



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/03971/2015**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 12 October 2017

**Decision & Reasons
Promulgated**

On 20 October 2017

Before

UPPER TRIBUNAL JUDGE BLUM

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

LS

(ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Mr N Bramble, Senior Home Office Presenting Officer
For the Respondent: Mr J Collins, Counsel, instructed by Sentinel Solicitors

DECISION AND REASONS

1. This is an appeal by the Secretary of State for the Home Department (Appellant) against the decision of Judge of the First-tier Tribunal Wyman (the judge), promulgated on 29 March 2017, allowing the Respondent's appeal against the Appellant's decision, made on 10 December 2015, to refuse his protection and human rights claims.
2. The grounds contend that the judge fell into legal error in her approach to the issues of sufficiency of protection and the availability of internal relocation. Although the Appellant did not find all of the Respondent's claim to be credible (she did accept that the Respondent was mistreated by his father), the judge accepted most aspects of the Appellant's account (only rejecting his claim that he

feared he would be harmed by his's sister's husband's family). No challenge has been mounted to the judge's credibility assessment or her factual findings.

Relevant background

3. The Respondent, a national of Albania, was born on 14 June 2000. He was 16 years old at the date of the judge's decision. He was physically abused by his father who forced him to sell cigarettes instead of going to school and, if not enough cigarettes were sold, would beat the Respondent. His father was also violent to his mother and sister. The Respondent's mother did report this violence to the police but they took no action. The Respondent was eventually asked by some regular customers to transport packages of hashish to different bars and cafes in Tirana. He initially did this in exchange for clothes and trainers as well as money but was ultimately compelled to do so by a criminal gang who threatened to harm or kill him if he did not cooperate. The Respondent was forced to work for the criminal gang for approximately 6 months. The Respondent believed that the criminal gang may have had connections with the police and explained that at least one gang member knew a policeman. The Respondent believed that other members of the gang worked in other neighbourhoods of Tirana. The Respondent's father expressed no interest in the threats received by the Respondent from the gang and indeed was content for him to continue transporting hashish as this generated greater revenue than simply selling cigarettes. The Respondent's sister met somebody who promised to help both of them leave Albania. He eventually entered the United Kingdom on 25 June 2015 having left Albania with his older sister on 19 May 2015. He claimed asylum on 19 August 2015.

The First-tier Tribunal decision

4. The judge heard evidence from the Respondent, who underwent cross-examination. The judge noted the Appellant's acceptance that the Respondent was mistreated by his father and that he provided a credible and consistent account regarding these problems. The judge accepted the Respondent's account of his involvement with a criminal gang, that he had been forced to transport packages of hashish for the gang, and that he had been threatened by the gang. Whilst noting that the Respondent feared non-state agents the judge concluded that the Respondent could not approach the authorities for assistance. The judge had particular regard to the fact that the authorities previously failed to take any steps to protect his mother after she reported his father's violence. The judge indicated that she had specifically considered the Country Information and Guidance (CIG) guidance and that the availability of a sufficiency of protection depended on the particular circumstances of the case and the profile of the person. The judge took into account that the Respondent was only 16 years old. The judge concluded that the Respondent would be unable to obtain sufficient protection from the authorities.

5. The judge then turned to the issue of internal relocation. Once again, the judge noted the CIG guidance and that, in general, where the threat was from non-state agents, internal relocation to a different area was likely to be a viable option. The judge then took into account the specific personal circumstances of the Respondent and in particular his young age. The judge concluded that it would be unduly harsh for the Respondent to relocate to a different part of Albania, especially as all his family lived in Tirana and that he had no other source of support. The judge allowed the Respondents asylum claim.

The grounds of appeal and the grant of permission

6. The Appellant contends that the judge erred in law in concluding that there was no effective sufficiency of protection. Reference was made to the consideration in the refusal letter of the availability of a sufficiency of protection and the conclusion that the authorities would be able to provide sufficient protection. It was unclear how the judge concluded there was an unwillingness and inability to protect the Respondent. The grounds additionally contend that the judge failed to give reasons why the Respondent's age prevented him from internally relocating. The grounds again stated that full consideration to the possibility of internal relocation had been considered in the refusal letter.
7. Permission was granted on the basis that the judge arguably erred in law in her application of the Horvath principles (*Horvath v The Secretary of State for the Home Department* [2001] 1 AC 489). Although the internal relocation point was said to be less arguable permission was nevertheless given.
8. Mr Bramble submitted that there was no adequate assessment by the judge of the availability of a sufficiency of protection. Although Mr Bramble accepted that the background evidence at paragraphs 37 to 44 of the reasons for refusal letter dealt in a very general manner with the availability of a sufficiency of protection, he submitted that the judge and didn't adequately consider this material. Mr Bramble additionally pointed out that the Respondent had a cousin with whom he stayed, albeit in hiding, shortly before he left Albania. It was submitted that the judge failed to consider this in concluding that internal relocation was not reasonably available.
9. Mr Collins provided the Tribunal with the decisions in *Budhathoki (reasons for decision)* [2014] UKUT 00341 (IAC) and *MK (duty to give reasons) Pakistan* [2013] UKUT 00641 (9IAC). He invited me to find that, read as a whole, the decision did indicate that the judge gave sufficient reasons for her conclusions. The judge adopted the correct test in law and was entitled to take into account the previous response by the police and the degree of corruption within the police force and the Respondent's minority in concluding that the authorities would be

unable or unwilling to provide him with sufficient protection against his father and the criminal gang.

