



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/11036/2017**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 30 September 2019**

**Decision & Reasons  
Promulgated  
On 2 October 2019**

**Before**

**UPPER TRIBUNAL JUDGE PITT**

**Between**

**S T**

**(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms E Sanders, Counsel, instructed by Duncan Lewis & Co  
Solicitors

For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

**DECISION AND REASONS**

**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. This is an appeal against the decision dated 19 June 2019 of First-tier Tribunal Judge Hemborough which refused the asylum and human rights appeal of the appellant.
2. The appellant is a national of Albania born on 5 July 1989. She has two sons, the first born on 7 November 2011 and the second born in the UK in 2017.
3. The appellant arrived in the UK on 16 April 2016 and claimed asylum. She was accompanied by her older son.
4. The basis of the appellant's claim for asylum is that she fears mistreatment from her husband and cannot relocate to another part of Albania as a single mother with a child born outside of marriage. She maintains that in 2010 she had married in Albania against the wishes of her parents. As a result her family had disowned her. After the marriage she discovered that her husband was gay. As a result, he mistreated her severely. In 2012 he forced her to have an abortion. In August 2013 he assaulted her whilst she was pregnant which led to a miscarriage. The appellant eventually left her husband and travelled to Tirana where she stayed with a friend for approximately ten days. Her friend's partner assisted her to obtain fake Italian documents which she used to leave the country. She and her son travelled to Germany where they spent three days with one of her sisters before flying to the UK using the false Italian documents. After coming to the UK the appellant lived with another sister who had obtained British nationality. She lived independently for a while but became pregnant with her second son and thereafter moved back to live with her sister.
5. On 12 October 2017 the National Referral Mechanism found that the appellant was not a victim of trafficking. The respondent refused the appellant's asylum and human rights claim in a decision dated 13 October 2017. The appellant's original appeal against the refusal decision was heard by First-tier Tribunal Judge Grant and refused in a decision dated 14 December 2017. In a decision dated 1 May 2018 Deputy Upper Tribunal Judge Symes found an error of law in that decision and remitted it to be remade before the First-tier Tribunal. Thus the appeal came before First-tier Tribunal Judge Hemborough on 3 June 2019.
6. The appellant was refused permission to appeal to the Upper Tribunal by the First-tier Tribunal in a decision dated 24 July 2019. However, in a decision dated 22 August 2019, Upper Tribunal Judge Lister granted permission to appeal. Thus the matter came before the Upper Tribunal on 30 September 2019.
7. First-tier Tribunal Judge Hemborough accepted the appellant's account of being abused by her husband and that she fled from Albania with a subjective fear of mistreatment by him; see paragraph 68 of the decision.
8. First-tier Tribunal Judge Hemborough did not accept the appellant's evidence that her husband would seek to trace her were she to return to Albania. Part of the appellant's evidence on this issue was that her

husband had also threatened her brother and as a result her brother had fled to the USA. In paragraphs 72 to 77 of the decision, the Judge set out reasons for finding that this part of the evidence was not credible and had been fabricated in order to bolster the protection claim. The appellant's evidence was that her parents had banned all contact with her after her marriage so the husband would have known that there was no point in harassing her brother in order to find her or put pressure on her. Status documents from the USA showed that the brother had obtained leave there on the basis of a lottery system not international protection. There was a pattern of family migration. In paragraph 77 the judge stated:

"77. Whilst I have found the Appellant to be credible as regards the domestic violence to which she was subjected I find her attempt to bolster her protection claim by the assertion that her brother fled to the US in fear for his safety to undermine her credibility in relation to risk on return. Her use of false documentation shows that she is accustomed to use deception if her need dictates."

9. The Judge also found that the evidence did not show that the appellant's husband would know of her return or look for her if she went back to another part of Albania. At paragraph 71 the judge stated:

"71. It is now over three years since the Appellant left Albania. Her evidence was that she has had no contact with her husband since shortly after she left the family home in April 2016. Prior to leaving Albania she spent eight to ten days living with a friend in Tirana. I note that her husband was unable to trace her whereabouts during this period. Nor was there any reliable evidence to the effect that he was looking for her."

10. The judge went on in paragraphs 78 and 79:

"78. Looking at the evidence before me in the round I find that I have not been satisfied that the Appellant's husband has any continuing interest in her whereabouts. As far as he is concerned she has disappeared and his alleged sexual orientation has not made it into the public domain. As matters stand there is no incentive for him to trace her whereabouts with a view to bringing her to harm or dragging her back to Kukes with the attended risk of exposure.

79. Moreover I not (sic) been satisfied that he would have the ability to know of her return to Albania or to trace her once there. In this regard I again note that he was unable to find her in Tirana before she left Albania in 2016 when his ire was no doubt at its peak and the 'trail was hot'. Although it appears from photographic evidence submitted that he has had some low level political involvement in the distant past there was no reliable evidence to show that he has any ongoing political influence or the ability to influence with the police nationally."

