



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number PA/06979/2017

**THE IMMIGRATION ACTS**

Heard at Field House  
On 23<sup>rd</sup> July 2017

Decision and Reasons Promulgated  
On 27<sup>th</sup> July 2018

**Before**

DEPUTY UPPER TRIBUNAL JUDGE PARKES

**Between**

S Q  
(ANONYMITY DIRECTION MADE)

Appellant

**And**

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Ms G Loughran (Counsel, instructed by Elder Rahimi Solicitors)  
For the Respondent: Ms K Pal (Home Office Presenting Officer)

**DETERMINATION AND REASONS**

1. The Appellant's protection appeal was heard by First-tier Tribunal Judge Broe at Birmingham on the 15<sup>th</sup> of November 2017 and dismissed for the reasons given in the decision promulgated on the 1<sup>st</sup> of December 2017. The Judge found that the Appellant could be returned to Albania and that the UK would not be placed in breach of its international obligations including article 8.
2. The grounds argue that the Judge failed to identify why the Appellant's family in Albania would be able to provide her with protection and had not given weight to her evidence that she would be unable to live with them having an illegitimate child. It is also argued that the Judge failed to consider the Appellant's PTSD when considering the question of effective protection. The Appellant had stated that she would not approach the authorities and so had not assessed protection according to her circumstances. It is also argued that the Judge had not properly considered the risk factors from the country guidance and the factors that led to her being

trafficked, had not considered the risk to her once she would have left an NGO shelter and had not assessed article 8 and the best interests of her children properly.

3. In submissions it was argued that the Judge had not considered all of the risk factors that applied. In paragraph 26 the Judge considered N but not the Appellant's ability to access protection. The discrimination that arose from her not being with the father of her first child had led the Appellant to leave. The Judge had not had regard to the Appellant's evidence or evidence relating to the Appellant's home area. It was also argued that the Judge had not properly addressed the ability of the Appellant to return in the light of her circumstances. The Home Office maintained that the country guidance had been applied and the Judge had considered the Appellant's support network, the Judge had considered the healthcare available, reintegration programmes, the support available and sufficiency of protection. Given the findings on family support it would follow that there were no very significant obstacles to reintegration. In reply there was no assessment of the impact of an illegitimate child, the relationship with her father would be important as he would be in control of the family, phone contact was not the same. It was also argued that the obligations under the trafficking convention had to be factored into the decision.
4. The decision has to be read fairly and as a whole without taking matters out of context. It is not necessary for a Judge to address each and every point raised in argument but the reasons given must be sufficient to explain what the decision and why and to be sustainable on analysis. The Appellant's claim was summarised by the Judge at paragraphs 9 to 13. The summary set out the Appellant's history and how she came to be in the UK along with her fears on return and the believed contacts of her trafficker. The Judge referred to the difficulties from traditional attitudes to women with an illegitimate child. In paragraph 14 the Refusal Letter was summarised. In the summary of the Appellant's evidence the Judge noted the Appellant's subjective fear but also that her family wanted her back and if she had to return they would not kick her out.
5. The Judge referred to TD and AD (Trafficked women) CG [2016] UKUT 92 (IAC) and BM (Trafficked women) Albania CG [2010] UKUT 80 (IAC). The headnote in TD and AD was set out in full in paragraph 24 including paragraph h) and the guide of factors that could be relevant to the ability of an individual to access protection and whether that would be sufficient. For the reasons given in paragraph 25 and relying on the Appellant's own evidence the Judge found that the Appellant would have the support of her family in Albania and that the reintegration programme would be available to her. I note that from the summary the Appellant had discussed taking the job with her family before doing so – they will be aware of the care that went into the decision and their role in the decision that the Appellant ultimately made.
6. In paragraph 26 the Judge considered the psychiatric report of Dr Law and noted the Appellant's stated concerns and fears given in the report. Paragraph 27 considered the position under the case of N [2003] EWCA Civ 1396. It was against the background the Judge had set out that he found that there would be sufficient protection and that having regard to the matters set out in paragraph 26 in paragraph 27 the Judge found the Appellant could live alone. In doing so he was clearly aware of the difficulties faced by single women with children having referred to societal discrimination earlier.
7. Decisions should not be approached on a compartmentalised basis. The full basis of the Appellant's circumstances was in the Judge's mind as is clear from the summary of the Appellant's claim. The Judge was equally aware of the Appellant's mental health and the extent of her problems. The factors in paragraph h) of the headnote in TD and AD are not a checklist. The only part of the factors identified not referred to by the Judge was the Appellant's home area

but that is against the Appellant's evidence of her family's less conservative attitude compared to that of the uncle she had lived with when studying.

8. The decision of the Judge had to be based on the evidence and the assessment of the Appellant's credibility but also on the actual position she would face in Albania given the social attitudes that prevail, her personal circumstances including her mental health and the support (state provided and family) that would be available on return. Those were all matters that the Judge considered and the Judge weighed the Appellant's evidence of the attitude of her family and the contact she has with them with her level of education and the psychiatrist's assessment of her mental health. The finding that the application of the factors derived from country guidance to the facts of the case led the Judge to find that the Appellant could be returned to Albania where appropriate support would be available was a finding that was open to him for the reasons given. The grounds proceed on a disjointed reading of the decision rather than as a whole.
9. Having found that the Appellant was not entitled to international protection and that the Appellant could return and would have support, familial and from state agencies including for mental health, that would inform the issue of whether there were very significant obstacles to reintegration for the Appellant and her children and given the findings it did not require a further discussion for the conclusion in paragraph 32 to be reached.
10. The decision of Judge Broe was open to him for the reasons given. The decision does not contain an error of law and stands as the disposal of this appeal.

## CONCLUSIONS

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

### Anonymity

The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.)

### Fee Award

In dismissing this appeal I make no fee award.

Signed:

  
Deputy Judge of the Upper Tribunal (IAC)

Dated: 23<sup>rd</sup> July 2018