



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/01942/2019

THE IMMIGRATION ACTS

**Heard at Field House
On 22 July 2019**

**Decision & Reasons Promulgated
On 30 July 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MINUSHE [S]
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr McVeety, Senior Home Office Presenting Officer
For the Respondent: Ms Stackhouse, Ison Harrison, solicitors

DECISION AND REASONS

1. I shall refer to the appellant as the 'respondent' and the respondent as the 'appellant', as they appeared respectively before the First-tier Tribunal. The appellant was born on [~] 1989 and is a female citizen of Albania. On 13 March 2015, the appellant was convicted of two offences of using false documents and sentenced to a total of 14 months' imprisonment. A deportation order was made against her and, by decision dated for 15 February 2019, the Secretary of State refused the appellant's asylum and human rights claims. The appellant claimed that she could not return to Albania because she is a lesbian. The appellant appealed against the refusal of her asylum and human rights claim to the First-tier Tribunal

which, in a decision promulgated on 7 May 2019, allowed her appeal. The Secretary of State now appeals, with permission, to the Upper Tribunal.

2. The grounds are brief. The majority of the appellant's family are now based in Italy. She has two brothers living in Albania. A family member who works for the police is living in Albania. Paragraph [4] of the grounds of appeal reads as follows:

“Although there is a reference to the mother's first cousin being a police official in Diber district that is in the north-east of Albania, there is no indication as to how or why this individual would be prepared to act as a rogue official if he was aware of the appellant's return or in the alternative that he has any influence in the capital, Tirana.”

3. At the initial hearing at Bradford on 22 July 2019, Mr McVeety, who appeared for the Secretary of State, acknowledged that there was no challenge to the credibility findings of the First-tier Tribunal. He sought to rely entirely upon the ground articulated above. He characterised the appeal of the Secretary of State as a 'reasons challenge'; he did not submit that the decision of the judge on the facts as she found them had been perverse.

4. In her decision at [27], the First-tier Tribunal judge wrote:

“In my judgement, there are a combination of significant factors in the appellant's case, namely, her being as young single woman without family support, a lesbian and a victim of attempted forced marriage as well as one who was sought by her father and brothers for a revenge as a declaration of sexuality has offended their family honour has a high-ranking police officer in the family who can realistically find her in Albania and can prevent her accessing any state protection. These factors, taken together, that she will face, on return to her country, a real risk of persecution on the grounds of being a lesbian, and also the grounds of being a victim of attempted forced marriage. I accept her case that she would not be able to access a sufficiency of protection from any source in her country, and that she would not have a viable or safe internal relocation option.”

5. The conclusion quoted above follows a careful and detailed analysis of all the relevant evidence. The Secretary of State submits that the judge has not given sufficient reasons for reaching the finding that a police officer, who is a family member of the appellant, would either be aware that the appellant had returned to Albania or, indeed, that he would be interested at all that she had returned. The Secretary of State acknowledges that there is no sufficiency of protection for homosexuals (the only country guidance case on the issue deals with males, not lesbians) if a state actor seeks to pursue and harm an individual. The problem for the Secretary of State is that his submission overlooks the fact that the judge in the paragraph of her decision which I have quoted above has found that the police officer, whilst not having any personal animus against the appellant, would be likely to offer assistance if asked to do so to the appellant's father and brothers who wish to harm her. That was a finding plainly

available to the judge on the evidence. To that extent, the police officer would be acting to assist those fellow male family members rather than to satisfy any inclination towards revenge of his own. The judge has, in my opinion, provided cogent reasons for reaching the findings which she summarises at [27]. As Mr McVeety acknowledges that the decision of the judge, on the facts, is not perverse, then my finding that the judge has given adequate reasons for her findings leads me to dismiss the Secretary of State's appeal.

Notice of Decision

This appeal is dismissed.

Signed

Date 22 July 2019

Upper Tribunal Judge Lane