeson dated 27th January 2021 and the directions made by me on 9th March 2021.

Findings and Conclusions

22. In reaching my decision I have had the opportunity of hearing the appellant and seeing her evidence tested in cross-examination. Matters of credibility are never easy to determine, particularly, as here, where the appellant's evidence is received through an interpreter, and where the appellant is a vulnerable witness. I acknowledge that there may be a danger of misinterpretation, but I was careful to explain to the appellant, that questions and answers must be broken down into short sentences so as to ensure that she understood the question, and the interpreter had a proper opportunity to translate the answer provided. I have also borne in mind the fact that events that may have occurred some time ago, can impact on an individual's ability to recall exact circumstances. I also recognise that there may be a tendency by a witness to embellish evidence because although the core of the claim may be true, he/she believes that by embellishing their evidence, the claim becomes stronger. In reaching my decision I have also been careful not to find any part of the account relied upon, to be inherently incredible, because of my own views on what is or is not plausible. I have considered the appellant's claims and the story as a whole, against the available country evidence and other familiar factors, such as consistency with what the appellant has said before.
23. As I have stressed from the outset, when assessing the applicant's credibility, I have been particularly mindful of the psychiatric report of Dr Nuwan Galappathie and the diagnosis made. Dr Galappathie recommended adjustments are made so that counsel take a sensitive and non-confrontational approach with her. She should be

asked questions one at a time using ordinary language and be allowed time to answer each question. The relevant adjustments were made and neither party drew my attention to any concerns regarding the conduct of the hearing. Although the appellant clearly found talking about her family, and in particular her son, difficult and upsetting, after the appellant had given evidence on 9th March 2021, I was satisfied that the appellant had had the opportunity to properly participate in the hearing without any undue distress. My assessment of the appellant's credibility has been considered in the round, taking due account of the medical evidence and giving due allowances for the fact that many asylum seekers will have problems, giving a coherent account and particularly so, when the individual is vulnerable.

The claim for asylum / humanitarian protection

24. Having found that First-tier Tribunal Judge Parkes had erred in failing to address the Article 3 claim based upon suicide risk, at paragraph [15] of her decision, Upper Tribunal Judge Kekic said:

“The following findings are, therefore, preserved:

- (i) that the appellant would be able to seek and access a sufficiency of protection from the Albanian authorities;
- (ii) that there was no evidence that the appellant's ex-husband had been released from prison early due to state corruption;
- (iii) that the appellant has her parents, a brother, and her son in Albania;
- (iv) that she would have the support of her family on return;
- (v) that no action had been taken by the appellant's ex-husband against their son or her family members;
- (vi) that the Facebook evidence does not show any intent to target the appellant;
- (vii) that the appellant could not meet the requirements of paragraph 276ADE and that her circumstances do not engage article 8;
- (viii) that she has a subjective fear of her former husband and was a victim of domestic violence.

25. In her statement of 19th November 2020, the appellant claims she has no ongoing contact with her family and that there was an incident on 16th May 2020 in which she was subjected to further threats from her AC. The incident obviously postdates the

decision of First-tier Tribunal and it is appropriate for me to consider whether there is anything in the claim now made by the appellant that is capable of undermining the findings previously made and preserved.

26. I reject the appellant's claim that she has no on-going contact with her family. First-tier Tribunal Judge Parkes had before him the two letters written in manuscript from the appellant's mother and brother that were forwarded by the appellant to her representatives, by email, on 19th December 2019. The appellant's mother refers to the incident that occurred in December 2016 and the effect upon the family. She refers to her husband (*i.e. the appellant's father*) suffering from a heart condition caused by the appellant. She states; *"I have stated that I have disowned her as my daughter because she has caused so much trouble and put us all at risk..."*. First-tier Tribunal Judge Parkes also had before him the witness statement of Liza Tilley dated 24th January 2020 in which she refers to a telephone call that she made to the appellant's mother in January 2020 with the assistance of an interpreter. At paragraph [22] of his decision, Judge Parkes said:

"The witness statement from the appellant's solicitors suggests that the family would not be willing to support the appellant. It does not appear that there have been any recent incidents regarding the family with the appellant's ex-husband and so it is not clear what it is that would have precipitated such a change given the support she had between 2012 and 2016, and then 2018 for the period he was in prison, until she came to the UK."