11. The judge also set out in paragraph 79 that he had referred to guidance from the case of BF (Tirana gay men) Albania CG [2019] UKUT 00093 to the effect that there was "only very limited evidence" that someone could be traced in Tirana "by operation of either the registration system or criminal checks at the airport".

12. The judge found in paragraph 80 that it had not been shown that the appellant's husband had personal friendships or other connections that could assist him in tracing or harming the appellant beyond her home area of Kukes.
13. In paragraph 81 the judge accepted that the appellant would be at risk if she returned to Kukes on the basis of a chance encounter with her abusive husband or a member of his family. He therefore proceeded to assess whether it would be unduly harsh for her and her two children to relocate to Tirana.
14. In paragraph 84 of the decision the First-tier Tribunal considered the respondent's CPIN from December 2018 on domestic abuse violence against women. The judge noted that protection that was available included:

"... protection orders for the victim and any children, access to shelters, medical assistance including psychological therapy, welfare support, priority access to social housing, free education and nursery care for children and assistance with employment and reintegration packages. I find the description of the assistance on offer to be analogous to that available to victims of trafficking which has been held in general to make the Horvath standard."

15. The First-tier Tribunal was also provided with two reports from an expert country witness, Dr Tahiraj. The first report was dated 31 March 2018 and there was a supplementary report dated 29 May 2019. The First-tier Tribunal said this in paragraph 86 of the decision on the evidence of Dr Tahiraj:

"86. In relation to risk on return what I gleaned from Dr Tahiraj's evidence taken in the round is that although women in Albania have equality before the law the delivery does not live up to the aspirations. Recognising that the Albanian government has made significant advances in the protections available to trafficked individuals and victims of domestic violence she is of the view that and (sic) there remains much to be done. The services on offer are under pressure and demand may exceed supply. However she does not fundamentally disagree with the extant country guidance as set out in TD and AD and while she refers to sufficiency of protection as 'not certain' that is not the test."

The reference to "TD and AD" is to the Country Guidance case of TD and AD (Trafficked women) CG [2016] UKUT 00092.

16. In paragraphs 89 and 90 the judge considered the impact of the appellant's mental health in her ability to relocate to Tirana:

"89. I find that she has made a partial if not complete recovery from the effects of the abuse that she suffered at the hands of her husband and that any residual symptoms are now being managed by medication. There was no evidence before me from which I could be satisfied that she would be unable to access such medication or talking therapy as

she requires in Albania. I note that free medical treatment including (sic) psychological therapy is available to victims of domestic violence.

90. In passing I observe that whilst the Appellant has re-referred herself for a further course of talking therapy it does not seem to me to be entirely coincidental that this was only two months before this hearing was scheduled to take place and if nothing else it demonstrates that she is able to access services independently in the UK and I find that she would be able to do so on return to Albania.”

17. In paragraph 92 the judge referred to the factors identified as of potential relevance in paragraph (f) of the head note of TD and AD. This paragraph states:

“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.”

18. The judge goes on in paragraph 92 to find that the appellant would not:

“... be entirely without support upon return to Albania. Clearly she cannot look to her parents for support however the evidence was she had sought and received support from her sisters both in Germany and in the UK and I anticipate that this may continue at the very least in emotional if not financial terms upon return. There was also evidence that she has been intermittent contact with at least one of her sisters in Albania and looking at matters in the round I find it reasonable to infer that emotional support might be forthcoming from her other sisters who continue to reside there. The more so as their father, who it is claimed issued instructions against contact has now left the country and is not in a position to enforce the same.”

19. The judge set out his conclusions on whether internal flight would be unduly harsh in paragraphs 93 and 94:

“93. Whilst it is clear to me that the Appellant and her children are likely to face a degree of hardship upon return I find that there are mechanisms in place to provide them with such protection and support as they may need. I find the Appellant to be an intelligent, highly educated and resourceful woman who with appropriate support should be able to reintegrate and find gainful employment so as to be able to support herself and her children in Tirana which is the city with which she is familiar having studied there for several years when undertaking her Degree. In the meantime I am satisfied that they will be supported to an acceptable standard by the state.

