



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

Appeal Number: PA/07738/2018

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 6 June 2019**

**Decision & Reasons Promulgated  
On 11 June 2019**

**Before**

**UPPER TRIBUNAL JUDGE PLIMMER**

**Between**

**DK  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

For the appellant: Ms Wilson-Brown, Bradford Law Centre  
For the respondent: Mrs Pettersen, Senior Home Office Presenting Officer

**DECISION AND DIRECTIONS**

*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 national of Albania, who has applied for asylum. This is based upon her claim that she suffered seriously harm from family members and was also subjected to enforced prostitution in Albania.

2. The asylum claim was refused by the respondent, and the appellant appealed against this decision to the First-tier Tribunal ('FTT'). In a decision promulgated on 22 March 2018 the FTT comprehensively disbelieved the entirety of the appellant's account, apart from her nationality. The appellant has appealed against this decision to the Upper Tribunal ('UT').
3. I make it clear at the beginning of this decision that the report of Professor Katona dated 13 November 2018 entirely supports the appellant being treated as a vulnerable witness and I do so. I invited Mrs Pettersen to set out any objections to this course but she confirmed that she was content with this. For this reason together with the references made to medical evidence in this decision, I maintain the FTT's anonymity order.
4. Mrs Pettersen conceded that the FTT's decision contains an error of law and must be set aside. This is because the FTT failed to properly direct itself to relevant matters in Professor Katona's report. Professor Katona is a Professor in Psychiatry at the University of Kent and works part-time as a Medical Director at the Helen Bamber Foundation. I am satisfied that this concession was properly made, and that the FTT's approach to Professor Katona's report contains errors of law.
5. First, the FTT erred in finding at [41] and [50] that Professor Katona accepted the appellant's account at "*face value*". The FTT has completely failed to take into account Professor Katona's consideration of the clinical plausibility of the appellant's presentation, including the reasons provided for concluding that the appellant was not feigning or exaggerating her symptoms at [12.1-12.5]. These matters indicate that Professor Katona reflected upon the possibility that the account was provided in bad faith. In addition, Professor Katona has provided clear indications throughout the report that the account was not accepted at "*face value*".
6. Second, the FTT has speculated in finding at [41] and [51] that it is likely that the appellant presented as depressed and anxious for other reasons over and above her claim to have been forced into prostitution over an extended period, which could not be dismissed after one meeting. The alternative causes for the appellant's presentation before Professor Katona postulated by the FTT include: "*she was in the presence of medical practitioners*" / *and or being assessed by a psychiatrist*; "*she wishes to remain in the United Kingdom and may not be permitted to do so*"; she has had a difficult childhood including the death of her brother. The first possibility is unsupported by any evidence whatsoever and constitutes mere speculation on the part of the FTT. The third possibility has been taken into account - at 11.5 Professor Katona sets out his view that the appellant's PTSD and depressive symptoms have resulted from the cumulative effects of her traumatic experiences of childhood abuse and her subsequent enforced prostitution and repeated rape.

The FTT has failed to take into account that the second possibility has been addressed by Professor Katona at [11.6]:

“other factors such as her separation and estrangement from her family, her separation from her country and her ongoing immigration uncertainty...do not in my view provide a clinically adequate explanation for [the appellant’s] core PTSD symptoms...”

7. Third, the FTT concluded that the weight to be attached to Professor Katona’s conclusions was significantly undermined by the fact that they are based upon one consultation at [50], without addressing the fact that Professor Katona also relied upon entirely consistent other detailed medical and therapeutic evidence covering an extended period of time from May 2015 to November 2018 - see [8.1-8.6] and [9.1-9.18] of the report.
8. Fourth, the weight the FTT attached to Professor Katona’s report is entirely unclear. There is an assertion that this evidence has been given “*weight*” at [51] but there has been a failure to explain which aspects of the medical evidence were given weight or the degree of weight attached. When the decision is read as a whole, the FTT appears to have given Professor Katona’s findings very little weight for unsustainable reasons, as set out above.
9. Professor Katona’s report is carefully drafted. It provides comprehensive and clear reasons in support of his prima facie cogent conclusions. Although the FTT was entitled to attach little weight to the report, the reasoning for this must be adequate and sustainable. For the reasons I have provided, the FTT has failed to provide either adequate or sustainable reasons for seemingly attaching little weight to the report.
10. It follows that I find that there has been an error of law on the part of the FTT in its approach to Professor Katona’s report. Mrs Pettersen accepted that this has infected the FTT’s other adverse credibility findings and the decision will have to be made on a de novo basis. This is an appropriate case to remit to the FTT because completely fresh findings of fact are necessary.
11. I do not make any directions because that will be a matter for the FTT to address. However, I observe that the appellant should be treated as a vulnerable witness, and this is a case that might benefit from a Case Management Review hearing, at which time careful consideration can be given at an early stage to that issue and steps that should be taken to ensure fairness and compliance with the Practice Direction on vulnerable appellants and witnesses - see AM Afghanistan v SSHD [2017] EWCA Civ 1123.

## Decision

12. The decision of the FTT contains material errors of law, such that it is set aside and will be remade by a FTT Judge, other than Judge Moxon.

Signed: ***UTJ Plimmer***  
Ms Melanie Plimmer  
Judge of the Upper Tribunal

Dated: 6 June 2019