**IN THE UPPER TRIBUNAL**
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2024-001861

First-tier Tribunal No: PA/54795/2022
LP/02650/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**
**On 24 December 2024**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE LEWIS**

**Between**

**AB**
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**
For the Appellant: Ms A Radford of Counsel instructed by Oliver & Hasani
For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

**Heard at Field House on 12 August 2024**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the Appellant, likely to lead members of the public to identify the Appellant. Failure to comply with this order could amount to a contempt of court**.

**DECISION AND REASONS**

## Introduction

1. This is an appeal against a decision of First Tier Tribunal Judge Leonard-Johnstone dated 26 April 2024 dismissing the Appellant's appeal against a decision of the Respondent dated 20 October 2022 refusing a protection claim.

2. The Appellant is a citizen of Albania. His personal details, and the background to his appeal, are set out in the documents on file and are known to the parties. In keeping with the anonymity direction that has previously been made in these proceedings (and is hereby continued), I do not rehearse the personal details and full background here.

3. Suffice for the moment to note the following:

(i) The Appellant claimed that in July 2017, when he was 16 years old, he set out on what he believed to be a religious excursion by foot to 'Arabia' in the company of men from his local mosque, only to discover it was intended that he be trafficked to join fighting in Syria. On discovering this intention, he was able to make an escape whilst in North Macedonia. The First-tier Tribunal rejected this aspect of the Appellant's narrative. (See Decision at paragraphs 14-15 and 21.)

(ii) After his return to Albania, the Appellant's father made arrangements for the Appellant to leave. He left on or about 15 July 2017 for Belgium. In Belgium he was exploited by persons who put him to work growing cannabis. When in the UK the Appellant was referred to the NRM and in due course, on 11 July 2022, a positive conclusive grounds decision was made that the Appellant was a victim of modern slavery. The Respondent accepted this aspect of the Appellant's narrative.

(iii) The Appellant was able to evade his exploiters in Belgian, and entered the UK illegally on 4 May 2018. He claimed asylum, expressing fears in relation to those involved with his local mosque and those involved in his exploitation in Belgium.

(iv) The Appellant's application for protection was refused for reasons set out in a 'reasons for refusal' letter ('RFRL') dated 18 October 2022.

(v) On appeal the Appellant relied upon, amongst other things, the testimony of a paternal uncle (who attended the hearing to give 'live' evidence), and a written report of a country expert, Mr S Harvey.

4. The Appellant's appeal was dismissed for reasons set out in the Decision of Judge Leonard-Johnstone. By way of summary, I note the following:

(i) As already noted above, the Judge did not accept the Appellant's account of the attempt to traffic him to Syria to become a fighter.

(ii) The Judge did not accept that the arrangement to leave Albania for Belgium was motivated by any risk arising from the Syria episode. Instead, the Judge found "*that the appellant left Albania to travel to Europe for economic or social reasons*", and that "*it [is] reasonably likely the appellant's family were supportive of this because the*

*appellant has a number of family members in the UK, and that his father helped arrange travel out of Albania by arranging an agent*" (paragraph 25).

(iii) The Judge noted the Respondent's acceptance of the events after the Appellant left Albania, finding that "*the appellant ran into problems with the agent because he and his father were unable to pay them*". It was accepted that "*the agent was physically abusive to the appellant*", and that he was forced to look after cannabis plants for about 9 months, being beaten at times. The narrative regarding the Appellant's escape and onward travel to the UK was also accepted. (See paragraph 26).

(iv) The Judge found that since arriving in the UK, after initially staying with a maternal uncle, since 2019 the Appellant had been living with his paternal uncle and his wife and children and that the relationship was one involving "*real, effective and committed*" support (paragraph 27). The Judge also found, however, that the Appellant "*has an ongoing parental relationship with his parents who still live in Tirana*" (paragraph 29).

(v) The Judge did not accept that men who were traffic formed a particular social group in Albania, and accordingly the Appellant's case did not fall within a Refugee Convention 'reason'. (See paragraphs 30-33.)

(vi) The Judge found that the Appellant was not at risk from any persons associated with his local mosque in Albania: see paragraph 35.

(vii) In evaluating the risk from "*the group who trafficked the appellant after he left Albania*" (paragraph 36), the Judge having made reference to aspects of the report of Mr Harvey found "*I am not persuaded on the evidence before me that the level of risk from the agent and his associates meets the threshold of a real risk of serious harm. I consider that the appellant can return to his home without facing a real risk of harm and will have the support of his family to help him reintegrate*" (paragraph 39). See paragraphs 36-39.

(viii) The Judge also gave consideration to the risk of being re-trafficked generally, but concluded that there was no real risk of serious harm to the Appellant in this regard: see paragraphs 40-41.

(ix) The appeal was also dismissed on Article 8 grounds: see paragraphs 45-46.

5. The Appellant applied for permission to appeal to the Upper Tribunal. Permission was refused in the first instance on 21 March 2024 by first-tier Tribunal Judge Rhys-Davies, but subsequently granted on 21 May 2024 by Upper Tribunal Judge Perkins.

