



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/05971/2017

THE IMMIGRATION ACTS

Heard at Field House
On 3rd August 2018

Decision & Reasons Promulgated
On 21st August 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE ZUCKER

Between

A N
(ANONYMITY DIRECTION MAINTAINED)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Jones of Thompson & Co Solicitors
For the Respondent: Mr S Walker, Senior Home Office Presenting Officer

DECISION AND REASONS
(Resumed Hearing)

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

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any

member of her 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.

1. The Appellant is a citizen of Albania whose date of birth is recorded and is 6th July 1994. Her date of birth is no longer in issue if ever it was. She made application for international protection as a refugee on the basis that she had been trafficked into prostitution and that she would be at risk on return having conceived and given birth to a child out of wedlock.
2. On 4th May 2018 I determined that there was an error of law in the decision of Judge of the First-tier Tribunal Farrelly for the reasons set out in my decision of 4th May 2018 but dated 15th May 2018. Those reasons should be read together with this decision.
3. It is common ground that in this resumed hearing the issue for me is whether or not it would be unduly harsh to expect the Appellant to relocate within Albania given the factual background to this case.
4. One of the issues raised by Judge Farrelly in his decision dismissing the appeal was that the Appellant had a relative, a cousin, to whom she could turn for support on return to Albania. The Appellant adopted today, before me, a witness statement dated 19th July 2018 explaining that that cousin would not now provide any assistance and had only done so in the past because of the condition in which the Appellant was at that time. That evidence is not challenged by the Secretary of State.
5. It follows that I am bound to have regard to the country guidance in the case of **TD and AD (Trafficked women) CG [2016] UKUT 00092 (IAC)**. The head note reads as follows:-
 - a) It is not possible to set out a typical profile of trafficked women from Albania: trafficked women come from all areas of the country and from varied social backgrounds.*
 - b) Much of Albanian society is governed by a strict code of honour which not only means that trafficked women would have very considerable difficulty in reintegrating into their home areas on return but also will affect their ability to relocate internally. Those who have children outside marriage are particularly vulnerable. In extreme cases the close relatives of the trafficked woman may refuse to have the trafficked woman's child return with her and could force her to abandon the child.*
 - c) Some women are lured to leave Albania with false promises of relationships or work. Others may seek out traffickers in order to facilitate their departure from Albania and their establishment in prostitution abroad. Although such women cannot be said to have left Albania against their will, where they have fallen under the control of traffickers for the purpose of exploitation there is likely to be considerable violence within the relationships and a lack of freedom: such women are victims of trafficking.*
 - d) In the past few years the Albanian government has made significant efforts to improve its response to trafficking. This includes widening the scope of legislation,*

publishing the Standard Operating Procedures, implementing an effective National Referral Mechanism, appointing a new Anti-trafficking Co-ordinator, and providing training to law enforcement officials. There is in general a Horvath-standard sufficiency of protection, but it will not be effective in every case. When considering whether or not there is a sufficiency of protection for a victim of trafficking her particular circumstances must be considered.

- e) *There is now in place a reception and reintegration programme for victims of trafficking. Returning victims of trafficking are able to stay in a shelter on arrival, and in 'heavy cases' may be able to stay there for up to 2 years. During this initial period after return victims of trafficking are supported and protected. Unless the individual has particular vulnerabilities such as physical or mental health issues, this option cannot generally be said to be unreasonable; whether it is must be determined on a case by case basis.*
- f) *Once asked to leave the shelter a victim of trafficking can live on her own. In doing so she will face significant challenges including, but not limited to, stigma, isolation, financial hardship and uncertainty, a sense of physical insecurity and the subjective fear of being found either by their families or former traffickers. Some women will have the capacity to negotiate these challenges without undue hardship. There will however be victims of trafficking with characteristics, such as mental illness or psychological scarring, for whom living alone in these circumstances would not be reasonable. Whether a particular Appellant falls into that category will call for a careful assessment of all the circumstances.*
- g) *Re-trafficking is a reality. Whether that risk exists for an individual claimant will turn in part on the factors that led to the initial trafficking, and on her personal circumstances, including her background, age, and her willingness and ability to seek help from the authorities. For a proportion of victims of trafficking, their situations may mean that they are especially vulnerable to re-trafficking, or being forced into other exploitative situations.*
- h) *Trafficked women from Albania may well be members of a particular social group on that account alone. Whether they are at risk of persecution on account of such membership and whether they will be able to access sufficiency of protection from the authorities will depend upon their individual circumstances including but not limited to the following:*
 - 1) *The social status and economic standing of her family*
 - 2) *The level of education of the victim of trafficking or her family*
 - 3) *The victim of trafficking's state of health, particularly her mental health*
 - 4) *The presence of an illegitimate child*
 - 5) *The area of origin*
 - 6) *Age*
 - 7) *What support network will be available."*

6. As to sub-paragraph (h) that really assists in establishing whether or not the Appellant is a refugee in the first place, but since the issue before me is one of internal relocation, that is not a matter which I need to resolve. It was not in issue that this Appellant was

trafficked; that was accepted by the Secretary of State. There is also evidence before me that the Appellant continues to suffer from post-traumatic stress disorder. I refer to the letter of 2nd July 2018 from East London NHS Foundation Trust. I note further from the medical report of Dr Goodyear that the Appellant continues to be prescribed anti-depressants and sleeping tablets “to help address her mood and situation”, and that she is in receipt of cognitive therapy which is continuing.

7. Having regard to the factors in **TD** and noting the Appellant’s date of birth; that she does not have the family support that the judge when this matter was first heard thought that there was; the mental illness and scarring from which the Appellant suffers; and taking into account also that in my judgement it would not be in the best interests of this child to be with a mother living under subjective stress and concern about whether or not she will be trafficked, it seems to me that it would be unduly harsh to expect the Appellant internally to relocate within Albania. In those circumstances, that being the sole issue for me to resolve, the appeal in the First-tier Tribunal is remade, such that the appeal is allowed.

Decision

The Decision of the First-tier Tribunal is remade such that the Appellant’s appeal on international protection grounds as a refugee is allowed. The appeal is also allowed necessarily under Articles 3 and 8.

Signed

Date: 13 August 2018



Deputy Upper Tribunal Judge Zucker