27. Dr Nuwan Galappathie refers to the appellant's personal history at paragraph [20] of his report. The appellant described a "difficult" childhood and said that she felt unwanted by her parents, and at paragraph [22] of the report, he refers to the appellant telling him that although she had friends at school, she was also bullied. At paragraph [27] of his report, Dr Galappathie notes that although her family did not approve of her marriage to AC, she moved into a one-bedroom apartment with him, which was close to her parents and next door to her uncle. At paragraph [34] of his report Dr Galappathie records the appellant having told him that she is fearful of her family, that she does not speak to them anymore, and that the appellant told him she has effectively lost her family.

28. In her witness statement dated 19th November 2020, the appellant claims that the last time that she spoke to her brother was when she was threatened on 16th May 2020. She claims she never talks to anyone else in her family other than her son, because they do not want to speak to her. In her oral evidence before me, the appellant confirmed that she is able to speak to her son every two or three days and that she communicates with him via her mother's mobile telephone number.
29. Although the appellant had a difficult childhood, the appellant left her ex-husband in 2012 and returned to live with her family. They supported her until 2016 following the breakdown of her marriage and despite the threats that she was subjected to. They also supported the appellant whilst AC was in prison, and until she left Albania. On her own account, her family were supportive of her decision not to return to her ex-husband. The appellant's frequent contact with her son is maintained via her mother's mobile telephone number and I reject her evidence that she does not speak to members of her family.
30. If, as the appellant believes, her family do not want her son to speak to her son, it would be very easy for them to cease all contact or to limit the contact, but it is clear that they have not taken any steps to do so. On her own account, her family allow the appellant to have frequent contact with her son. It is in my judgement contrary to common sense and experience of human behaviour that the appellant's family, who clearly supported her when she was living in Albania, would have cut off all communication with her in the way that she claims. Her son may well be guarded in the conversations that he has with the appellant, and the conversations may be short, but that would not be altogether surprising for a child of that age, speaking to a parent with whom he has no physical contact.
31. I have considered the appellant's evidence holistically and even to the lower standard, I reject her claim that she was threatened on 16th May 2020. Judge Parkes found, at paragraph [21] of his that the Facebook evidence does not show any intent to target the appellant. That is a preserved finding.

32. The appellant claims that on Saturday 16th May 2020, her son saw pictures of her that AC had posted on Facebook. She states that he had "*written offensive words beneath the pictures, such as "bitch" or "whore"*". The appellant viewed the Facebook post for herself. The picture posted by AC was one that had not been published previously but the appellant considered the photo of her, as being a way of intimidating her. She confirmed in her oral evidence that the Facebook post was a picture of her, with derogatory words calling her a whore/prostitute. She confirmed that the picture in which AC is swearing at her, had been provided to her solicitors.
33. In the bundle of documents filed and served following the directions made by me on 9th March 2021, there are 8 "Facebook photo's", at pages 17 to 24. The only one that even begins to resemble the description provided by the appellant is the copy that appears at page 17. That appears to show that on 6th May (*the year is not shown*), AC "updated his cover photo". There are two pictures. The picture on the left appears to be of a woman sitting on the edge of a bed. Alongside, to the right, is a picture of a woman, but her face is entirely covered by an angry emoji. There is no text visible on either picture. There appear to have been "4 comments", but I have not been provided with a screenshot of the comments made. There are no offensive words beneath or elsewhere on the pictures, such as "bitch" or "whore" or anything to demonstrate the 'Facebook Post' or update to AC's cover photo is in any way directed to the appellant. The remaining pages (*pages 18 to 24*) appear to be updates to AC's cover or profile picture, showing him with weapons or of weapons, but again do not disclose anything directed towards the appellant in particular. I note that those 'Facebook photos' had previously been included in the appellant's bundle that was before the First-tier Tribunal at pages 30 to 34 and were considered by First-tier Tribunal Judge Parkes when he concluded that the Facebook photographs of AC do not by themselves show an intent to target the appellant. As a starting point, the Facebook photos that I have been provided with, do not support the appellant's claim that AC had posted a picture(s) of the appellant with offensive words such as "bitch" or "whore".

