



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2023-003424

First-tier Tribunal No: PA/55138/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 30<sup>th</sup> of January 2025

**Before**

**UPPER TRIBUNAL JUDGE SHERIDAN**

**Between**

**LP**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**The Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Ms Lanigan, Counsel instructed by Virgo Solicitors Limited

For the Respondent: Ms McKenzie, Senior Home Office Presenting Officer

**Heard at Field House on 2 December 2024**

**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 a contempt of court.**

**DECISION AND REASONS**

**Background**

1. The appellant is a citizen of Albania, born in June 2002. He claims to face a risk in Albania from a gang that he was forced to work for in order to pay off a debt incurred by his father, who was abusive to him. He claims that he escaped from the gang and then travelled to the UK, entering the UK in 2019 (age 17). The

appellant maintains that, despite the passage of time, the gang has maintained an interest in him. He claims that he knows they remain interested in him as they regularly (approximately every four months) visit his family home to enquire (in a threatening way) about his whereabouts.

2. On 4 November 2022 the respondent refused the appellant's protection and human rights claim. The respondent accepted that the appellant was forced to work (cultivating cannabis) by a gang to whom his father owed money and that he escaped from the gang and left Albania with the assistance of his uncle. However, the respondent did not accept that the appellant faces a risk on return for a Convention reason. The respondent also stated that those the appellant fears are non-state agents without influence over the state and therefore the appellant could seek protection from the state, which provides an adequate degree of protection; and/or could relocate to another part of Albania.
3. The appellant appealed to the First-tier Tribunal where his appeal (by a decision dated 10 July 2023) was dismissed. The appellant appealed against this decision to the Upper Tribunal. In the Upper Tribunal, the parties agreed (by a consent order dated 20 November 2023), that the decision of the First-tier Tribunal was undermined by legal error and should be set aside. The case now comes before me in order for the decision to be remade.
4. It was common ground that the appellant is a vulnerable witness and I gave directions at the outset of the hearing that he be treated as such.
5. The appellant applied for asylum before 28 June 2022. Accordingly, the law predating the Nationality and Borders Act 2022 applies such that the lower standard of proof: "reasonable degree of likelihood" applies to all aspects of the claim.
6. I have considered the 1208 bundle that was before me. I have reviewed all of the documents therein, including the country expert report by Dr Korovilas, the objective evidence about Albania, the evidence concerning the appellant's mental health, and the multiple witness statements.

### **Issues Not in Dispute**

7. The respondent accepts that:
  - (a) the appellant was a victim of domestic violence at the hands of his father;
  - (b) the appellant escaped from a gang that forced him to work in a cannabis farm to repay the debt his father owed them; and
  - (c) the appellant was a victim of modern slavery day and has been trafficked.

### **Issues in Dispute**

8. The following issues are in dispute:
  - (a) whether the appellant is a member of a Particular Social Group (PSG);
  - (b) whether the gang who forced the appellant to work for them have maintained an interest in him and pose a risk to him in his home area;

- (c) whether there is sufficient state protection; and
- (d) whether the appellant can avoid any risk by internal relocation.

### **Membership of a Particular Social Group (PSG)**

9. For the Refugee Convention to apply the persecution a person faces must be for one of five convention reasons: race, religion, nationality, membership of a particular social group (PSG), and political opinion. The appellant claims to fall within the PSG category as a male victim of trafficking.
10. There are two conditions relevant to the question of whether a group constitutes a PSG. These are:
  - (a) members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it. I will refer to this as “the protected characteristic condition”.
  - (b) that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society. I will refer to this as “the social perception condition”.
11. There are conflicting authorities as to whether both conditions need to be satisfied or whether it is sufficient that only one is satisfied. The respondent’s position, before me, was that both conditions must be satisfied; the appellant argued that the test is disjunctive such that only one condition must be met. See *EMAP (Gang violence - Convention Reason) El Salvador* CG[2022] UKUT 00335 (IAC), where the latter view is taken, for a helpful discussion of the law. I do not need to resolve this dispute because I have reached the conclusion that, in this particular case, based on the evidence before me, both conditions are satisfied. It follows that the appellant is a member of a PSG even if the respondent is correct that both conditions must be satisfied.
12. It is accepted by the respondent that a male victim of trafficking has an immutable characteristic – the experience of having been trafficked. It was therefore not in dispute that the protected characteristic condition is satisfied.
13. The respondent does not accept, however, that the social perception condition is satisfied. Her argument, in short, is that, in contrast to female victims of trafficking, male victims of trafficking do not have a distinct identity within Albanian society.
14. The difficulty for the respondent is that, as highlighted by Ms Lanigan, the objective evidence before me indicates that male victims of trafficking may, at least in some circumstances, be perceived as different to others, and consequently have a distinct identity, in Albania. Ms Lanigan drew my attention to paragraph 9.1.2 of CPIN Albania Human Trafficking July 2024 where reference is made to stigma from trafficking affecting men as well as women. She also relied on a recent Asylos report on trafficking in Albania where stigma faced by male victims of trafficking is discussed. In the report sources are cited who express the view that the “macho” culture in Albania means that men who have been victims of trafficking are perceived as having had their agency curtailed. The evidence before me to support the contention that the social perception

