IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-004594

First-tier Tribunal No: PA/59821/2023
LP/05661/2024

THE IMMIGRATION ACTS

Decision & Reasons Issued:

21st January 2025

Before

UPPER TRIBUNAL JUDGE O'BRIEN
DEPUTY UPPER TRIBUNAL JUDGE JACQUES

Between

AA
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms M Peters of Counsel, instructed by Wimbledon Solicitors
For the Respondent: Mr E Terell, Senior Home Office Presenting Officer

Heard at Field House on 20 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

1. The appellant was born on 21 February 1997. She is a citizen of Albania.

2. The appellant appeals with the permission of Upper Tribunal Judge Landes against the decision of First-tier Tribunal Judge Beg ('the judge') promulgated on 24 July 2023 dismissing her appeal against the respondent's refusal of her protection and human rights claim.

The Party's Respective Cases

3. Whilst not limiting the pleaded grounds which could be argued at this final hearing, Judge Landes noted the following as being particularly arguable: that the judge had failed to engage with the appellant's evidence in some relevant respects (the alleged friendship between her best friend's boyfriend and her alleged abuser, Avdi; and the risk that the appellant might to be able to access necessary mental health support on return) and so had failed in that regard to conduct an appropriate assessment of risk per **TD and AD (Trafficked women) CG [2016] UKUT 00092 (IAC)**. Judge Landes doubted, however, that the appellant would be able to succeed on Article 3 (medical) grounds or under Article 8 ECHR and observed that any challenge to the judge's record of the evidence would require the hearing recording to be obtained.

4. At the hearing, Ms Taylor confirmed that she was only relying on those grounds identified by Judge Landes as particularly meritorious, although we note that she specifically did not abandon her challenge to the judge's article 8 assessment. Ms Taylor did not, however, challenge the judge's record of the evidence, accepting that a recording of the hearing had not been requested.

5. Ms Taylor argued orally that the judge had manifestly overlooked or failed to deal with the connection between the appellant's best friend, Anila, and her abuser and had failed to explain why she had rejected the appellant's denial that Anila would be able to help her, rendering any finding that the appellant would have support from Anila on return unsafe. That in turn made any finding that the appellant could access adequate mental health treatment in Albania similarly unsafe.

6. The respondent had not submitted a rule 24 response. However, Mr Terell confirmed that the respondent resisted the appeal nevertheless. He submitted that the judge had clearly taken into account the claimed friendship between Anila's boyfriend and Avdi and had permissibly rejected at [21] the possibility that Anila would tell Avdi about her contact with the appellant. It was not part of the appellant's case that Anila and her boyfriend were part of a criminal conspiracy with Avdi. The judge was not obliged to go through each and every factor identified in **TD and AD** and had done enough to justify her conclusions. The conclusions of the psychiatric expert, Dr Hashmi, were predicated on the appellant not accessing treatment and apparently on her not having support in Albania. It was open to the judge to find to the contrary on both points.

7. In reply, Ms Taylor submitted that the judge's unqualified finding at [26] that Anila (and the appellant's cousin, Arben) would be able to assist the appellant in resettling in Albania, together with an absence of any mention in the reasons of the fact that Anila's boyfriend and Avdi are friends, indicated that the judge had overlooked that claimed connection between Anila and Avdi. She also argued that Dr Hashmi's conclusions were not predicated on a lack of support in Albania.

Conclusions

8. It was the appellant's evidence (at paragraph 8 of her witness statement) that she was introduced to Avdi by the boyfriend of her friend from work, Anila. The judge appears implicitly to accept this evidence at [21] when she finds:

> 'I do not find it credible that [the appellant] stopped contact with [Anila] in case Avdi finds out about her. There is no reason why a trusted friend would tell Avdi about any contact with the appellant.'

9. That in itself is a finding we accept was open to the judge. However, that finding concerns the appellant's claimed cessation of contact with Anila whilst in the United Kingdom, and simply considers and rejects the possibility that Anila would tell Avdi about her contact with the appellant. What is not addressed by the judge, in particular when finding that Anila could assist the appellant in resettling in Albania, is the possibility that Anila's boyfriend would become aware of that assistance, the possibility that his friend Avdi would consequently become aware of it, and the possibility that Avdi would then be able to locate the appellant. That is a stark omission from the judge's reasons for concluding at [25] that the appellant could reasonably relocate to another area away from her home area and, we find, is sufficient to amount to an error of law.

10. The judge does not reject the appellant's claim to have been abused by Avdi. Her finding at [26] that Avdi would be uninterested in locating the appellant after several years is unsupported (or certainly inadequately supported) by reasoning, especially given her apparent acceptance that the appellant would need to relocate internally on return and also given the potential (albeit erroneously unconsidered by the judge) that an opportunity to do so might present itself to Avdi. That finding does not therefore render the above error immaterial. Similarly, we are unpersuaded that the judge's observation at [25] that there is no credible evidence that the authorities would be unable or unwilling to provide protection to the Horvath standard is sufficiently robust for us to be satisfied that the outcome would inevitably have been the same had the above error not been made.

11. Of course, the appellant might choose (as she claims in her evidence) not to rely on the support of Anila because of the risk Avdi might thereby trace her. The judge's rejection of that claim was legally erroneous for the reasons given above. The judge's error consequently infected her analysis under **TD and AD** (in particular in respect of the support network available to the appellant on return).

12. Either way, the judge's decision involved the making of an error of law. Regrettably, the error goes to the core of the judge's analysis of the appellant's claim. We find in the circumstances that it is necessary to remit the case to the First-tier Tribunal to be heard afresh.

Notice of Decision

1. The appeal is allowed.

2. The judge's decision involved the making of an error of law.

3. The appeal is remitted to the First-tier Tribunal to be heard by another judge with no findings of fact preserved.

Sean O’Brien

Judge of the Upper Tribunal
Immigration and Asylum Chamber

15 January 2025