34. The appellant claims that she contacted her ex-husband the same day, having obtained his telephone number through her cousin. She claims that although she was scared to contact him, his actions were upsetting their son, and she felt safe because he does not know where she is. She claims he started threatening her, saying he would find her and kill her. He also threatened to kill their son, her brother and his son. She claims to have recorded the calls. At pages 12 to 15 of the bundle filed by the appellant in response to directions made by me on 9th March 2021, the appellant's representatives have provided transcripts of 5 video clips (*pages 10 to 15*). The transcripts of 'audio recordings' are certified as having been prepared on 11th March 2021. The dates upon which the audio/ video clips were recorded is not identified in the transcripts. That information would have been apparent from the metadata recorded on the digital files that were sent to the appellant's solicitors. In any event, I have considered the contents of the transcripts that are to be found at pages 12 to 15 of the bundle (*transcript of video 2, 3, 4 and 5*), said to be transcripts of the appellant's conversation with AC on 16th May 2020. Although that conversation arose because of the appellant's concern regarding a picture of the appellant posted by AC and the insults she claims were directed towards her, there is no reference in any of the transcripts to the Facebooks posts that caused the appellant to contact AC. I note that in 'Video 4', the appellant is recorded to say, "*Will you log in on Facebook for a little bit*", but there is no reference whatsoever in the transcripts to the appellant having any concerns about any Facebook activity directed towards her. There is an exchange between the appellant and a male and I accept that threats appear to be made towards the appellant and her family in that exchange. However, in the end, I am not satisfied, even to the lower standard, that these are transcripts of a telephone conversation between the appellant and [AC], or that if they are, they are anything more than an attempt to bolster a claim for international protection that has previously failed. I attach little weight to the transcripts as evidence of genuine threats towards the appellant. The conversation does not in my judgement appear to be a conversation between someone who is traumatised by the past events that she has been subjected to, at the hands of the person that she is speaking to. The appellant's concern in the conversation is the lack of financial contribution made by

AC to the upbringing of their son. Curiously, during 'Video 2' the appellant is noted to have said "*..keep the phone close to you and try to speak clearly..*". That is a very odd observation to make during such a telephone conversation.

35. In her oral evidence, the appellant said that she last spoke to her mother and brother in January 2020. The appellant claims in her witness statement that she called her brother after she had been threatened by AC on 16th May 2020 but was unable to speak to him. She claims he did not answer her call because he is not talking to her and has cut off contact with her. She claims she sent a text to her brother. She claims her brother went to the police station and reported the threats that had been made against the appellant and him, because he was scared for himself and for his son. She claims her brother took a photo of the police report. Copies of the text(s) sent by the appellant to her brother and the communication from him providing a copy of the police report have not been provided. I acknowledge that there is a lower standard in asylum claims and no requirement for corroboration, but if there is no good reason why evidence that should be available is not produced, I am entitled to take that into account in the assessment of the credibility of the account. In any event, the appellant's account of the communication between her and her brother is also inconsistent with the report made to the police by the appellant's brother. I have been provided with a translation of the statement that he is said to have made to the police at 19:30 on 16th May 2020. The appellant's brother states:

"...Today on 16/05/2020 my sister called and told me that her ex-husband [AC] had called her and had threatened her family, he had threatened that he will kill me together with the other family members. She was very scared because [AC] always drinks alcohol and is very aggressive, it has been proven that he is also violent.....I have come to the police department because I feel threatened and scared. [AC] has called her on her phone with the number [phone number set out], using this number he has threatened her. My sisters telephone number is [phone number set out]. I also want to say that my sister has recorded them and I will make all threats available for you...."
(my emphasis)

36. Contrary to what is said by the appellant regarding the lack of contact with her brother since January 2020, and that her brother did not answer her calls on 16th May 2020, it is clear from the statement made by the appellant's brother to the Police in Tirana, that there was a telephone conversation between the appellant and her

brother during which he was informed of the alleged threats. I also note the appellant's brother makes no reference to any threats towards his son.