94. Dr Tahiraj speculates about the possibility that the Appellant may be vulnerable to trafficking on return. However I discount this as a realistic possibility given my finding in relation to the protection and support available on return. I also note that she will be 30 years old in a few months and is now passed what has been described as the ‘the target age’ in other country evidence I have considered in relation to trafficking in Albania.”
20. The appellant brings a number of challenges to the decision of the First-tier Tribunal. Ground 1 argues that the judge made a “flawed factual finding” when concluding that the appellant’s husband would not seek to trace her. The grounds argue that Dr Tahiraj had described how the appellant leaving her husband would have brought shame on him and his family and that they he would wish to trace her for this reason, not merely because she knew about his sexuality. The grounds also maintained that it was perverse of the First-tier Tribunal to rely on the fact of the appellant having been able to spend ten days living with a friend in Tirana before leaving for the UK.
21. I did not find that this ground had merit where it, in essence, amounts to disagreement. Dr Tahiraj’s comments on the appellant’s husband wanting to find her and being able to do so were made on the basis of the evidence concerning threats to her brother being credible. As above, the First-tier Tribunal provided rational reasons for finding that the evidence about the brother had been fabricated and that this undermined the claim that the husband had an ongoing interest in finding the appellant. The comment in paragraph 71 that there was no “reliable evidence” showing that the husband does not show that too high a standard of proof or corroborative evidence was required. The judge was entitled to consider that none of the evidence before him maintained that the husband had sought actively to find the appellant, having only made telephone threats when she went to Tirana in 2016. It was not irrational to take into account that the appellant did not claim that her husband took active steps to find her when she went to Tirana in 2016 even though this was for a short period. The judge’s finding that the husband had no continuing interest in the appellant was reasoned and open to him on the material before him.
22. The second ground of challenge maintains that the judge’s assessment of the reports of Dr Tahiraj and the Country Guidance case of TD and AD on the issue of the availability of internal relocation was in error. However, the grounds do not argue that the First-tier Tribunal was incorrect in stating that the country evidence provided by Dr Tahiraj was essentially in line with the ratio of TD and AD. The Judge was aware of the view of Dr Tahiraj that the ambition of the state to provide support for victims of trafficking and domestic violence was not shown in practice on the ground; see paragraph 86. As the Judge found, however, that position is consistent with the decision of the Upper Tribunal in TD and AD and the grounds did not seek to argue otherwise.
23. Further, Judge Hemborough clearly applied the material aspects of the Country Guidance, doing so in paragraph 92 of the decision. The statement in paragraph 92 that “stigma and persecution do not equate to


persecution” is otiose rather than error concerning the test for internal relocation where the First-tier Tribunal clearly did go on in substance to consider whether relocation would be unduly harsh, doing so in line with the guidance from TD and AD. The judge was clearly aware that the provision for the appellant and her children on return would be limited, accepting in paragraph 93 that they would “face a degree of hardship”. He was entitled to find, however, that particular aspects of her profile meant that the degree hardship that she would face did not preclude internal relocation. He carried out the individual assessment of her profile, in line with TD and AD, finding that the appellant was educated to degree level, familiar with Tirana as she had lived there as a student, that her mental state had stabilised and that there was emotional support and the possibility of practical support from her sisters living in and outside Albania; see paragraphs 92 and 93. He made findings on the material facts and assessed the appellant’s profile as found against the Country Guidance and expert reports, the latter attracting less weight where they were based on different factual basis. That assessment was lawful.

24. The grounds also argue that the First-tier Tribunal failed to take into account the special vulnerability of the appellant where she has a child outside of marriage. The First-tier Tribunal refers itself at numerous points to the Country Guidance case of TD and AD which identifies having an illegitimate child as a factor to be taken into account. The Judge was clearly aware that the appellant’s second child was born outside of marriage; see paragraphs 6, 40 and 46 of the decision. The Judge referred to the stigma that the appellant and her children would face on return to Albania in paragraph 92 of the decision. It is not arguable that the First-tier Tribunal was not alive to this aspect of the appellant’s profile. The second child having been born outside of marriage was not a trump card that had to lead to internal flight being found to be unduly harsh. The judge accepted that the appellant and her children would face hardship on return; see paragraph 93. It remained open to the First-tier Tribunal to find that the particular profile of this appellant, when considered against the guidance provided in TD and AD, was such that she would not face unduly harsh circumstances if she were to relocate to Tirana with her two children, notwithstanding the status of her second child.
25. Ground 3 of the written grounds maintains that the judge gave inadequate reasons for rejecting the expert report of Dr Tahiraj. As above, the First-tier Tribunal was entitled to take a different view from Dr Tahiraj where the facts found differed from those addressed in the expert reports. The First-tier Tribunal was not required to address each and every point made by Dr Tahiraj, particularly where the reports covered similar ground to the Country Guidance case.
26. The fourth ground of appeal maintains that the judge failed to distinguish between the aspirations of the Albanian state in providing protection to victims of domestic violence and the reality. This ground really only repeats what had already been argued in the previous grounds and ignores the specific reference in paragraph 86 of the decision to the Judge’s note that “delivery does not live up to the aspirations”.

27. For all of these reasons, I do not find the decision of the First-tier Tribunal discloses a material error on a point of law.

**Notice of Decision**

The decision of the First-tier Tribunal does not disclose an error on a point of law and shall stand.

Signed:   
2019  
Upper Tribunal Judge Pitt

Date: 30 September