Discussion

10. The judge's conclusions in respect of the existence of a sufficiency of protection must be considered in light of her factual findings, read as a whole. The judge found the Respondent credible. No challenge was made to her positive credibility findings. The judge therefore found that the Respondent feared not just his father but a criminal gang with at least one member having a connection to the police. This factual finding is not surprising when considered against the background evidence before the judge dealing with police corruption. Indeed, the Reasons for Refusal Letter contains an extract from the US State Department report of 2014 indicating that the police did not always enforce the law equally. Personal associations, political or criminal connections, poor infrastructure, lack of equipment, or inadequate supervision often influenced enforcement of laws. Low salaries, poor motivation and leadership, and a lack of diversity in the workforce contributed to continued corruption and unprofessional behaviour. Impunity remained a serious problem, although the government made greater efforts to address it, and police corruption was a problem.
11. The criminal gang threatened to kill the Respondent if he did not continue transporting hashish and the gang operated in various neighbourhoods of Tirana. The judge additionally found that the Respondent's mother previously complained to the police about his father's violence but they did nothing. In his statement, the Respondent explained that his father was even told that a report had been made that caused him to become more violent to the Respondent's mother.
12. From paragraphs 37 to 43 the judge gave a summary of the background evidence relating to Albania. The Country Information and Guidance (CIG) report 'Albania: ground information, including actors of protection, and internal relocation' dated August 2015, indicated that while there was a fully functioning police and judicial system there were instances of corruption and members of the security forces had committed abuses. Poor infrastructure, lack of equipment and inadequate supervision all contributed to continued corruption and unprofessional behaviour. The judge noted the conclusion of the report that, whilst in general the Albanian authorities were able and willing to provide protection to a person fearing non-state agents, this was dependent on the particular circumstances of the case and profile of the person. The judge additionally considered the US State Department report on human rights practices for 2015 which indicated that child abuse was widespread although rarely reported. 58% of children were said to be victims of physical abuse and almost 70% of

children reported psychological abuse from family members. Most child labour occurred in the informal sector.

13. Having given a summary of the pertinent background materials, and having specifically indicated that she had taken the Respondent's particular circumstances into account, including his age and the previous failure by the police to take any steps to protect his mother, and clearly mindful that the Respondent feared serious harm from a criminal gang with links to the police, the judge concluded that the authorities would be unable to provide him with sufficient protection. This is a conclusion the judge was rationally entitled to reach for the reasons given. The judge evaluated whether the authorities would be willing to protect him given his particular circumstances and concluded, giving adequate reasons, that they would not. It is inescapable that in reaching this conclusion the judge had regard to her summary of the background evidence before her and to her own factual findings.
14. Having found that the Appellant held a well-founded fear of serious ill treatment in his home area, and that the authorities were incapable, given his particular circumstances, of providing sufficient protection, the judge proceeded to consider whether the Respondent could avail himself of the internal relocation alternative. The grounds contend that the availability of internal relocation was fully considered in the refusal letter and that the judge failed to provide reasons as to why the age of the Respondent prevented him internally relocating. The Respondent's home area is a Tirana. When assessing internal relocation, the judge considered, at [104] that the constitution and law of Albania provided for freedom of internal and external movement and that the CIG indicated that, in general, where a threat is from non-state agents, internal relocation to a different area of Albania is likely to be a viable option. The judge properly noted however that each case must be considered on its own specific facts. The judge took account of the fact that the Respondent was 16 years old at the date of the hearing. The judge previously summarised the background evidence noting that child abuse was widespread throughout Albania and that most child labour occurred in the informal sector. While Mr Bramble pointed out that the Respondent hid at a cousin's home prior to leaving for the United Kingdom this was only for a short time and the fact remains that the Respondent was in hiding. The judge specifically found that the Respondent had no other source of support. I note the background evidence in the US State Department report before the judge indicated that there continued to be numerous displaced and street children and that these children were at high risk of trafficking. It is clear that the judge considered the US State Department report given her summary at [41] *et seq.*
15. Having holistic regard to the judge's factual findings and the material she considered, and the particular emphasis placed by the judge on the Respondent's youth, I am satisfied that the judge gave legally adequate reasons for concluding that it was unreasonable or unduly

harsh to expect the Respondent to relocate to another part of the country.

Notice of Decision

The decision of the First-tier Tribunal contains no legal error. The appeal by the Secretary of State for the Home Department is dismissed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Respondent in this appeal is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.



19 October 2017

Signed

Date

Upper Tribunal Judge Blum