37. The appellant claims that she also contacted the Albanian police herself about the threats and I have been provided with a transcript of a conversation (*video 1*) between a male and female in which the female is told that she needs to report the crime at the police station or police headquarters, and that she must be present in order to report and she cannot report the incident over the telephone. Again, the date and time that audio/video clip was recorded, is not identified in the transcript. The appellant claims that she recorded her conversation with AC as she was scared about what he was saying. The appellant provides no explanation for why she would need to record a telephone conversation that she had with the Albanian police.
38. Finally, the appellant claims that the following day (*i.e. 17th May 2020*) she was called by a woman claiming to be AC's wife, who also threatened her. There is no recording of such a call, but I have been provided with a translation of a series of messages exchanged on WhatsApp. In her witness statement dated 9th April 2021, Liza Tilley states that WhatsApp messages were provided by the appellant to her on 18th May 2020. A careful review of that evidence discloses that it is again, inconsistent with the appellant's account of events.
39. The WhatsApp messages start with a message sent by the appellant (*at 11:11hrs*) stating "*Please delete the picture from Facebook because [A] has seen it, and I don't know why you threaten to kill us on the phone leave me alone nobody has stopped the boy from you, you have no responsibility for him so get on with your own life*". Above that message, there appear to have been two 'missed calls' the previous evening, at 18:41 hours. The message sent by the appellant at 11:11hrs was met with no reply and the following day, at 09:52hrs, there was another missed call, immediately followed by a message sent by the appellant stating "*write*", followed by an exchange of messages between 11:17hrs and 15:05hrs. I have carefully read that exchange of messages and note that there were also missed (I assume, incoming) calls at 11:32, 14:32, 14:33, 14:34, 15:02, 15:05 and a short incoming call at 14:33. The exchange appears to have

been instigated by the appellant. Contrary to what is said by the appellant, the initial exchange of messages does not read as an exchange of messages between the appellant and a woman claiming to be the wife of AC. The first response to the message sent by the appellant was *"why did you report"* to which the appellant responded, *"why did you threaten me it serves you well"*. It seems the appellant believed, at least initially, that she was communicating with AC. As the exchange progresses, the individual identifies herself as the wife of AC and the focus of the exchange thereafter appears to be a report the appellant claimed to have made to the police and contact between the appellant's son and his father.

40. On the one hand, the appellant claims that she was unable to report the threats she received on 16th May 2020 to the Albanian Police because she needed to be present in person before she could report the matter, but in the exchange of messages, there is reference to the appellant having reported matters to the police and the female asking the appellant to withdraw the report.
41. Having considered the evidence now relied upon by the appellant regarding matters that post-date the decision of First-tier Tribunal Judge Parkes in the round, I find that the appellant has not received any genuine threat directed towards her, her son, or her brother. Whatever occurred on 16th May 2020, the appellant has remained in regular contact with her son, and I find, with her family, and there is no evidence of AC having made any attempt to contact them or to harm them in any way. Looking at the evidence as a whole, there is in my judgement nothing that undermines the preserved findings made, as recorded in paragraph [15] of the decision of Upper Tribunal Judge Kekic:
 - (iv) that the appellant would have the support of her family on return;
 - (v) that no action had been taken by the appellant's ex-husband against their son or her family members;
 - (vi) that the Facebook evidence does not show any intent to target the appellant;

Article 3

42. I then turn to consider whether the removal of the appellant would be in breach of Article 3 by reason of the appellant's mental health and because of the risk of suicide. The appellant claims she would commit suicide if she were returned to Albania and a decision to remove the appellant would violate her Article 3 rights. Ms Butler submits the appellant faces a serious, rapid and irreversible deterioration in her mental health on return to Albania, resulting in intense suffering and or a reduction in life expectancy due to the risk of suicide. The appellant draws upon the opinions expressed by Dr Galappathie, in particular.
43. It is now well established that what is required is an assessment of the risk at three stages, prior to anticipated removal, during removal, and on arrival. I have carefully considered whether the suicide risk is such that a removal of the appellant to Albania would be in breach of Article 3 by reference to the test set out in J v SSHD [2005] EWCA Civ 629 as clarified in Y and Z (Sri Lanka) v SSHD [2009] EWCA Civ 362, noting in particular that giving the judgment of the court in Y and Z (Sri Lanka), Sedley LJ said:

"16. One can accordingly add to the fifth principle in *J* that what may nevertheless be of equal importance is whether any genuine fear which the appellant may establish, albeit without an objective foundation, is such as to create a risk of suicide if there is an enforced return."

The report of Dr Nuwan Galappathie

44. Dr Galappathie is a consultant forensic psychiatrist who was instructed by the appellant's solicitors to address the appellant's mental health and in particular the risk of suicide in light of her mental health. For the purposes of his report Dr Galappathie conducted an examination of the appellant on 5th October 2020 over a period of two hours. The background is set out at paragraphs [18] to [38] of his report. Dr Galappathie refers to the appellant's current medication. At paragraph [45], he notes the appellant told him that she has had previous thoughts about jumping in front of a train if the decision is made to return her to Albania.