condition is satisfied by male victims of trafficking is not strong and it may well be that a fuller examination of expert and objective evidence on this issue would result in the conclusion that the condition is not met. However, the objective evidence before me points to there being a distinct possibility that the condition is met, and I am satisfied that the lower standard of proof is satisfied.

### **Risk in the appellant's home area**

15. In his witness statement dated 22 February 2022 the appellant states in paragraph 9:

"I have also found out that the criminals have periodically been asking where I am and what news they [the mother and sister] have about me. They have been saying that they should tell me to return to them as they have not finished with me yet. I know that my mother and sister are frightened by the criminals who have forced entry to the house and searched for money and taken valuables. They say that they are owed money and that they will make sure that they are repaid one way or another."

16. In his witness statement dated 22 December 2022 the appellant states in paragraph 3

"The people that exploited me are still looking for me and I know that if I am returned I will [be] caught by them and either exploited again or maybe even killed by them."

In paragraph 5(g) he states:

"I have managed to get the letter from my mother, fully notarised, confirming that the criminals continue to threaten her about me and that my life is in danger."

17. In a statement dated 9 October 2024, the appellant states in paragraph 3

"I would also like to confirm that the criminals that I am afraid of in Albania are continuing to visit my mother and make enquires and threats against me."

18. The appellant relied on a declaration signed by his mother, where she states:

"I am obliged to make this statement because those criminals who in the past used him to beg and forced him to work on that cannabis farm, mistreating him and holding him hostage, continue to show interest in him, ask and seek persistently on his whereabouts, continuing to come to the house where we live, so [the appellant's] life continues to remain in danger if he returns. Since I last wrote to you and informed you in December 2022, even though I moved from my house and took shelter at my parents' house in Shkodër, where we are now, they found us, and their visits have not stopped since then. Ervin Dusha and his gang who come to us and threaten us during their visits, telling us that even if you hide in a mouse hole, we will find you and you will have to pay the money you owe us. They are very angry about the unpaid debt, as well as the fact that [the appellant] has run away from them. They say that [the appellant] betrayed them and ran away from them in a most despicable manner, which deserves to be put into suffering till his death. They also ask and look for my husband, who has not returned the debt, who has long since left home and continues to live on the run."

19. In his oral evidence the appellant stated that his mother had informed him recently that the gang visited their home in November 2024. He also stated that he has been told by his mother and sister that the gang visit their home periodically, approximately every four months. He stated, in response to

questions posed by Ms McKenzie, that his mother and sister tell gang members that he is not there and not coming back. He stated that his mother and sister had not faced physical ill-treatment at the hands of the gang members. His explanation for this was that they do not target and harm women. His response to being asked why the gang members persist in coming to the house when he is not there was that they think he may return, and want to find him because of the way he escaped and because the debt remains outstanding. He said that his mother and sister have not gone to the police because the gang have threatened to kill them if they do.

20. Ms McKenzie argued that the appellant's claim that gang members have been regularly visiting his family house over a prolonged period lacks credibility because (a) the expert and objective evidence indicates that the whole family (including female members) would be targeted by gangs owed a debt; and (b) it is implausible the gang would keep returning to the family home when the appellant has not been there such a lengthy period of time. She submitted that the passage of time, combined with the appellant's sister and mother living unharmed in the family home, indicates that there is no real risk to the appellant from the gang.
21. Ms Lanigan argued that it is plausible that the gang would maintain an interest in the appellant, who had escaped from them; and would regularly return to the appellant's house to see if he had returned. She argued that it is plausible, and consistent with the expert evidence, that the appellant would be treated differently to his mother and sister, as it was the appellant - and not them - who escaped from the gang. She also highlighted that the expert indicates that the passage of time is not a protective factor when a debt remains outstanding.
22. The appellant has been consistent in his evidence about the gang maintaining an interest in him. His evidence is also not inconsistent with the expert evidence about how gang's behave. Dr Korovilis identified several reasons why the gang might maintain an interest in the appellant for a long period of time. These are: (a) the appellant could be made to work for them again, (b) as the appellant escaped from the gang, it is a matter of "honour" to take revenge against him; and (c) the appellant may have knowledge of the gang that could be used against them. These reasons - and in particular the second, which is consistent with the objective evidence about the importance of "honour" in Albanian society - are a plausible explanation of why the appellant's sister and mother would be treated differently to the appellant.
23. It is extremely difficult to evaluate whether the appellant is telling the truth about the gang regularly visiting his family home. He may well be making this up. However, equally, he could be telling the truth. The standard of proof is reasonable degree of likelihood and, given that the appellant's evidence is internally consistent and consistent with the expert evidence, I am satisfied that this (low) standard is satisfied. I therefore find that there is a real risk that the gang who previously forced the appellant to work for them has an ongoing interest in the appellant and will target (and pose a real risk to) him if he returns to his home area in Albania.

