



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/01621/2013

THE IMMIGRATION ACTS

Heard at Bradford
on 5th November 2013 and 14th January 2014

Determination Promulgated

Before

UPPER TRIBUNAL JUDGE HANSON

Between

N X
(Anonymity order made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Tetley instructed by Parker Rhodes Hickmotts Solicitors.

For the Respondent: Mrs Pettersen Senior Home Office Presenting Officer.

DETERMINATION AND REASONS

Procedural history

1. NX is a national of Albania who was born in 1998. It is said she left her home country at the end of March 2012 and travelled to Italy where she remained for some time before leaving that country on 15th October and entering the United Kingdom clandestinely on 18th October 2012.

2. NX claims she escaped from the place she was brought to on 28th October 2012 and managed to travel from London to Barnsley, attending the police station there on 29th October 2012. NX claimed asylum and in her screening interview stated she had been under the control of an ex boyfriend who she states could easily locate her if she was to be returned to her own country. In her detailed asylum interview dated 16th January 2013 she expanded upon her claims adding, in addition to the above, a claim to be in fear of her father and of her own community. On 21st January 2013 her solicitors wrote to the Secretary of State confirming that the appellants claim is that she was a victim of trafficking, claiming that internal relocation was not an option, and also alleging there was no sufficiency of protection available to her if she was to be returned to Albania.
3. The asylum claim was rejected and an appeal against the decision dismissed on all grounds by a judge the First-tier Tribunal in April 2013. Permission to appeal was sought and granted on 6th June 2013, on the basis of it was arguable that the First-tier Tribunal had failed to take into account expert evidence. In her Rule 24 Reply dated 17th June 2013 the Secretary of State accepted that the First-tier Tribunal's determination was flawed for the reasons set out in the grounds seeking permission to appeal and grant of permission. At an initial hearing conducted at Bradford on the 5th August 2013 the determination was set aside. The findings made regarding the appellants immigration history, which is not in dispute, were ordered to be preserved.
4. The appeal was listed for a resumed hearing on Friday 11th October 2013, at Bradford, with a time estimate of three hours. Directions were given to the parties to file a bundle containing all the evidence upon which they intended to rely yet, despite such a clear instruction, the appellant failed to include in her bundle a statement prepared by Ms Lara Bundock a case worker at City Hearts Sheffield which was said by Mr Tetey to be vital to enable the Tribunal to properly assess whether the appellant had been trafficked for prostitution or not. A report by Ms Bundock had been included in the bundle before the First-tier Tribunal. Mr Tetey also stated he wished to call Ms Bundock who had not been asked to attend and who enquiries revealed was not available to attend later in the day to give oral evidence either. Mrs Pettersen confirmed she had expected the witness to attend and wished to cross examine her. In the interests of fairness and to avoid prejudice to the appellant, who was not responsible for what had occurred, the hearing was adjourned and relisted for 5th November 2013 with a time estimate of three hours. Directions were given for the member of staff at the appellant's solicitors responsible for the case to file a statement setting out why the report had been omitted from the bundle and why arrangements had not been made for the witness to attend the hearing.
5. In accordance with the above direction a statement was received from the appellant's solicitors and the author of that statement attended court on 5th November. Further discussions ensued as a result of which it appears that

responsibility for the events that occurred in relation to the failure to ensure Ms Bundock was not at the original hearing lies at the feet of Mr Tettey or his clerk in Chambers as it appears that his opinion was sought upon whether it was necessary to arrange for the witness to attend to which there was no response.