45. Dr Galappathie refers to the appellant's past medical history at paragraphs [46] to [78], helpfully drawing upon the appellant's medical records and the previous reports prepared by Dr Frank Arnold and Dr Waquas Waheed. The appellant's more recent mental health is addressed at paragraphs [79] to [82] of the report. The appellant told him she has been feeling low in mood since her asylum application was refused in 2019. She described hearing voices during the night inside her head which she recognises as AC, making her feel very anxious. He records that the appellant describes suffering from anxiety and feeling worried. She had started to feel anxious after being assaulted in Albania. Thoughts about self-harm and suicide increased when her asylum claim was initially refused, and she described suffering from worsening thoughts about self-harm and suicide but appeared visibly distressed and reluctant to disclose her thoughts. At paragraph [81] he states:

"...[The appellant] appeared reluctant to disclose her thoughts about self-harm and suicide. She said that she has them every day but does not like to think about them. She does not have a specific plan to harm herself but told me that she has previously had thoughts to throw herself in front of a train if she is not granted asylum within the UK. She said, *"I don't have anything here, no son"*. She told me that she had previous thoughts to harm herself but has not acted upon them when she has thought about her son."

46. Dr Galappathie records in his report that he completed a mental state examination, and it was notable that the appellant was anxious and distressed during the interview. At paragraph [86] of his report, he states that the appellant described subjectively suffering from low mood and objectively appeared depressed with reduced emotional reactivity. She reported ongoing thoughts about self-harm and suicide but no current plans to harm herself. He states there was no evidence of any delusional beliefs. He states:

"... Her predominant thoughts were related to her past history of trauma, missing her son and fear of being returned to Albania where she feared being found and killed by her ex-husband and not welcomed by her family."

47. Dr Galappathie addresses the questions asked of him at paragraphs [88] to [151] of his report. In his opinion, the appellant suffers from recurrent depressive disorder indicated by her account of suffering from low mood and depressive symptoms

which have been worsening after her application for asylum was refused in 2019. He also states that the appellant suffers from generalised anxiety disorder and in his opinion, the appellant's generalised anxiety disorder is severe given the extent of her anxiety-related symptoms and the impact that her symptoms have had upon her. Dr Galappathie also states that the appellant suffers from post-traumatic stress disorder and the severity of her PTSD is severe given the number and extent of the symptoms that she has experienced and the level of psychological distress that is present. He expresses the opinion that the appellant's mental health by way of depression, anxiety and PTSD appears to continue to significantly deteriorate since her arrival in the UK. At paragraph [108] of his report he expresses the opinion that the deterioration in the appellant's mental health has occurred due to a number of different factors, the most significant of which are her uncertain immigration status and fear of being returned to Albania. In his opinion, the prolonged period of time the appellant has been separated from her son would have also significantly contributed to her ongoing deterioration in her mental state. He expresses the opinion that the appellant's mental health problems have now become chronic, treatment resistant and have continued to deteriorate. He states the appellant's current symptoms and mental health problems are likely to have been directly caused by her past history of trauma and the current situation. He states that the ongoing threats and violence by her ex-husband will have worsened her PTSD and she is likely to have developed anxiety and depression in the aftermath of the long-standing trauma she has experienced. He also expresses the opinion that it is likely that her separation from her son when she had to flee Albania will have worsened her mental health problems and in particular her depression, leading to feelings of despondency and hopelessness. Dr Galappathie is of the opinion that the mental health problems that the appellant presents with are genuine, and consistent with the views of other experts, her mental health symptoms and conditions are clinically plausible.

The letters from the appellant's GP

48. The appellant relies upon three letters from Dr F Ahmed, a GP at the Meridian Practice, Stoney Stanton Road, Coventry. Dr Ahmed confirms in his letter dated 19th February 2020 that the appellant is a patient registered at the practice since May 2018. He provides a summary of an assessment he made on 12th February 2020, following which the appellant was referred to the CRISIS team for support. He sets out the medication prescribed to the appellant. In his letter Dr Ahmed states “..Also she had expressed concerns about safety of her child who is left with her husband. She was shattered to be separated from her son..”. Although Dr Ahmed understands the appellant’s son has been left with the “appellant’s husband”, for the purposes of this decision I accept that to be an error in translation or in his understanding. The appellant has maintained throughout, that her son was left in Albania in the care of her family. Dr Ahmed also states the appellant was referred to counselling, but the counsellor noted that after completion of therapy, the appellant remained moderately depressed, and her anxiety levels remained high. As part of the assessment for depression, Dr Ahmed reports that in February 2019 the appellant was very positive about not committing suicide, but that had changed by the date of his letter in February 2020, by which time the appellant was aware of the respondent’s decision to refuse her claim for international protection. When she was assessed in April 2019, her mood remained low, and her medication was adjusted. By April 2019 it is said that the appellant was having panic attacks because she was worried about possible detention and removal. The appellant was seen in May 2019, June 2019 and November 2019, without any apparent improvement in her symptoms. Dr Ahmed states:

