

**Upper Tribunal  
(Immigration and Asylum  
Chamber)**  
AA/09684/2014



Appeal Number:

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 15<sup>th</sup> October 2015**

**Decision & Reasons  
Promulgated  
On 22<sup>nd</sup> October 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE LEVER**

**Between**

**MRS GJURIJE DUNGU**  
(ANONYMITY NOT RETAINED)

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Collins of Counsel  
For the Respondent: Miss Fijiwala

**DECISION AND REASONS**

**Introduction**

1. The Appellant born on 15<sup>th</sup> January 1976 is a citizen of Albania. The Appellant who was present was represented by Mr Collins of Counsel. The Respondent was represented by Miss Fijiwala a Presenting Officer.

**Substantive Issues under Appeal**

2. The Appellant had made application for asylum and that application had been refused by the Respondent. The Appellant had then appealed that decision and her appeal was heard by First-tier Tribunal Judge Clarke sitting at Taylor House on 3<sup>rd</sup> February 2015. The judge had dismissed her appeal on all grounds. Application was made for permission to appeal and permission to appeal was refused by First-tier Tribunal Judge Robertson on

25<sup>th</sup> March 2015. Permission was refused for reasons given on all of the Grounds of Appeal. Application was renewed on essentially the same grounds and permission was granted by Deputy Upper Tribunal Judge Black on 29<sup>th</sup> June 2015. The judge indicated that the First-tier Tribunal Judge's analysis of the evidence was arguably inadequate and that since medical evidence went to credibility any failure properly to analyse the medical evidence was material to the outcome of the appeal and therefore the grounds were arguable. Directions were issued directing the Upper Tribunal to firstly decide whether an error of law had been made by the First-tier Tribunal and the matter comes before me in accordance with those directions.

### **Submissions on Behalf of the Appellant**

3. Mr Collins submitted in accordance with Grounds of Appeal. It was submitted the starting point should have been a consideration of the trafficking case of **AM and BM** and he emphasised the fact that there was no standard case in terms of trafficking from Albania. He also submitted that there had been no analysis of the risk of her being killed as a result of "honour killings". It was submitted that the decision was short and did not engage with the country guidance case and was fixated on evidence that was not available.

### **Submissions on Behalf of the Respondent**

4. It was submitted by Miss Fijiwala that the findings made by the judge were open to her and even though the judge had said that the Appellant had been largely consistent, the question of consistency did not equate to credibility.
5. At the conclusion of the hearing I reserved my decision to consider the submissions and documents. I now provide that decision with my reasons.

### **Decision and Reasons**

6. The Appellant was a married woman from Albania. She had claimed her husband had left her in August 2012 to go to Belgium for economic reasons. The Appellant had decided to go to Belgium with her 16 year old son to find her husband. She had flown to Belgium. She had then tried to contact her husband by telephone unsuccessfully so decided to earn some money before returning to Albania. She had fortuitously met an Albanian woman she knew on arrival in Ghent, a town that she had gone to from Brussels Airport. She left her 16 year old son in the care of this lady while she went to find work. She did not know where her friend lived that looked after her son but had a contact number. She had also on that same day met five Albanian men who said they would help her find work in a hotel. Whilst they did indeed take her to the hotel she was kept in a room and essentially imprisoned by threats and sexually abused for about a month until 15<sup>th</sup> December 2013. The men had also given her a Belgian SIM card so that she could put that in her phone, that they had not taken off her, to enable her to speak both to her son and her friends. She also took the

opportunity to phone her father-in-law in Albania who said that she would be killed by her husband when he found out what she had been doing. She finally escaped from the room by opening the unlocked door. She went to France, threw away her phone, failed to claim asylum there and entered the UK unlawfully in a lorry.

7. The refusal letter was detailed and took issue with the credibility of the Appellant's account referring to several significant features within that account. The Respondent had also noted the failure of the Appellant to claim asylum in Belgium or France, her lies concerning having a family member in the UK and her delaying claiming asylum in the UK.
8. The judge's decision was concise. He had adequately summarised the facts and evidence. He had available all the documentary evidence and referred to such in paragraph 9. There is nothing to suggest he had not considered all that evidence. His findings on fact and his conclusions are somewhat brief. There are some cases that do require lengthy consideration for a variety of reasons, whilst other cases can be dealt with rather more briefly. This was potentially one such case.
9. It is said the judge focussed on evidence that was not available and placed too much weight upon it. The refusal decision by the First-tier Tribunal correctly noted that the judge was not suggesting corroborative evidence was needed but he was entitled to draw a conclusion from the lack of corroboration (**TK Burundi [2009] EWCA Civ 40**). The First-tier Tribunal Judge on refusal made the perfectly proper and obvious point as to the evidence that could have been provided by the Appellant's son and indeed the Appellant's friend who on the Appellant's own account had provided an extraordinary level of help at no notice to the Appellant whilst in Ghent. There is nothing to suggest the judge had not read and considered the medical evidence. Indeed his observations as to a potential inconsistency in evidence given to the doctor (paragraph 15) plainly shows he had read and considered that evidence. Permission granting appeal was largely based on the alleged failure of the judge to deal with the medical evidence. The reality is that the medical evidence once read within the Appellant's bundle demonstrates that it was very short and provided little or nothing of evidential value.
10. The judge was entitled to conclude that the Appellant had been generally consistent in her evidence. However consistency of evidence does not equate to credibility. It could be said the Appellant had provided a consistent but fanciful account. It was also not true to say as at paragraph 13 of the Grounds of Appeal that the Respondent had accepted there were reasonable grounds to find the Appellant had been trafficked. More accurately the Respondent had accepted on an initial assessment there were such grounds but after a more detailed examination of the case did not find there to be such grounds that the Appellant had been trafficked and that was evidence within the trafficking report. That was available to the judge.

11. Whilst the judge's conclusions on credibility are brief, those paragraphs that dealt with that matter (12 to 16) contain a sufficiency of reasons as to why the judge did not find her to be credible nor that she had been trafficked. That was not just a decision open to the judge on the evidence available but wholly reasonable when looking at that evidence. Having found that she was not trafficked in any way the case of **AM and BM** is irrelevant.
12. The First-tier Tribunal's refusal of permission took the correct approach in this case. There was no material error of law made by the judge.

**Decision**

13. There was no material error of law made by the judge and I uphold the decision of the First-tier Tribunal.

No anonymity direction is made.

Signed

Date

Deputy Upper Tribunal Judge Lever

**TO THE RESPONDENT  
FEE AWARD**

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I have dismissed the appeal and therefore there can be no fee award.

Signed

Date

Deputy Upper Tribunal Judge Lever