



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: AA/13067/2015

THE IMMIGRATION ACTS

Heard at Field House
On 25th May 2018

Decision & Reasons Promulgated
On: 29th May 2018

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

R N
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Patyna, instructed by Kirby Jones Solicitors LLP

For the Respondent: Mr S Walker, Home Office Presenting Officer

DECISION AND DIRECTIONS

1. The Appellant is a citizen of Albania born in 1984. She appeals against the decision of First-tier Tribunal Judge Graham, dated 6 September 2016, dismissing her appeal against the refusal of her protection claim on asylum, humanitarian protection and human rights grounds.
2. Permission to appeal was granted by Upper Tribunal Judge Bruce on the grounds that there was a procedural irregularity in the Tribunal placing reliance on evidence that neither it, nor the Appellant, had seen.

3. Mr Walker confirmed that there was a letter from the British Embassy in Tirana dated 12 October 2015 on the Respondent's file, but it was not served on the Appellant and was not before the First-tier Tribunal. He submitted that it should be redacted before service. It was agreed by the parties that there was a procedural irregularity resulting in an error of law such that the decision of the First-tier Tribunal should be set aside and remitted for rehearing.
4. After hearing brief submissions by the parties, I find that the judge erred in law in relying on matters referred to in the NRM report, on the Appellant's movements in and out of Albania, when the evidence from the Albanian Ministry of Interior had not been served on the Appellant or the Tribunal. The Respondent had failed to produce evidence of the assertions made in the NRM and the Appellant had been denied the opportunity to submit any evidence in response.
5. The judge relied on the undisclosed information from the Albanian Ministry of Interior in her findings on credibility. I find that the Appellant has been deprived of an opportunity to put her case before the First-tier Tribunal and the judge erred in law in her assessment of credibility.
6. I have decided in accordance with paragraph 7.2 of the Practice Statements of 25 September 2012 that the decision dated 6 September 2016 should be set aside and the appeal remitted to the First-tier Tribunal. None of the judge's findings are preserved.

DIRECTIONS

- (i) The Tribunal is directed pursuant to section 12(3) of the Tribunals, Courts and Enforcement Act 2007 to reconsider the appeal at a hearing before a First-tier Tribunal Judge other than First-tier Tribunal Judge Graham.
- (ii) The Respondent to serve on the Appellant and the Tribunal the letter from the British Embassy in Tirana dated 12 October 2015 - Results of checks undertaken by the general directorate of the civil registry of the Ministry of Interior of Albania - by 15 June 2018.
- (iii) The Appellant to file and serve, on the Respondent and the Tribunal, any further evidence and submissions, including expert evidence, at least 14 days before the hearing.
- (iv) The appeal to be listed before a First-tier Tribunal judge at Taylor House or Hatton Cross, London on the first available date.
- (v) An Albanian interpreter is required. List for 3 hours.

J Frances

Signed
Upper Tribunal Judge Frances

Date 25 May 2018