6. The day before the hearing the appellant's solicitors also sent a fax to the Upper Tribunal stating that Ms Bundock was unable to attend the hearing on the 5th November as she was ill and did not expect to be back at work until the following week. No medical evidence has been provided to support this fact which was accepted by all parties at face value. To prevent further court time being lost the evidence of the appellant was taken and she was subjected to cross examination. The case was then adjourned until 14th January 2014 to allow Ms Bundock to attend, to be cross-examined, and for the advocates to make their detailed submissions in relation to the issues in this appeal.
7. On the 6th November 2013 a letter was received from the appellant' solicitors who had been in contact with Ms Bundock who informed them that she was returning from a friend's wedding in the United States of America on the 12th January 2014 and expressing concern that she may be feeling unwell due to jetlag on that day. They sought an adjournment of the hearing listed for 14th January (incorrectly stated to be the 13th January in the letter) and for the matter to be relisted on either the 15th or 16th January 2014 which were alternative dates canvassed at the hearing on 5th November.
8. A further letter dated 18th December 2013 was received from the appellant's solicitors seeking a response to the earlier correspondence, again addressed to Bradford, and on 13th January 2014 another letter confirming that Ms Bundock was aware of the hearing but that they had been unable to contact her in order to confirm her attendance on the day.
9. No indication was ever given that the hearing on 14th January was vacated and the alternative dates canvassed in November were immediately thereafter taken for other tribunal business and were therefore no longer available.
10. Ms Bundock failed to attend the hearing on 14th January for which an explanation was sought from Mr Tettey. He advised the Tribunal that he had only discovered that morning that Ms Bundock had informed those instructing him that she was not coming to court, even though she was back in the United Kingdom. Time was provided for Mr Tettey to make detailed enquiries as a result of which he indicated that she had arrived at Manchester airport that morning, although he was not sure of the time of arrival, and that although the solicitors were aware of a strong possibility she would not be able to attend it was not until the morning of the hearing that she confirmed she was not coming.

11. Having considered the overriding objectives, the interests of justice, and the principles of fairness, and having admitted Ms Bundock's written report at the first hearing to counter its exclusion from the bundle, it was indicated to the parties that there will be no further adjournment and the Tribunal will proceed in the absence of this witness. A suggestion by Mr Tetley that the Tribunal could proceed and invite a written response to any questions that could be put to the witness in writing was rejected as if this was a practical solution one questions why was not canvassed at an earlier date, it could lead to further delay, and ample opportunity had been given to the witness to attend. Mrs Pettersen was preventing from cross-examining the witness but did not raise any objection and indicated she was content to make the submissions that she wished to make based upon the available evidence.

Was NX trafficked to the United Kingdom

12. In considering this issue, which was the main focus of the dispute between the parties as the Secretary of State does not accept that the appellant was trafficked, it is necessary to consider her immigration history as set out by the First-tier Tribunal which can be summarised as follows:
 - i. The appellant is an Albanian national who lived in Verdove, Pogradec with her family. She is a graduate who obtained a teaching degree.
 - ii. She formed a relationship with EC who she met in a coffee bar in March or April 2011. He claimed to have a job in Italy but, in August 2011, said he had to return to Italy or he would lose his job.
 - iii. The appellant's parents discovered the relationship at the end of July 2011 and her father met the boyfriend but made it clear to the appellant that he did not like him. Following the boyfriend's return to Italy they maintained contact by telephone before he returned to Albania in March 2012. He suggested the appellant the joined him in Italy and so she left Albania at the end of March. She stated she did not have a passport but her boyfriend said he would take care of everything. She left her details at the town hall and the boyfriend picked up the passport.
 - iv. The appellant travelled to Italy by ferry where she was met by a friend. When she telephoned her father he put the telephone down and would not speak to her. Whilst in Italy her boyfriend told her that he wanted her to work as a prostitute and when she objected he hit her. She states that she tried to escape but was beaten and lost consciousness. After recovery she found herself in a different room that she was always locked in and then "clients" would be brought in, sometimes ten a night and sometimes more. The appellant stated that there were other girls in the house too.

