Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: IA/01211/2020 (V)
[PA/51076/2020]

THE IMMIGRATION ACTS

Heard at : Field House
On : 20 January 2022

Decision & Reasons Promulgated
On 04 February 2022

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

Bedrie Kuci

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr K Wood of IAS (Manchester)
For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This has been a hybrid hearing, by way of Microsoft Teams, at the request of the appellant's representative who preferred to attend remotely owing to concerns relating to Covid-19. Mr McVeety attended in person, as did the appellant. All parties confirmed that they were happy with the appeal proceeding as it did. There were no problems during the hearing.

2. The appellant appeals, with permission, against the decision of the First-tier Tribunal dismissing her appeal against the respondent's decision refusing her asylum and human rights claim.

3. The appellant is a citizen of Albania born on 5 May 1975. She arrived in the UK on 17 July 2019 and claimed asylum the same day. The basis of her claim was that she was at risk on return to Albania from her husband who had abused her physically and emotionally from the beginning of their marriage in 1999. She claimed that her two children had witnessed the abuse since birth and were traumatised by it and that her husband was also abusive towards the children. The appellant claimed that she could not go back to her family because they could not support her financially and she had been scared to leave her husband in case he found her. Her son Leonard had left Albania in January 2017 because of the abuse and that had led her husband to become even more abusive towards her. She went to stay with her father for a week and she then left Albania on 5 July 2019 with the financial support of her brother and went to Greece where she stayed for a few days with her brother before travelling to Italy and then on to the UK.

4. The appellant's asylum and human rights claim was refused on 2 April 2020. The respondent considered that the appellant's fear was not objectively well-founded because there was a sufficiency of protection available to her in Albania. The respondent considered further that the appellant could internally relocate to another part of the country such as Durres where she could avoid her problems and that she was therefore at no risk on return to Albania. The respondent considered also that there would be no very significant obstacles to the appellant's integration in Albania for the purposes of paragraph 276ADE(1)(vi) of the immigration rules and no exceptional circumstances which would render her removal a breach of Article 8 of the ECHR.

5. The appellant appealed against the respondent's decision and her appeal was heard in the First-tier Tribunal on 30 March 2021 by Judge Lloyd-Smith. The appellant gave oral evidence before the judge. The judge had before her the decision of the First-tier Tribunal dismissing the appellant's son's appeal and noted that his claim had been made on a similar basis, although he had been accepted to be a victim of trafficking. It was accepted that the appellant had been a victim of domestic violence at the hands of her husband in Albania. The relevant issues to be decided were therefore identified as those of sufficiency of protection and internal relocation. Judge Lloyd-Smith found that there was a sufficiency of protection available to the appellant in Albania from the authorities and that she could also relocate to another part of the country where her husband could not locate her and where she would be safe. The judge found that it would not be unduly harsh for the appellant to relocate to another part of the country and that she would not be destitute and without support as she could be supported by her eldest son on his return and by other family members who had assisted her in coming to the UK. The appellant did not pursue an Article 8 claim and the judge concluded that her removal to Albania would not be in breach of her human rights. The appeal was dismissed.

6. The appellant sought permission to appeal the decision to the Upper Tribunal on the grounds that the judge had materially erred in law in her consideration of internal relocation. It was asserted that the judge had failed to identify the location to where the appellant could relocate, as in the case of MB

(Internal relocation – burden of proof) Albania [2019] UKUT 00392, and that she had failed to consider that the appellant's husband had managed to track her down previously when she went to her family's house, which was contrary to the judge's finding that he would not be able to find her.

7. Permission to appeal was granted by the First-tier Tribunal.

Hearing and submissions

8. The matter came before me and both parties made submissions.

9. Mr Wood adopted the grounds of appeal and submitted that the judge had erred by failing to identify an area in Albania to which the appellant could safely and reasonably relocate. The respondent had specified Durres as a place of relocation, but that was not referred to by the judge, who had simply referred at [30] to "a new area". Mr Wood submitted that Durres was only 46 minutes' drive away from Tirana where the appellant's husband lived. It was relevant that there had been an indication in the decision that he had been to the appellant's family home looking for her. That was missing from the judge's assessment and had therefore not been factored in by her when considering relocation and, as such, there was an error of law in her decision in the same way that an error had been identified in MB.

10. Mr McVeety submitted that the judge's primary finding, at [27] to [29] of her decision, was that there was a sufficiency of protection available to the appellant from the Albanian authorities. That finding had not been challenged by the appellant and was a finding open to her on the basis of the relevant caselaw. Therefore, even if the appellant's husband knew where she was, there was protection available to her. The internal relocation argument did not even come into the frame and the judge was able to find that anywhere was suitable as an internal flight alternative since the police would be able to protect her.

11. Mr Wood, in response, submitted that the first sentence of [30] of the judge's decision indicated that that was a consideration of sufficiency of protection in general, but did not apply to the facts of this case where it was accepted that the appellant was a victim of domestic violence and had not been protected in her home.

Discussion and conclusions

12. I have to agree with Mr McVeety that even if the judge had erred in her findings on internal relocation for the reasons claimed, that was not material to the outcome of the case, because she had found there to be a sufficiency of protection available to the appellant wherever she was in Albania, including her home area, in any event. I do not find any merit in Mr Wood's response, that the judge was making general findings on sufficiency of protection, when clearly she was specifically applying the relevant caselaw and background country evidence to the appellant's own circumstances. As the judge said at [27], the appellant had never tested the protection available to her from the

police and, at [28], her husband was not a wealthy or powerful man who could pay bribes or assert any authority over the police. At [29], having considered the appellant's circumstances, the judge found that the Albanian authorities were able to provide her with effective protection. The judge, when considering internal relocation at [30] was clearly doing so in the alternative. Accordingly, in the absence of any challenge to the judge's findings and conclusions on the availability of state protection, which were in any event fully and properly open to her on the evidence before her, the challenge to the findings on internal relocation adds nothing and does not assist the appellant.

13. In any event it seems to me that the appellant would not particularly be assisted by the decision in MB. As the respondent's rule 24 response points out, the judge's decision was predicated upon the position as set out in the refusal letter, which made several references to Durres being a suggested place of internal relocation. Although the judge did not specifically refer to Durres or to a specific area of internal relocation, she undertook a full assessment of the appellant's circumstances and ability to establish herself in another area and gave full consideration to the question of her husband's ability to locate her. As in MB, there was a notable lack of information from the appellant as to why she could not relocate to Durres, or indeed anywhere else, and that formed the judge's reasoning for reaching the conclusions that she did. The grounds assert that the judge failed to factor in the appellant's claim that her husband had found her at her family home previously, but I fail to see how that would be relevant as the judge was considering her husband's ability to trace her in a place which was not known to him. There was, accordingly, no evidence before the judge to demonstrate that there were other factors which had not been taken into account and it seems to me that the judge was entitled to reach the conclusion that she did.

14. For all of these reasons I agree with Mr McVeety, that the grounds do not identify any material error of law requiring the judge's decision to be set aside and that the judge was entitled to dismiss the appeal on the basis that she did.

DECISION

15. The making of the decision of the First-tier Tribunal did not involve an error on a point of law. I do not set aside the decision. The decision to dismiss the appeal stands.

Signed: S Kebede Dated: 20 January 2022

Upper Tribunal Judge Kebede