



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/11603/2017

**THE IMMIGRATION ACTS**

Heard at Field House  
On 23 April 2018

Decision & Reasons Promulgated  
On 24 May 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

MS ED  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr J Collins, Counsel instructed by Sentinel Solicitors

For the Respondent: Mr N Bramble, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant, a national of Albania, date of birth 5 January 1995, appealed the decision of the Secretary of State dated 30 October 2017. That appeal came before First-tier Tribunal Judge Eban who, on 18 December 2017 dismissed the appeal on all grounds.

2. Permission to appeal was given on 15 January 2018 and the Secretary of State made a Rule 24 response on 15 February 2018.
3. Before me it has been discussed between the parties and it is accepted at this stage that the Appellant had made a claim to have been at risk of trafficking or modern day slavery as a result of very unfortunate events which she claimed occurred in the United Kingdom at the hands of Albanian criminals. The matter has not been referred to the competent authority and no decision has been made by them, let alone addressing the question of the events claimed. In the circumstances, in the light of the case of MS (Pakistan) [2018] EWCA Civ 594 it is clear that the importance of the NRM's decision-making in determining whether or not there has been or is there a risk of trafficking has become the more significant. It is not clear if the matter was ever raised directly with the Judge on the basis that she should not proceed to hear the case until there had been a reference and Mr Collins did not appear before the First-tier Tribunal.
4. In these circumstances it seems to me most unfortunate that this lady should still be left with a significant period of uncertainty but self-evidently there will have to be proper enquiries made. In the circumstances the parties are agreed that procedurally the best course is that I find the Original Tribunal's decision cannot stand and the matter will have to be remade, with no adverse findings of fact to stand, in the First-tier Tribunal (IAC). To what extent the outcome of that process is may depend on whether or not an adverse finding is made by the competent authority and/or whether or not a supplementary Reasons for Refusal Letter addresses the claim.
5. **DECISION**  
The appeal is allowed to the extent that it is to be remade in the First- tier Tribunal (IAC)  
An anonymity order was made and that should be continued.

**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 him or any member of their 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. DIRECTIONS
2. List Hatton Cross
3. Not before F-t T Judge Eban
4. 2 hours
5. Albanian Interpreter required
6. No findings of fact by F-t T Judge Eban to stand.
7. The Respondent to notify the (IAC) of the outcome of the Competent Authority' Decision and/or whether or not the Respondent maintains its decision of 30 October 2017
8. Any further statements or documents relied upon by the parties to be served upon each other and the IAC not later than 10 clear working days before the hearing to remake the decision.

Signed

Date 26 April 2018

Deputy Upper Tribunal Judge Davey