- vi. The appellant was taken with two other girls from the house on 15th October, accompanied by the boyfriend, by lorry to the United Kingdom. She has had no communication with him since arrival. She states that the day after arrival she was introduced to her first "client" after which there were nightly visits of approximately ten to fifteen "clients" until, on 28th October 2013 she was able to escape with the assistance of a "client" who tied two bed sheets to the bed which she used to climb down from the window of the bedroom.
 - vii. The appellant claims she was able to communicate with the person who helped her escape by sign language. He returned with a car in which she indicated she wished to be taken to a bus. He gave her some money. As a result she ended up at Barnsley police station where she was seen by a female officer from London. The appellant claims she cannot return to Albania as she could be easily located by ex-boyfriend, that she was fearful of her father and what he would do as she had brought shame on him and the family which in the people's opinion was such that it would follow her all her life.
13. The claim to have been trafficked into the United Kingdom was examined by the Competent Authority but rejected in a letter dated the 13th February 2013. It was accepted there were reasonable grounds to believe the appellant could potentially have been a victim of human trafficking for the purposes of sexual exploitation as a result of which the Competent Authority Officer responsible for considering her case examined the evidence to decide whether she had "conclusive grounds" for being treated as a victim of trafficking for the purposes of the Council of Europe Convention on Action against Trafficking in Human Beings.
 14. The conclusion of the Officer was that subsequent evidence had been produced to confirm that she was not trafficked on the basis of the information available and so, on the balance of probabilities, it was concluded that the appellant did not meet the definition of a victim trafficking for the purposes of the Convention.
 15. Attached to the letter is the Conclusive Grounds Consideration Minute containing the appellant's immigration history and an examination of her asylum interview. The author of the Minute concludes that the appellants account to have been trafficked is not internally consistent. What are said to be contradictions in her account are set out in the asylum decision letter dated 5th February 2013 including what is said to be an internally inconsistent account of how the documents the appellant used to leave Albania had been obtained, what is said to be an internally inconsistent account of her place of departure from Albania, a conclusion that the responses regarding her journey from Albania were not consistent with her high level of university education, the level of her literacy, the fact she spoke the language within the country she was

travelling from and that at that point she was not travelling under duress. It is also claimed there is internal inconsistency between her claim to have been kept in a house in Italy until 15th October 2012 a date she alleges she saw on her ex-boyfriends phone and the statement in the police interviews that the date on the phone was in fact 18th October 2012. The claim to have been held against her will at a house in London working as a prostitute and her method of escape was said to be contradicted by a later claim that two men and then a third agreed to assist her.

16. It is said further internal inconsistencies arose regarding the circumstances of the escape and that the appellant's account of the journey from the house in London to the police station in Barnsley is also said to be internally inconsistent.
17. The appellant was interviewed by the South Yorkshire Police after which details were passed to the Metropolitan Police but neither force decided to pursue an investigation based on the information the appellant provided. The summary notes that South Yorkshire Police records giving details regarding the appellant's appearance when she presented herself at Barnsley Police station note that her clothes were 'very clean and tidy' even though the appellant claimed during the asylum interview that these were the clothes she had travelled in by lorry from Italy, a journey of three days, she had worn to climb through the window having lowered a sheet of the ground floor, ran across a park, hidden under a bridge and then taken a coach journey for several hours before walking all night before entering the police station. The police considered that her appearance at the police station was inconsistent with the account she had given of her experiences in the United Kingdom.
18. The Competent Authority Officer found that due to the internal inconsistencies it was not accepted that the appellant had been recruited by means of threat or use of force or other forms of coercion as defined in the accepted definition of trafficking or that her claim to have been trafficked for the purposes of sexual exploitation were substantiated due to the internal inconsistencies.
19. The appellant was, however, referred to City Hearts, based in Sheffield, where she came into contact with Ms Bundock who has been employed as a case worker for victims of human trafficking since September 2011. This organisation provides support and accommodation to anyone who is believed to be a potential victim of human trafficking.
20. The appellant arrived into the care of City Hearts on 29th October 2012 where she was received by the house manager. In paragraph 9 of Ms Bundock's report it is noted that the house manager reported that the appellant "seemed scared and apprehensive" and that her appearance was "grubby and messy" and that "her clothes looked as if she had been in them for a while". It is noted one of the first directions from the house manager was to help her obtain clothing from a stock kept by the organisation.