“Looking at the trend and reviewing her medical notes it seems that her depression is chronic now, her anxiety symptoms are worse every time there is stress. She has no much avail (*sic*) with counselling and does not seem suitable to continue till her immigration status is settled.

She is very unwell now and not suitable to be deported or detained, she has given very clear direct threat of “taking her life”. She would need continued medical support and it seems unlikely that she would be able to come off her medication in near future.”

49. In his letter dated 6th October 2020, Dr Ahmed states that he had received notification from the appellant’s solicitors asking for an urgent medical review as the

appellant is suicidal. It appears he made contact with the appellant who was noted to be extremely upset and contemplating suicide. He states that she was very clear in her mind that she would commit suicide if her appeal were rejected. Dr Ahmed states that in his opinion, even though the appellant did not have practical suicide plans if her appeal is rejected, she would be at a very high risk of committing suicide. In his letter dated 13th October 2020, Dr Ahmed states that in May 2020 he had another encounter with the appellant. She presented as very distressed when she had received threats from her ex-husband towards her son. Dr Ahmed states the appellant was very scared about the safety of her child in Albania and when assessed, she was very fearful and believed that he was in danger. He states the appellant had features of panic attacks and needed strong medication to settle her symptoms.

Discussion on the Article 3 risk

50. As a starting point, I acknowledge that the appellant was the victim of domestic violence during her marriage to AC. The violence that she was subjected to, is summarised in paragraph [27] of the report of Dr Galappathie. It is uncontroversial that there was an incident in December 2016 and that both the appellant and her brother were stabbed by AC, leaving the appellant with a 2cm scar above her left hip. The appellant assisted the authorities in Albania with their investigation that ultimately resulted in the conviction of AC, and a five-year sentence of imprisonment being imposed. I have set out at paragraph [24] above, the preserved findings of the First-tier Tribunal and I have found there to be nothing in the evidence before me now, that undermines the preserved findings made, as recorded in paragraph [15] of the decision of Upper Tribunal Judge Kekic.
51. Dr Nuwan Galappathie is a Consultant Forensic Psychiatrist, and his expertise and experience are not challenged by the respondent. I accept his opinion that the appellant suffers from a recurrent depressive disorder, severe generalised anxiety disorder and PTSD for the reasons set out at paragraphs [93] to [107] of his report. I also accept his opinion that the appellant's current symptoms and mental health

problems are likely to have been directly caused by her past history of trauma and the current situation, and that her uncertain immigration status and fear of being returned to Albania are likely to be the most significant factors that have caused an ongoing deterioration in her mental health. I accept his opinion that the mental health problem that she presents with are genuine and there is no indication to suggest that she is exaggerating or feigning her current mental health problems.

52. Dr Galappathie is of the opinion that if the appellant is advised of any adverse immigration decision, that is likely to lead to an acute deterioration in her mental health and increase the risk of self-harm and suicide. Any pre-removal detention is likely to significantly worsen her mental state. In his opinion the transit to Albania, particularly if this is by plane, will be highly distressing for the appellant. Dr Galappathie states the appellant is likely to become increasingly unstable and present with a risk of resisting restraint and she will present with a high risk of self-harm and suicide and destructive behaviours during transit. On arrival in Albania, she is likely to be highly fearful of harm from AC and that will lead to an immediate deterioration in her mental state and increase the risk of self-harm and suicide. Upon release in Albania, she is likely to have difficulty seeking help and support given her fragile mental state and she will present with an ongoing deterioration in mental state leading to increased risk of self-harm and suicide. At paragraph [151] of his report, Dr Galappathie concludes:

“In my opinion, if she is returned to Albania this is likely to lead to a significant deterioration in her mental health related to depression, anxiety and PTSD. She is fearful of being returned to Albania as she fears being found and killed by [AC]. In my opinion if she is returned to Albania her mental health would be likely to deteriorate leading to worsening depression, anxiety and PTSD and high risk of self-harm and suicide. I have considered the availability of mental health treatment in Albania as described within the Home Office, Country Policy Note, Albania: mental healthcare. In my opinion, whilst the document highlights there are treatments available within Albania for her current mental health problems, I would be concerned that she would not be able to engage with these treatments as her mental state would be likely to deteriorate in Albania given that she fears being harmed and killed by [AC] in Albania. In my opinion, she needs to feel safe and secure in order to be able to benefit from the treatment that she requires for her current mental health problems.”

