



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/03615/2015

THE IMMIGRATION ACTS

Heard at Manchester Piccadilly
On 15 October 2015

Decision & Reasons Promulgated
On 27 October 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE BIRRELL

Between

ALKETA BRATI
(ANONYMITY DIRECTION NOT MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr P Bonavero counsel instructed by Kilby Jones solicitors
For the Respondent: Ms C Johnstone Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having considered all the circumstances and evidence I do not consider it necessary to make an anonymity direction.
2. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Malik promulgated on 8 May 2015 which dismissed the Appellant's appeal against a refusal of asylum on all grounds.

Background

3. The Appellant was born on 13 April 1985 and is a national of Albania.
4. On 16 October 2012 the Appellant applied for asylum with her child as a dependent on the basis that she had been trafficked to the United Kingdom to work as a prostitute.
5. On 1 April 2015 the Secretary of State refused the Appellant's application. The refusal letter gave a number of reasons:
6. The Appellant's account that she was forced by a male called Festin to work as a prostitute and returned to Albania to have an abortion was not accepted as there were inconsistencies in the account.
7. The NRM concluded that the Appellant was not a victim of trafficking.
8. Even if the Appellant's account were accepted at its highest there is sufficiency of protection and internal relocation would be an option.
9. There was no basis for a grant of discretionary leave.

The Judge's Decision

10. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge Malik ("the Judge") dismissed the appeal against the Respondent's decision. The Judge found :
11. The Judge considered the guidance in the CG case of AM and BM (Trafficked Women) Albania CG [2010] UKUT 80.
12. She noted that the NRM had assessed the Appellant's case and determined that she was not a victim of trafficking but it was for her to make her own assessment of the evidence.
13. The Judge did not find the Appellant's account to be credible or plausible and set out her reasons at 19 1-V.
14. She considered the case in the alternative at 19 VI and by reference to the COIS and the Appellant's circumstances as a well educated university graduate that there was sufficiency of protection in Albania for the victims of trafficking or that she would be able to relocate.
15. She did not find that there was a basis for allowing the appeal under Article 8 taking into account the best interests of the child.
16. Grounds of appeal were lodged arguing that the Judge's assessment of credibility was flawed as it was based on plausibility rather than on internal inconsistencies or conflict with other evidence and that her assessment of the risk on return was flawed in relation to internal relocation in that she had failed to take into account that the Appellant was a single woman and that internal relocation was unlikely to be effective for most victims of trafficking.

17. On 2 June 2015 Designated First-tier Tribunal Judge Zucker gave permission to appeal.
18. At the hearing I heard submissions from Mr Bonavero and Ms Johnstone and I took those into account.

Finding on Material Error

19. Having heard those submissions I reached the conclusion that the Tribunal made no material errors of law.
20. The Appellant's case is underpinned by her assertion that she came to the United Kingdom as a victim of trafficking. Her case was therefore referred via the National Referral Mechanism (NRM) as a potential victim of trafficking. The decision of the NRM was that she was not a victim of trafficking. The Judge in this case rightly recognised that it was nevertheless for her to make her own assessment of the claim.
21. The first argument advanced by Mr Bonavero was that the Judge was wrong to find against the credibility of the Appellant's case on the basis that she did not find the Appellant's account to be plausible and that such an approach required 'extreme caution'.
22. I agree of course that a proper approach to credibility is essential, and that this required the assessment of the Appellant's evidence and of her claim in the round. In the case of a claim for asylum, at least three factors will normally be relevant. The first of these is the internal consistency of the Appellant's claim. The second is the inherent plausibility of that claim as I am satisfied that the inherent probability or improbability of the events described is a matter that the Judge must take into account when looking at the evidence in the round and weighing up the likelihood of the events described having occurred. The third is the consistency of the claim with external factors, of the sort that is typically found in country guidance and background material.
23. I am therefore satisfied that the Judge was entitled in determining whether the Appellant account was credible to carry out the detailed examination of the Appellant's evidence and identify aspects of it that she found implausible but I am also satisfied that she identified inconsistencies that also contributed to the overall assessment of credibility.
24. In relation to the evidence that the Judge found implausible I satisfied that it was open to the Judge to find against the background of the accepted evidence that the Appellant was a well educated graduate and saw a number of customers over the period of her alleged captivity that she would have known the name of the town in France where she was held for some months.(19.II)
25. The Judge was also entitled to find it implausible that the Appellant would have chosen to flee from Albania when she was 9 months pregnant and this was inconsistent with her claim to have remained with a friend for 2-3 months and been in possession of 2000 Euros .(19.IV)

26. The Judge was also entitled to find it implausible that given the nature of the work she did Festin would not have realised that she would be given tips and could thus build a fund that she was able to use in her escape.
27. I do not accept Mr Bonaverò's contention that she did not identify discrepancies. Thus in paragraph 191 the Judge found the Appellant's claim that she was never left alone and so could not seek help was inconsistent with the fact that the Appellant was left alone for some time in her hospital room prior to her escape and also found her claim that Festin could find her anywhere in Albania was inconsistent with her being able to remain living with a friend that Festin knew about for some months before she left Albania.(19.1)
28. I also remind myself that the Judge had the opportunity to hear evidence from the Appellant and reach conclusions after hearing that evidence. In Mibanga v SSHD [2005] EWCA Civ 367 Buxton LJ said this in relation to challenging credibility findings:
"Where, as in this case, complaint is made of the reasoning of an adjudicator in respect of a question of fact (that is to say credibility), particular care is necessary to ensure that the criticism is as to the fundamental approach of the adjudicator, and does not merely reflect a feeling on the part of the appellate tribunal that it might itself have taken a different view of the matter from that that appealed to the adjudicator."
29. I am satisfied that the Judge looked at the evidence in the round and identified both inconsistencies and implausibility in the Appellant's evidence and reached a balanced view of her credibility. She was entitled to reject the Appellant's claim that she had been trafficked and forced to work as a prostitute and reject her claim that her child was born as a result of prostitution.
30. I have considered the argument that the Judge's assessment of risk on return was flawed in relation to both sufficiency of protection and internal relocation. I am satisfied that any error made in relation to this aspect of the claim was not material given that I have upheld the Judge's findings in relation to her claim to have been trafficked.
31. I was therefore satisfied that the Judge's determination when read as a whole set out findings that were sustainable and sufficiently detailed and based on cogent reasoning.

CONCLUSION

32. **I therefore found that no errors of law have been established and that the Judge's determination should stand.**

DECISION

33. **The appeal is dismissed.**

Signed

Date 27 October 2015

Deputy Upper Tribunal Judge Birrell