21. On 5th November 2012 the appellant was granted reasonable grounds to believe she was a victim of human trafficking status as a result of which Ms Bundock was assigned to be her case worker. Ms Bundock's report contains a summary of the discussions which took place regarding the appellant's immigration history and the investigative process which I do not need to set out in detail within the determination. Ms Bundock concludes:
28. For [NX], returning to Albania is associated in her mind with the loss of support, rejection from society and family, inability to obtain work and the strong fear of being found and abused. Whether these fears are perceived or actualised, they are extremely real to [NX] and the thought of return would greatly increase the chances of harming herself and if she did not take her life, her mental health would still deteriorate. My opinion is based upon the decline of her mental health since the negative decision and her own disclosure that she would be 'scared what she would do to herself if she were told to return to Albania'. Furthermore, a sense of hopelessness and low self esteem as a result of violence and abuse at the hands of someone you have trusted and been in a relationship with can increase your risk of suicide (Dutton, 1992). There is evidence stated previously that [NX's] self esteem is very low as are her current hopes for the future.
29. In summary, I believe that [NX] is a victim of trafficking and has experienced exploitation and abuse at the hands of those she trusted including many symptoms related to trauma. I do not believe a person can exaggerate or feign such responses for a long time such as six months being the length of time I have supported [NX]. I have no doubt that she has experienced the abuse and control that she speaks of.
22. Ms Bundock, in paragraph 30 of the report, states that in her opinion most of the adverse credibility issues can be explained in terms of the effect of trauma on a person's ability to recall specific details of events.
23. The report is dated 16th April 2013 and has not been updated since. It does however deal with two main issues which appear to have been considered of some importance by the Competent Authority Officer namely the internally inconsistent elements relating to the journey to the United Kingdom and events thereafter and the appellant's appearance as reported by an officer at Barnsley police station. I have not seen a copy of the contemporaneous notes taken by the police but a summary of what was said by her to the police, contained in an e-mail dated 16th January 2013, has been disclosed [Respondents bundle, section E]. No witnesses were called to the Secretary of State dealing with what has clearly been known for some time as a point of contention. If the appellant attended the police station looking clean and well can it is understandable that

doubt was placed on her account for the reasons set out in the Competent Authority Officer's explanation for rejecting the claim to have been trafficked. It was the police however who referred the appellant to City Hearts who have recorded an assessment of the appellant on arrival which one would assume is in accordance with the normal practices of such an institution. The impression created by the record of the house manager corroborates the appellant's account regarding her previous experiences.

24. It is also important to consider the country conditions and information regarding how the appellant claims to have been recruited and befriended by the named individual who arranged for the travel documents she claimed she used to leave Albania and who, through befriending her, persuaded her to leave the country and travel to Italy. Such a practice of targeting young girls or young women who are perceived to be vulnerable is noted in the country information and the fact the appellant admits to sexual activity with this individual, contrary to normal practice within Albanian society may be indicative of a person who had strong feelings for the person concerned, increasing the risk of personal vulnerability. The country material notice the tactics used by traffickers to prevent escape and the movement of girls within Western Europe for the purposes of prostitution. Even though her account of escape by tying bed-sheets was challenged by the Secretary of State this does not necessarily mean that her account of events within Albanian, Italy, and eventual arrival in the United Kingdom is not true.
25. The reason for the delay between the hearing on 14th January and the promulgation of this determination has been to enable sufficient time to be allocated to give very careful consideration to this element of the case. If the appellant has not been trafficked but has entered the United Kingdom for other reasons she can have no basis for remaining and can be returned to Albania as no more than a failed asylum seeker. If she has been trafficked and is a victim of trafficking the assessment of the risk on return has to be conducted with this very important element in mind.
26. Notwithstanding that the Competent Authority Officer assessed the question by reference to the civil standard, the balance of probabilities, this is a claim for international protection. The appellant claims to be entitled to be recognised as a refugee on the basis of being a member of a particular social group, namely an Albanian woman trafficked to Italy and United Kingdom the purposes of prostitution/sexual exploitation. It is established that when considering such claims it is the lower standard that is applicable and not the higher civil standard. Having considered the evidence and submissions made by the advocates I find the appellant has, to the lower standard, substantiated her claim to be a victim of trafficking from Albania for the purposes of sexual exploitation. I do find however there is no evidence of ongoing interest in her or ongoing exploitation since she arrived at the Police Station in Barnsley in 2012.