53. I have carefully considered the evidence before me and I give due weight to the opinions expressed by Dr Galappathie. Dr Galappathie expresses the opinion that the appellant presents with a high risk of self-harm and suicide, indicated by the number of risk factors for self-harm and suicide that are present.
54. However, in the end, I do not consider the medical evidence, taken at its highest, demonstrates a real risk that the appellant would commit suicide in the UK. I accept the appellant's mental health is very closely associated with the domestic violence that she was subjected to in Albania and in particular the incident in December 2016, together with her ongoing separation from her son and her fears around being removed from the UK as set out in paragraphs [136] and [137] of the report of Dr Galappathie.
55. The review of the appellant's medical records establishes the appellant had thoughts about self-harm in 2016 but did not act on them as she has a child. When she was seen by her GP on 30th August 2019 she was feeling stressed, after her claim had been refused. Her claim for international protection had been refused by the respondent for reasons set out in a decision dated 9th July 2019. Her GP, Dr Ahmed noted the appellant had no thoughts about self-harm although she appeared irritable in mood and flat. Dr Ahmed confirms in his letter dated 19th February 2020 what when he assessed the appellant on 12th February 2020, she was contemplating suicide and referral was made to the CRISIS team. It was noted that in February 2019 the appellant was very positive about not committing suicide but by February 2020, she was contemplating suicide.
56. The appellant is receiving support and cooperates with the medical authorities in the UK. When precautionary steps have had to be taken, those steps have been taken and I find that any risk upon the appellant learning of any decision to remove her would be adequately managed in the UK by the relevant authorities. Any risk that manifests itself during removal, is capable of being managed by the respondent and in the knowledge that no harm has come to the appellant, her son or her family, since the events of December 2016.

57. I therefore approach my assessment on the basis that it would be possible for the respondent to return the appellant to Albania without her coming to harm, but once there, she would be in the hands of the mental health services in Albania. The risk here, results from a naturally occurring illness. I acknowledge that an Article 3 claim, can in principle succeed, in a suicide case.
58. The Tribunal has found that the appellant has her parents, a brother, and her son in Albania and that she would have the support of her family on return. It has also found the appellant would be able to seek and access a sufficiency of protection from the Albanian authorities, that no action has been taken by AC against their son or her family members, and that the Facebook evidence does not show any intent to target the appellant. The fear that the appellant has is therefore not objectively well-founded. However, I accept the appellant has a genuine fear, and I must therefore consider whether that genuinely held fear is such that it creates a risk of suicide if the appellant is returned to Albania.
59. Dr Galappathie expresses the opinion that the applicant's return to Albania is likely to lead to a significant deterioration in her mental health. Having considered the Home Office, Country Policy Note, Albania: mental healthcare, although he acknowledges there are treatments available within Albania for the appellant's current mental health problems, he is concerned that she would be unable to engage with these treatments because her mental state would be likely to deteriorate given she fears being harmed by AC in Albania. He states the appellant needs to feel safe and secure in order to be able to benefit from the treatment that she requires.
60. In his report, Dr Galappathie refers, at paragraph [32] to the threats the appellant claimed to have received from AC on 16th May 2020. At paragraph [135], he states the further threats the appellant has experienced will have acutely worsened her mental health problems and made her fearful of being harmed by him in the future. There is no reference by Dr Galappathie to the audio/video recordings that the appellant claims to have made of her conversation with AC in May 2020, or to the exchange of WhatsApp message with a female claiming to be AC's partner. In

reaching his conclusions, Dr Galappathie does not consider the extent to which the appellant has been able to take steps, at her own instigation, to get in touch with AC and voice her concerns. I accept that any communication instigated by the appellant with AC, has been instigated from the safety of the UK, but her ability to contact AC and express her concerns and feelings in the manner disclosed by the transcripts is a relevant factor in considering her overall presentation.

