



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-001195
First-tier Tribunal No:
PA/55659/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 29 May 2024

Before

UPPER TRIBUNAL JUDGE PICKUP

Between

RK
(ANONYMITY ORDER MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr J Gajjar, instructed by SMA Solicitors
For the Respondent: Ms E Blackburn, Senior Home Office Presenting Officer

Heard at Field House on 21 May 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, [the appellant] (and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified) 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 (and/or other person). Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. By the decision of the Upper Tribunal (Judge Smith) issued on 25.4.24, the appellant, a national of Albania, has been granted permission to appeal to the Upper Tribunal against the decision of the First-tier Tribunal (Judge Abebese)

dismissing on all grounds his appeal against the respondent's decision of 21.11.22 to refuse his further submissions (FS) of 18.6.21 in support of a claim to international protection.

2. The appellant claimed to fear persecution on return from an extreme Islamic group who tried to forcibly recruit him to work for them, as well as an Albanian group of criminals who offered to protect him and provide him with employment before forcing him to pack and transport cannabis. The judge considered that his claim was of fear of non-state actors and thus not within a Refugee Convention reason.
3. In summary, the grounds argue that the First-tier Tribunal failed to provide adequate reasoning for according little weight to the evidence of the appellant's witnesses, failed to make findings on the risk of re-trafficking, failed to engage with the appellant's evidence about his attacker's connections and the expert report. It is also argued that the First-tier Tribunal failed to adequately address the appellant's ability to relocate with regard to his age and mental health difficulties.
4. In granting permission, Judge Smith observed that the real issue in this appeal is whether the appellant's fear on return to Albania is objectively well-founded. It was considered arguable that the First-tier Tribunal did not determine the issue of whether the appellant would be at risk of re-trafficking or from the criminal gangs. However, *"None of that would be arguably material if the Judge had made unassailable findings in relation to sufficiency of protection and internal relocation. However, it is also arguable that the Judge has failed to deal adequately with the appellant's expert report (in relation to sufficiency of protection; ground four) and has arguably failed to deal with all the evidence when considering whether it would be unduly harsh for the appellant to relocate internally within Albania (ground five). The issues in this appeal are all intertwined and I do not therefore limit the grant of permission."*
5. At the outset of the hearing before me, Mr Gajjar indicated that there has been a measure of agreement with the respondent. Ms Blackburn explained that the appeal was not resisted. She referred me to [14] of the First-tier Tribunal decision where Judge Abebrese gave little weight to the appellant's witnesses with little reasoning in support. Similarly, at [15] of the decision the judge accepted the CPIN evidence as to sufficiency of protection. At [16], the judge stated that the appellant's expert evidence had been considered extensively but preferred the respondent's arguments as to sufficiency of protection. Ms Blackburn conceded that there was little reasoning evident. Again, at [21] of the decision there was no consideration of the appellant's mental health issues and the expert evidence in that regard. Ms Blackburn also pointed out that paragraphs [5] and [20] of the decision appear to be incomplete and finish mid-sentence. Mr Gajjar was content with the respondent's concession and made no further submissions.
6. Despite the concession, I am satisfied that the first ground does not disclose any material error of law. Whilst the reasoning at [14] of the decision for according no weight to the evidence of the appellant's witnesses is rather sparse, the paragraph does make it sufficiently clear that their subjective evidence of the activities of criminal gangs and extremists religious grounds could carry but little weight against the objective evidence. The issue was whether the claimed fear was objectively well-founded and whether there would be a sufficiency of protection or availability of internal relocation. I am satisfied that notwithstanding the concession, the reasoning is adequate.

7. In relation to the second ground and the risk of re-trafficking, this was addressed at [16] of the decision, where the judge preferred the objective country evidence that in general the available evidence does not indicate that men and boys who have been trafficked to the UK will be at risk of serious harm on return for that reason alone. However, as Judge Smith pointed out in the grant of permission, these grounds would not have been material had the judge adequately addressed the issues of sufficiency of protection and internal relocation. I find that these issues are addressed within the First-tier Tribunal decision from [17] to [21]. However, the judge merely cites the objective evidence from the CPIN and the respondent's approach taken from the refusal decision. The judge did not adequately address the appellant's arguments and the expert evidence he relied on. To that extent, the respondent's concession is properly made.
8. In conclusion, I am satisfied that the decision of the First-tier Tribunal is flawed for material error of law so that it cannot stand and must be set aside. It is not practicably possible to separate out the findings so as to preserve any of them. To do so would be unfair and unnecessarily bind the hands of the judge having to remake the decision.
9. Both legal representatives submitted that this matter should be remitted to the First-tier Tribunal to be remade de novo. I agree that to do so is consistent with paragraph 7.2 of the Practice Statement.

Notice of Decision

The appellant's appeal 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 underlying appeal is remitted to the First-tier Tribunal.

I make no order as to costs.

DMW Pickup

DMW Pickup

Judge of the Upper Tribunal
Immigration and Asylum Chamber

21 May 2024