Discussion

27. It is necessary to assess any risk the appellant may face on return in light of the circumstances prevailing at the date of the hearing. The appellant has provided a supplementary witness statement dated 3rd October 2013 in which she confirms that she has maintained some contact with her mother in Albania to whom she speaks to on the telephone on a weekly or fortnightly basis. Her father has passed away and it is her father's older brother, her paternal uncle, who is now head of the family.
28. The appellant claims that as far as she is aware her uncle knows she left Albania with a boyfriend but claims she is frightened of him for if he discovers what has happened he will kill her to "cleanse" the family. The appellant claims that contact with her mother is kept secret from him and that her mother has expressed concern at losing both her husband and her daughter.
29. The appellant claims she cannot relocate with Albania to an area such as Tirana as her cousin drives a van which is used as a minibus in the city and he knows many people. It is only people in the village who have the same surname as her. She claims that although they are a big family the surname is unusual.
30. The appellant also confirms that she has given birth to a daughter, BX, in September 2013. The father is not named on the birth certificate and she has no contact with him. They met in a park, there was one sexual act whilst she was living in a safe house, which she now realises was a mistake as she fell pregnant. She claims that although a part of her wishes to return to Albania to be with her mother and brothers she claims she cannot go because of her daughter.
31. The current country guidance case relating to trafficked women and the issue of risk on return to Albania is AM and BM (Trafficked women) Albania CG [2010] UKUT 80 (IAC) in which the Upper Tribunal held that (i) It is not possible to set out a typical profile of trafficked women from Albania: trafficked women come from all areas of the country and from varied social backgrounds; (ii) At its worst the psychological damage inflicted on a victim of trafficking can lead to difficulties in reintegrating into Albanian society and has implications on whether or not it is possible for the victim of trafficking, should she fear persecution in her own area, to relocate; (iii) Much of Albanian society is governed by a strict code of honour which not only means that trafficked women would have very considerable difficulty in reintegrating into their home areas on return but also will affect their ability to relocate internally. Those who have children outside marriage are particularly vulnerable. In extreme cases the close relatives of the trafficked woman may refuse to have the trafficked woman's child return with her and could force her to abandon the child; (iv) Those that see themselves outside society, for example, divorced or abandoned women, or others who wish to live abroad, may seek out traffickers in order to facilitate their departure from Albania and their establishment in prostitution

abroad. Although such women are not “trafficked women” in the sense that they have not been abducted against their will, there is likely to be considerable violence within the relationships and the psychological affect of that violence may lead to a situation where the pressures which they are under and the lack of freedom they are under means that such women should be treated as trafficked women; (v) The Albanian Government and authorities are taking steps to protect trafficked women who return but such steps are not always effective. When considering whether or not there is a sufficiency of protection for a trafficked woman who is to be returned her particular circumstances must be considered. Not all trafficked women returning to Albania will be unable to access the arrangements and facilities available to enable successful re-integration; (vi) Trafficked women from Albania may well be members of a particular social group on that account alone. Whether they are at risk of persecution on account of such membership and whether they will be able to access sufficiency of protection from the authorities will depend upon their individual circumstances including but not limited to the following: (a) The social status and economic standing of the trafficked woman’s family; (b) The level of education of the trafficked woman or her family; (c) The trafficked woman’s state of health, particularly her mental health; (d) The presence of an illegitimate child; (e) The area of origin of the trafficked woman’s family; and (f) The trafficked woman’s age.

32. Mr Tetey submitted on the appellant's behalf that if she is returned she will be unable to seek assistance although this is challenged by Mrs Pettersen who relies upon the latest Operational Guidance Notes in relation to Albania, dated 12th December 2013, and specifically paragraph 3.19 which reflects the fact the government is Albania does not fully comply with the minimum standards for the elimination of trafficking although it is making significant efforts to do so. It is also stated that there are modestly funded NGO shelters that provide services to victims of trafficking and courts are taking a more victim centred approach during trials.
33. Paragraph 3.19.5 records the fact the government maintained efforts to refer victims of trafficking to appropriate services during 2012 but that a lack of coordination amongst ministries resulted in punishment of the victims of trafficking. It is recorded that in 2013 forty-two new victims were identified by the government, in 2012 fifty new victims by NGO’s. 138 victims are cared for in state run and NGO shelters and that although there is some training of the police many police in the regional authorities remain untrained.
34. The report refers to the lack of government funding for victims of trafficking although it also records the fact the government encourages victims to participate in investigations and prosecutions of trafficking offenders by providing witness access to social workers and psychologists during trials. There is a victim coordinator in Tirana although services outside the capital city are set to be somewhat lacking.