61. I note that Dr Galappathie states, at [133], that even if family support was available to the appellant, she would still fear harm from AC leading to her mental health worsening. In that paragraph, Dr Galappathie was considering the abusive treatment the appellant claimed to have received from her family, and the extent to which that has contributed to the appellant's ongoing mental health problems. He accepts that if, as First-tier Tribunal Judge Parkes found, the appellant did have family support in Albania, that would not have contributed to her worsening mental health, albeit she would have suffered from the trauma that she reports due to the problems she encountered with AC.
62. In my judgement, in his final analysis, Dr Galappathie fails to have adequate regard to the preserved findings of the Tribunal regarding the support that would be available to the appellant from her family, who supported her in the past, and the appellant's love and devotion to her son, which acted as an incentive to the appellant in the past and prevented the appellant from acting on her thoughts about self-harm in 2016. They are all factors that would in my judgment act as an incentive for the appellant to engage with the treatments that are available to her in Albania. Similarly, Dr Galappathie did not consider the communications between the appellant and AC in May 2020, and what they disclose about her presentation. I accept the submission made by Ms Petterson that despite the appellant's vulnerability, on her own account, when she was concerned that her son was upset by something posted on Facebook by AC in May 2020, the appellant was able to confront AC. Although she did so from the security of the UK, she is likely to have been aware of the potential impact that would have upon the safety of her brother, her son and her family in Albania. The appellant's family have not encountered any

difficulties from AC and neither has AC made any further attempt to contact the appellant.

63. I have very limited evidence before me regarding the provision of mental health care in Albania. I note that at paragraphs [2.9.9] to [2.9.38] of her report Dr Tahiraj sets out in broad terms, the provision of mental health services in Albania, noting in particular, that mental health facilities in Tirana's regions are still heavily focused on institutional provision. Dr Tahiraj is unable to address the specific needs of the appellant, albeit she notes in general terms that were the appellant to need access to mental health services immediately upon return, she will face an extremely underfunded health service, inadequately trained staff, poor quality service at best, and at worse long-term institutionalisation. Dr Tahiraj states, at [2.9.18], that the prospects of being able to access quality care are highly likely to be worse for the appellant, having no family support. The Tribunal has found that the appellant has her parent's, and a brother in Albania and that she would have the support of her family upon return. Those findings impact upon the weight I attach to the evidence of Dr Tahiraj in that respect. Dr Galappathie accepts, at paragraph [151] of his report, that the background material considered by him highlights there are treatments available within Albania for the appellant's current mental health problems. I prefer the evidence of Dr Galappathie who is qualified to express an opinion about the appellant's mental health problems and the treatment that she is likely to require.
64. I have also had regard to the respondent's decision of 9th July 2019 and in particular, paragraphs [135] to [139] regarding the availability of mental health treatment in Albania. As I have already said, any risk that manifests itself during removal itself, is capable of being managed by the respondent. Having considered all the evidence in the round, I am quite satisfied that medical treatment and assistance would be available to the appellant in Albania, albeit not to the standard available in the UK and that the appellant has every incentive to engage with the services available, as she has in the UK. In Albania, she will have the additional support of her family, and the appellant will have the comfort and reassurance that is provided by her relationship with her son.

65. The appellant's subjective fear arises in large part from the incident in December 2016 when she was stabbed by AC. The appellant does not have a fear of the Albanian authorities or the state apparatus, including the police, officials or of those involved in the provision of healthcare. The Albanian authorities have provided sufficient protection to the appellant in the past and will undoubtedly do so in the future. There is in my judgment no reason for the appellant to not engage with the treatment available with the stability and support she will have from her family. I have found the appellant has not received any genuine threat directed towards her, and considering all the evidence in the round, giving due weight to the opinions expressed by Dr Galappathie, I do not accept that the genuine subjective fear held by the appellant, is such that it creates a risk of suicide on return to Albania.
66. In the end I am not satisfied that the appellant has established that there are substantial grounds for believing that she would face a real risk of being exposed to either a serious, rapid and irreversible decline in the state of her mental health resulting in intense suffering or the significant reduction in life expectancy as a result of either the absence of treatment or lack of access to such treatment. The 'suicide risk' is not in my judgement such that the removal of the appellant to Albania would be in breach of Article 3.
67. It follows that I dismiss the appeal.

Decision

68. The appeal is dismissed.

Signed *V. Mandalia*

Date

20th June 2021

Upper Tribunal Judge Mandalia