



**The Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: PA/01380/2016

**THE IMMIGRATION ACTS**

**Heard at North Shields**

**On 21<sup>st</sup> June 2017**

**Decision &  
Promulgated  
On 12<sup>th</sup> July 2017**

**Reasons**

**Before**

**DEPUTY JUDGE OF THE UPPER TRIBUNAL FARRELLY**

**Between**

**M.N.  
(ANONYMITY DIRECTION MADE)**

Appellant

**And**

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

Respondent

**Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.**

**Representation:**

For the Appellant: Sentinel Solicitors.

For the Respondent: Mr Diwnycz, Home Office Presenting Officer.

## **DECISION AND REASONS**

### Introduction

1. The appellant has been given permission to appeal to the Upper Tribunal the decision of First-tier Tribunal Judge Monaghan dismissing her appeal.
2. She is a national of Albania born in 1994. She made a claim for protection.
3. She claimed her husband, who is also Albanian, had gone to Greece for work. In December 2014 she joined him in Thessalonica. Shortly after her arrival he lost his job but found work in Athens. He travelled onwards and she remained in Thessalonica. She borrowed money from another Albanian who promised her employment. He then said he would take her to a place of work and they travel by bus together. They went to a house where he raped her. She was detained and several of his friends also raped her. After eight days she managed to escape as the door was left unlocked. She then caught a bus to Athens and located her husband. She did not tell him what had happened. She discovered she was pregnant.
4. Her husband lost his job and in April 2015 they decided to fly to Belgium where her husband began work. In Belgium he met someone he knew from Thessalonica. They told him that his wife had been working as a prostitute in Greece. He confronted her and then telephoned their respective families, repeating this.
5. Both families threatened her harm. She subsequently left Belgium and travelled by lorry, entering the United Kingdom illegally. She claims that a few days later she made a claim for protection, citing both families as threats. She also said she was afraid of the man she had borrowed money from. In September 2015 she gave birth to a daughter.
6. The respondent referred her claim to the competent authority. It concluded, in January 2016, that on the balance of probabilities her account was not credible and she was not a victim of trafficking.
7. Shortly after this the respondent refused her claim to protection on credibility grounds, concluding she did not face a real risk on return. In the alternative, if her claim were true there was sufficiency of protection for her within her home country from any threats from family or former traffickers. The respondent concluded it was reasonable to expect her to relocate if there were any localised problems. On the basis her child was illegitimate the respondent referred to the availability of government shelters and NGO assistance.

### The First tier Tribunal

8. The parties were represented. The judge heard from the appellant and had the benefit of an expert report. The judge accepted her claim as credible. The judge concluded that it was reasonably likely she was the victim of trafficking. The judge then went on to consider the risk on return. The judge concluded she could not return to her home area of Matt in northern Albania and the fear of her family and the trafficker who originated in the same area. The judge also found a lack of police presence in the remote area she was from.
9. The judge considered relocation to a more densely populated area, such as Tirana. The expert report expressed concern about the level of State protection. Nevertheless, the judge concluded it would be adequate in the larger areas. The judge accepted she was from an impoverished background in northern Albania and that she and her family are uneducated. The judge concluded that her family were not in a position to influence the Albanian authorities to either trace or take action against her.
10. The judge found that the appellant enjoyed good health. She had been under the care of a psychologist and was discharged in mid-October 2016. The judge acknowledged that individuals with mental illness could not reasonably live alone but that the appellant was not so vulnerable. The judge commented on her ability to care for her daughter with the apparent approval of the UK authorities.
11. The judge accepted she might face questioning about her child. Although no father is identified on her birth certificate, on the face of it, she would not be perceived as illegitimate. The judge also found she could avail of the shelters that existed and could remain there for up to 2 years. Leaving sheltered accommodation the judge accepted she would face significant challenges, including financial hardship and isolation.

### The Upper Tribunal

12. Permission to appeal was granted on the basis it was arguable that the judge erred in concluding relocation was reasonable, bearing in mind her circumstances and the risk of being trafficked or facing a lack of sufficient protection.
13. The respondent opposed the appeal by way of a rule 24 response, contending there was no error in the decision and that the judge had considered all of the evidence including the expert report and the country guidance decision. The respondent contended it was open to the judge to make the findings he did.

14. At hearing, the appellant's representative pointed out that the appellant had been attending a psychologist and that she had been the victim of a sexual assault. The judge had concluded she could not return to her home area. It was submitted that in suggesting she could relocate the judge was imposing to high a threshold. It was argued that the judge had adopted the wrong approach towards her mental health by emphasising she was no longer receiving treatment from a psychologist. It was also submitted that the judge was speculating about the return of the appellant's child to her. It was submitted that she was vulnerable and would face difficulties establishing herself. It was suggested if an error of law is found the appeal should be remitted for a rehearing in the First Tier Tribunal. Primarily this was because of the fact sensitive nature of the issues arising.
15. In response, the presenting officer relied upon the rule 24 response. He agreed with the suggestion that if an error was found the matter should be remitted to the First-tier Tribunal.

### Consideration

16. I have read the decision as a whole. The judge pointed out the lower standard of proof for a protection claim from that applicable before the Competent Authority. The judge, unlike the competent authority and the respondent, accepted the appellant's claim. The reasons for doing so are set out at paragraph 59 to 66. The conclusion was that her account was consistent and credible. The judge found her credibility was not damaged by failure to claim in safe countries. This was open to the judge and has not been challenged by the respondent.
17. Having reached these conclusions the judge then considered her return to Albania. The judge evaluated the risk in her home area. The judge gave reasons as to why she could not relocate there. Those reasons are sustainable.
18. At paragraph 73 the judge went on to consider the question of relocation to a larger area, such as Tirana. The judge referred to the expert report on this and the question of sufficiency of protection. The judge had regard to factors specific to the appellant. These included her family background and her accepted limited level of education. The judge had regard to her mental state and concluded she was not suffering from any significant mental health issues. The judge gave reasons for this conclusion. In particular, reference was made to the absence of appropriate medication or ongoing treatment. The appellant had complained of feeling low in mood and of suffering from nightmares but the judge had concluded she had made a good recovery. These were conclusions open to the judge on the evidence.

19. The judge then considered the appellant's child. The judge acknowledged the likelihood of her being questioned about the child's father. The judge acknowledged that no father was named on her birth certificate. However, the appellant was married and her daughter bears the family name. The judge acknowledged that things would be hard after the appellant left the protection of the shelter. The judge acknowledged social stigma and isolation.
20. The appellant had indicated that after making her claim her child was placed in care for several days and then returned to her. The judge made the point that in returning the child the UK authorities must have concluded she had the necessary skills and the child would not be at risk. This is a reasonable deduction. The judge went on to point out that those parenting skills and her resilience could be transferred when she began a new life in Albania.
21. Reading the decision in its entirety the judge has carefully considered the evidence and made findings that were open to him. The decision is balanced, most notably by the judge accepting the underlying claim. This was in the face of its rejection on credibility points by the competent authority and adopted by the respondent. The judge had considered the case law and the expert report and evaluated the individual issues arising. I find no material error of law demonstrated. Rather, the arguments advanced amount to no more than a disagreement with the conclusions made by the judge on the issue of relocation and sufficiency of protection. It has not been demonstrated that those conclusions materially erred in law. Consequently, Judge Monaghan's decision, dismissing the appeal, shall stand.

### Decision.

No material error in the decision of First-tier Judge Monaghan has been established. That decision, dismissing the appellant's appeal, shall stand.

Deputy Judge Farrelly

10<sup>th</sup> July 2017