35. The European Union have noted that strengthening of the office of anti-trafficking coordinator is required, that internal trafficking remains a concern, that a multidisciplinary victim oriented approach to trafficking in human beings needs to be developed, the identification of victims and their needs to be improved, and referral mechanisms strengthened to ensure that victims have unhindered access to assistance, support and protection, including reintegration on return.
36. It is possibly as a result of the recognition that more needs to be done in Albania by the government that with effect from 1st November 2013 the International Organisation for Migration (IOM), on behalf of the Home Office, has established a dedicated assistance package for victims of trafficking returning from the UK to Albania, including those with children. It has been designed explicitly to help to resettle and reintegrate in a humane and sustainable way and to mitigate the effect of re-trafficking or related ill treatment [OGN 3.19.11].
37. Mr Tetey submitted that there was an ongoing risk for the appellant if returned as a result of the fact she had been trafficked and from her family but I do not find the appellant has substantiated her claim that there is a real risk of being re-trafficked by the individual concerned with whom she has had no contact since the journey to the United Kingdom.
38. Although facilities offered by the authorities are not to the required standard the appellant has not substantiated her claim that she will not be able to access the support services available, particularly in Tirana. I mentioned this city as I accept that it is unlikely the appellant will be able to relocate to her home area especially, if she may face difficulties with her uncle if the truth of what has occurred emerges.
39. Whether it is reasonable in all the circumstances for the appellant to internally relocate requires consideration of a number of factors. The appellant claimed that she cannot relocate to the capital city has a cousin drives a minibus and knows a number of people and the risk of being discovered is increased as a result of her surname, which she claims is unusual in Albania and associated with her family. I find this claim not substantiated on the evidence. If the appellant is concerned about her name there is no reason why it cannot be changed or an alternative name used if required, although I do not find it established that such steps are needed on the facts of this appeal. Tirana is a city of some 400,000 inhabitants and the available services appear to be specifically tailored to ensure the safety and re-integration of victims of trafficking. It has not been substantiated such services are not available or will not provide a sufficiency of protection if required.

40. I do not find it substantiated that the presence of the appellant's cousin, even if he does work in Tirana, means there is a real risk of discovery or that the consequences of discovery are as alleged.
41. It is important to consider the submissions of Mr Tettey, the written evidence of Ms Bundock, and the brief statement by the counsellor who has assisted the appellant, when considering the reasonableness of return. There is evidence of the traumatic effect upon the appellant of what has occurred to her and the subjective fear of what may occur on return, although I do not find that such a fear has been objectively substantiated. Ms Bundock states the appellant should never be returned to Albania. I accept that it is arguable that it is not in the appellant's best interests or those of her child for her to be returned to Albania without appropriate support, and so the question the Tribunal needs to consider is whether the full extent of the support required by the appellant has been identified and whether she has substantiated her claim that such support will not be available to her return to Albania, always remembering that the onus is upon the appellant to demonstrate that what she claims is true.
42. As stated above, the respondent's own OGN highlights ongoing concerns in relation to the actions taken by the government, especially outside the capital city, as a result of which no doubt the IOM package has been devised. This is a development that has occurred after the hearing before the First-tier Tribunal and in fact is only relevant to this appeal as a result of the delays that occurred, which I have recorded above, which prevented the hearing before the Upper Tribunal occurring prior to December 2013. IOM are an internationally recognised organisation who maintain an office in Albania and it is clear that work has been undertaken to ensure that adequate facilities are available to the victims of trafficking returning from the UK. No detailed submissions were made on behalf of the appellant or evidence adduced to show that the services available through such a reintegration package, especially as those responsible for applying the same will no doubt have made available the reports this Tribunal has seen, would not be sufficient to meet the appellant's needs.
43. I do not find it substantiated that the resources available to the appellant in Albania through such a package of help and assistance are not sufficient to meet her reasonable needs, or those of her child, and as such I do not find it has been substantiated that it is unreasonable in all the circumstances to expect the appellant to relocate to Tirana.
44. In relation to the appellant's daughter, who is a baby, the appellant wants to remain in the United Kingdom with her child. This is clear from her evidence and general demeanor, but there is no ongoing contact with the child's father and the needs of the child are clearly being well met by her mother. Ms Bundock records psychological concerns arising from her mother's previous experiences but there is no evidence that adequate support services are not available such that the standard of parenting will suffer and the needs of the

