



UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER Appeal Number: **UI-2022-005454**
PA/54546/2021; IA/13752/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 29 April 2023

Before

UPPER TRIBUNAL JUDGE RIMINGTON
DEPUTY UPPER TRIBUNAL JUDGE BEN KEITH

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

BP
(ANONYMITY ORDER MADE)

Respondent

Representation:

For the Appellant: Ms Lacointe, Senior Home Office Presenting Officer

For the Respondent: Mr Youssefian, Counsel instructed by Aylish Alexander Solicitors

Heard at Field House on 7 March 2023

ORDER REGARDING ANONYMITY

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the Appellant, likely to lead members of the public to identify the Appellant. Failure to comply with this Order could amount to contempt of Court.

DECISION AND REASONS

1. This is an appeal against the decision of First Tier Tribunal Judge Hendry (“FTTJ”) dated 10th October 2022, in which the Judge allowed BP’s appeal on protection of human rights grounds against the Secretary of State for the Home Department’s (SSHD) decision, dated 10th September 2021. The SSHD appeals on three grounds.
2. Firstly, that the FTTJ’s decision failed to consider whether BP’s uncle could provide the necessary protection and assistance. Ground 2: that the FTTJ failed to consider the latest Country Policy Information Note (CPIN) which stated that, in general, the state had taken steps to prevent persecution and serious harm; and Ground 3: that the FTTJ failed to explain why internal relocation was not a viable option or unduly harsh.
3. BP is a national of Albania who entered the United Kingdom clandestinely on 28th October 2017 as an unaccompanied minor. On 20th November 2017, he claimed asylum on grounds that he feared he would be at immediate risk of ill-treatment upon return to Albania from non-state agents. The key factors of his asylum claim are that he became indebted to a moneylender in Albania and was then forced by him to sell drugs when he could not repay the debt. Fearing for his life, he fled Albania, believing he could not seek protection from the police in his country because he had sold drugs to police officers on numerous occasions and believed them to be corrupt. During the process of BP’s asylum claim he was referred to the National Referral Mechanism (NRM) as a potential victim of trafficking.
4. On 16th March 2020, the National Referral Mechanism made a positive conclusive grounds decision, deciding that he was, in fact, a victim of trafficking. The Secretary of State, on 11th September 2021, then refused his asylum claim on the basis that there was sufficient protection available and viable internal relocation alternatives in Albania. BP appealed against that decision to the First Tier Tribunal, which was heard on 12th September 2022. That appeal was allowed on both international protection and human rights grounds, and it is against that decision that the Secretary of State appeals.
5. This appeal is without merit. We do not find that there is any error of law in the First Tier Tribunal Judge’s judgment. We can deal with the matters as argued shortly.
6. In relation to Ground 1, the Secretary of State argues that there was a material error of law at paragraph 125 of the FTTJ’s Decision in that the FTTJ failed to consider that BP’s uncle could be a potential protector. However, there is no evidence to show that the uncle could be a potential protector. The sum total of the evidence is that the uncle lives about thirty minutes away from BP’s home by bus and has provided some support in

the past. That is not a basis for deciding to overturn a judgment and is certainly not a basis upon which protection could be sought in Albania. Therefore, Ground 1 has no merit.

7. In relation to Ground 2, the Secretary of State argues that the FTTJ failed to take into account the latest Country Policy Information Note (CPIN), in particular, that the First Tier Tribunal Judge ought to have taken into account a CPIN which was not published at the date of hearing, but published by the time that the FTTJ came to write the determination. There are a number of problems with this submission. Firstly, we have not been provided with a copy of the alleged CPIN. In fact, in the hearing, nobody was able to produce or find the relevant CPIN which is said to have been published in September of 2022, dealing with Albania. The only CPIN available was the most recent CPIN published in 2023. Secondly, the Secretary of State is unable to point to any significant material change between the 2021 CPIN which the Judge referred to and examined and the September 2022 CPIN which we have not been able to see. Finally, at no stage did the Secretary of State draw to the attention of the First Tier Tribunal Judge, or BP's representatives, or BP that there was an updated CPIN and it should be taken into account in any determination. That is unsurprising because at that point in time the hearing had concluded and there was no basis for it to be reopened in order to examine a new CPIN. However, as we have said, the Home Office have not been able to provide that CPIN at the hearing and therefore we cannot take it into account today, and there was no basis upon which it could have been said that the FTTJ should have considered it.
8. In any event, the FTTJ did have significant evidence before her when she examined the case, not just the CPIN dated from 2021, but also expert reports. The FTTJ has produced a clear, cogent and compelling Judgment, detailing all of the evidence provided and argued before her. There is no basis to go behind that decision in relation to evidence which we have not seen and, it seems at this moment in time, does not exist. Litigation must have finality. This Ground is without any merit.
9. In relation to Ground 3, the Secretary of State argues that the FTTJ failed to explain why internal relocation was not viable. That is incorrect. The FTTJ took into account the expert evidence in the case and decided that, based on the facts of the case, internal relocation was not a viable option for somebody who was a victim of trafficking. The FTTJ's conclusions are contained throughout the Judgment, in particular, at paragraph 128, which explains her findings as to the risk to BP on the basis of both country information and the NRM findings, accepting the opinions contained in the expert report which were set out at paragraph 47 through to 56 of the determination. Those findings agreed with the expert report (paragraphs 72 to 80) which detail the risks to victims of trafficking in Albania and the possibility of relocation.

10. One final note: the most recent CPIN dated February 2023 provides information about progress that Albania has made towards helping victims of trafficking and reducing the risk for trafficking. However, even in that CPIN, the efforts of the Albanian authorities are said to be starting in March 2023 as new funding is being provided by UNICEF (para 4.5.1 of the 2023 CPIN). So, as of today, the position remains as it was before the First Tier Tribunal Judge. We have not been pointed to any significant material change in conditions in Albania. We therefore dismiss this appeal as there is no error of law in the First Tier Tribunal Judge's decision.

Notice of Decision

1. There is no error of law in the judgment.
2. The Secretary of State's appeal is dismissed.

Signed Ben Keith

Date 15 March 2023

Deputy Upper Tribunal Judge Ben Keith
Immigration and Asylum Chamber