



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/06177/2015

THE IMMIGRATION ACTS

Heard at Field House
On 13 January 2016

Decision and Reasons Promulgated
On 2 February 2016

Before

DEPUTY UPPER TRIBUNAL JUDGE DRABU CBE

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

Ms A S
(ANONYMITY DIRECTION RETAINED)

Respondent

Representation:

For the Appellant: Mr P Duffy, Senior Presenting Officer
For the Respondent: Mr S Harding of Counsel instructed by Kilby Jones, Solicitors LLP

DECISION AND REASONS

1. This appeal has been brought by the Secretary of State against the decision of Judge Talbot, a Judge of the First Tier Tribunal, who following a hearing at Taylor House on 21 September 2015 allowed the appeal of the above named now named as respondent in this determination. The Secretary of State had refused her application to be allowed to remain in the United Kingdom as a refugee and on the basis of her rights under human rights law.

2. The Secretary of State, hereinafter referred to as the appellant, contends in her grounds of appeal that the First Tier Judge erred in law by failing to apply binding case law without giving good reasons. She asserts that in failing to explain why given the appellant's particular profile why she would be unable to access the arrangements and facilities available to enable her successful integration in Albania. The appellant states in her grounds of appeal findings of fact made by the First Tier Judge and suggests that given those findings it was not open to the Judge to conclude as he did – that she, as a trafficked woman returning to Albania would be unable to access the arrangements and facilities available to her for re-integration.
3. Permission to appeal to the Upper Tribunal was granted by Judge R A Cox, a Judge of the First Tier Tribunal who in his decision dated 5 November 2015 stated, "On consideration, I think there is arguable merit in the grounds and would grant permission."
4. At the hearing before me Mr Duffy representing the appellant said that he wished to rely on the written grounds of appeal, which he explained were simply challenging the decision on the basis of lack of adequate reasoning and not on the basis that the decision was perverse.
5. Mr Harding representing the respondent disagreed and argued that the grounds indicated that the appellant was challenging the decision as being perverse and reminded me that the threshold for succeeding in that challenge was high. He submitted that the reasoning given by Judge Talbot for his decision to allow the appeal on grounds of asylum as well as Article 3 of the ECHR were adequate and evidence based. Mr Harding pointed out that the Judge had correctly noted in paragraph 16 of the determination that the respondent's account had been accepted in full by the appellant and therefore credibility is not an issue. According to him, the Judge had gone on to extensively review the principles set out in **AM & B (Albania) [2010] CG, UKUT 80** in paragraphs 17, 18, 19 and 20 of his determination. In paragraph 21 of his determination Judge Talbot had given reasons for his conclusion that despite further evidence of improvement in the conditions of trafficked women on return as set out in the appellant's Guidance, the respondent would not be able to receive satisfactory protection from the state because such protection would be insufficient and the respondent could not be expected, given her particular circumstances, to avail of any internal relocation option. Mr Harding asked that the appeal be dismissed.
6. Mr Duffy did not make any further submissions.
7. Having given careful consideration to the grounds of appeal advanced by the appellant and the written determination of Judge Talbot as well as the submissions advanced by representatives of the parties before me, I have concluded that the appellant has failed to establish that there is an error of law in the determination of Judge Talbot and that such error, if established is material to the outcome of the appeal. I found Mr Harding's arguments well founded and therefore I dismiss this appeal. The decision of Judge Talbot to allow the appeal on asylum as well as Article 3 of the ECHR therefore stands.

K Drabu CBE
Deputy Judge of the Upper Tribunal.
23 January 2016