child no longer met. BX is a young infant whose best interests are met by her mother and there is insufficient evidence to show that such will not be the case even if they are returned to Albania. Although there is reference in the case law to some having to return to families and being forced to make a choice as to whether they keep or abandon their child for family support, the material available does not substantiate a claim that this appellant faces a real risk of being separated from the child, especially as there is no need for to return to her home village.

45. The package provided by the IOM clearly makes provision for individuals being returned with children and with the benefit of such a package it has not been shown that the appellant cannot reintegrate and be able to provide appropriately for herself and her child. The appellant has also expressed a wish to be able to have a career as a teacher and she has obtained an academic qualification to degree level in relation to this profession in Albania. It has not been shown that with appropriate support the appellant will not be able to reintegrate and should eventually be able to engage with the employment market, if required. There is no evidence that the reintegration package is limited to the extent that she may be effectively abandoned. It has not been established on the evidence that any degree of vulnerability will arise in the future as it did in the past. The appellant has suffered in the past as a result of what she now accepts was a mistake and misguided loyalties towards the man concerned. As recognised by the Competent Authority Officer she was under no duress when she left Albania and travelled to Italy and it was only when she was in Italy that the truth of her boyfriend's intentions was discovered. She is far wiser now than she was then and there is no evidence that she is susceptible to a degree that there is a real risk of repetition of such events in relation to which she shall no doubt receive appropriate support on return in any event.
46. As there is an internal flight alternative that it is reasonable for the appellant to make use of in all the circumstances, I do not find she has substantiated her claim to be entitled to be recognised as a refugee and I dismiss this element of the appeal.
47. I do not find the appellant has substantiated her claim to be entitled to a grant of humanitarian protection or that she has established the high threshold of Articles 2 and/or 3 will be engaged on the facts.
48. I have considered Article 8 but find the appellant is unable to succeed under the Immigration Rules. The claim is only be based upon private life under Article 8 ECHR as any family life between her and her daughter will continue as they will be removed together. It has not been shown that there are additional circumstances to be considered outside the Rules that would make the decision to return disproportionate.

49. I accept from the evidence that a negative decision has in the past had a traumatic effect upon the appellant and no doubt this decision will not assist in that regard. It is clear however that she is receiving appropriate support from the medical services and support services in the United Kingdom and there is no indication that this will not continue during the time in which she remains in this country and during the removal process. Although Ms Bundock raised the issue of suicide if the appellant faces the prospect of return, it has not been shown that appropriate services will not be available in Albania, through the support and reintegration package if needed, to meet any ongoing physical or mental health needs. I do not find it has been established that the high threshold recognised in case law when considering suicide cases has been shown to be met in this case.
50. I have also considered the medical elements as part of the Article 8 (2) assessment and although the appellant may have developed bonds of trust with those who have assisted her in the UK, which will form part of her private life, it has not been shown that such support is not available on return or that the appellant is incapable of forming such bonds of trust in the future. I do not find that it has been established that the decision is disproportionate in relation to this element of the case. The appellant is a young woman in good physical health according to the available evidence.

Decision

51. **The First-tier Tribunal Judge materially erred in law. I set aside the decision of the original Judge. I remake the decision as follows. This appeal is dismissed.**

Anonymity.

52. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005. I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Signed.....
Upper Tribunal Judge Hanson

Dated the 7th February 2014