### **Sufficiency of state protection**

24. Those the appellant fears are non-state actors. Accordingly, he will not meet the conditions of the Refugee Convention if he is able to access sufficient protection from the Albanian state. As explained in *Horvath* [2001] 1 AC 489 - and

confirmed in numerous subsequent cases - sufficiency of protection is a practical standard based on the availability of a system for the protection of citizens and the reasonable willingness and ability of the state to operate that system.

25. Ms Lanigan argued that the expert and objective evidence establishes that there is not sufficient state protection in Albania. She noted that the evidence of Dr Korovilis, as set out in his report, is that the Albanian police is in general unwilling (and lacks the resources) to take action against powerful and dangerous criminal gangs. Dr Korovilis cites objective evidence referring to the corruption and poor training of the police, including 2022 reports by the US State Department and European Commission. Dr Korovilis states that there is an Albanian ombudsman service whose recommendations are taken seriously, but expresses the view that this would not assist the appellant as the service operates after the police have failed to act. Ms Lanigan also highlighted concerns about police corruption identified in a recent Asylos Report, a US Trafficking report, and in the Respondent's CPIN on trafficking in Albania.
26. Ms McKenzie argued that it is significant that the ombudsman service is taken seriously in Albania. She submitted that, considered as a whole, the objective evidence on Albania demonstrates that there is a functioning and effective criminal justice system that is adequate and sufficient, and meets the *Horvath* standard.
27. The expert and objective evidence that was put before me indicates that there is a significant corruption problem in Albania which means that powerful criminal gangs are able to act with a degree of impunity. I find that it is reasonably likely that the state will be unable to afford protection to an individual who is actively targeted by a powerful/influential criminal gang. Given my findings of fact - including in particular that the gang who forced the appellant to work for them have maintained an interest in the appellant to the extent that they regularly visit his family home in Albania - I find that there is a real risk that the state will be unable to provide the appellant with sufficient state protection.

### **Internal relocation**

28. Dr Korovilis expressed the view that the appellant will not be able to avoid those he fears by relocating to another part of Albania. He states in his report that Albania is a very traditional society with strong family links and the appellant will need to reveal where he is from to potential landlords and employers. He considers that this has the potential to lead to the appellant's new location being exposed. Dr Korovilis also considers that a risk to the appellant of being located arises because of the legal requirement to register with the local municipality. His view is that the high level of corruption within Albania means that it is relatively easy to gain access to municipal records and establish where a person is registered. He considers this to create a real risk of the gang locating the appellant.
29. The respondent has not adduced evidence indicating a contrary view to Dr Korovilis. Ms McKenzie drew attention to a reference in the respondent's CPIN to an official stating that it is "not so easy" for victims to be located by traffickers. However, she did not identify any objective evidence indicating that there is not a necessity to register with the local municipality or that it would not be relatively easy for a sufficiently motivated criminal to gain access to information that would enable them to locate a person.

30. Based on the evidence before me, I am satisfied that there is a reasonable degree of likelihood that those the appellant fears will be able to locate the appellant even if he relocates to another part of Albania.

### **Conclusion**

31. For the reasons explained above, I find that there is a reasonable degree of likelihood that the appellant:

- (a) is a member of a PSG,
- (b) faces a risk of persecution from non-state actors in his home area,
- (c) will not receive adequate state protection, and
- (d) will be unable to avoid those he fears by relocating to another part of Albania.

32. It follows from these findings that the appellant is entitled to protection under the Refugee Convention.

### **Notice of Decision**

33. The appeal is allowed on the basis that removal of the appellant from the United Kingdom would breach the United Kingdom's obligations under the Refugee Convention.

**D. Sheridan**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**27.1.2025**