6. Although there is no Rule 24 response on file, Mr Melvin provided a written Skeleton Argument dated 9 August 2024 resisting the Appellant's challenge to the decision of the First-tier Tribunal.

**Consideration of the Challenge**

7. The Appellant raises four Grounds of challenge:

(i) Ground 1 is in respect of the First-tier Tribunal's finding that the Refugee Convention reason of 'particular social group' was not engaged.

(ii) Ground 2 argues that the First-tier Tribunal's approach to the evidence of the country expert Mr Harvey was "*unreasoned or irrational*".

(iii) Ground 3 argues that there was a failure to apply relevant country guidance in respect of internal relocation.

(iv) Ground 4 makes challenge to the credibility findings in respect of the Appellant's narrative of the attempted coerced recruitment to fight in Syria.

8. Grounds 1 and 3 are essentially immaterial unless the Appellant is able to establish, pursuant to Grounds 2 and 4, that the First-tier Tribunal's essential conclusion that the Appellant was not at risk in Albania was in error of law.

9. Ultimately, I do not accept that there is any substance to Ground 2.

10. Paragraph 6 of the Grounds emphasises the credentials of the expert. Paragraph 7 pleads, in part that the Judge "*failed to explain what, if any, weight she placed on the [expert's] report*".

11. At paragraph 9 of the Decision the Judge noted that the Respondent did not take issue with Mr Harvey's expertise, and further stated that she, the Judge, "*placed significant weight on his evidence as to the nature of human trafficking in Albania*". Indeed, when the Judge rehearsed relevant parts of the report at paragraph 36, no specific criticism was made of any aspect directly pertinent to an understanding of the country situation/background.

12. In the premises, there is nothing to suggest that the Judge disputed or otherwise overlooked Mr Harvey's very particular expertise.

13. In my judgement, it is readily apparent on the face of the Decision that the point of departure of the Judge from the overall opinion of the expert as to future risk was premised on the Judge's assessment of the particular facts and circumstances of the Appellant, and as such was not based in any way on a lack of respect for the witness's relevant expertise.

14. At paragraph 36(vii) the Judge reproduces paragraphs 183-187 of the expert's report. In context, paragraphs 183-185 inform the opinion at paragraph 186 – "*As such, there is a risk that if the debt is still outstanding, or that AH poses a threat to the agent... he could be targeted...*". The subsequent analysis of the Judge at paragraphs 37-39 includes consideration of whether a debt is still being pursued, as well as

other aspects of the particular circumstances of the Appellant's case relevant to the "*risk of reprisals*" (paragraph 39).

15. In my judgement the Judge adequately explains why she came to a different view from the expert as to future risk. She was entitled not to adopt the opinion of the expert, and has done so without rejecting his relevant expertise – but on the basis of her own independent assessment of the particular narrative of the Appellant. In particular, it is clear that the Judge found that it had not been shown that there was any ongoing issue over debt, taking into account the absence of any evidence that the Appellant's father (who had been the primary point of contact with the agent) had had any ongoing problems in this regard. Similarly, so in respect of the knowledge of the agent's criminality. See: "*The evidence is, even on the appellant's own case, that his father has not encountered any problems with the agent despite his failure to pay the debt or his knowledge of the identity of the agent and subsequent criminality*" (paragraph 38, and see similarly at paragraph 39 – "*It is highly relevant that the appellant's father was also involved in these arrangements with this group has had no trouble*"), together with the analysis in respect of the evidence across paragraphs 37 and 38.

16. It was open to the Judge to "*place significant weight on this*" (paragraph 38) as being a matter specific to the narrative of the Appellant's case, notwithstanding the opinion of the expert as to what might happen *if* the debt was being pursued or a person was perceived as a threat. In substance, the Judge inferred that the debt was not being pursued, and, just as the Appellant's father was not seen as a threat, the Appellant would not be seen as a threat.

17. Ground 4 raises a number of matters under the heading 'Credibility findings': see Grounds at paragraphs 14a-e. In the main part these criticisms are directed at the Judge's rejection of the account of the Syria episode – see paragraphs 14a-d. However, challenge is also raised in respect of the issue of the debt to the agent: see paragraph 14 e.

18. In respect of paragraph 14a, I do not accept that there is any substance to the challenge that the Judge fell in to error by using the phrase 'significant doubts', or otherwise by determining that the Appellant's account of an attempt to recruit him to fight in Syria was implausible.

19. I am not persuaded that the use of the phrase "I have significant doubts" at paragraph 15 is a signifier of the mis-application the standard of proof by reference to the guidance in **Karanakaran**. The Judge was making an 'in the round' assessment of the particular claimed narrative in relation to the Appellant and his parents believing him to be embarking on a pilgrimage journey, initially through North Macedonia, to 'Arabia'. Having expressed that she had significant doubts in respect of the planned excursion, the Judge over the following 14 lines explained those doubts: limited knowledge of the adults involved; an inability to provide any information about the other children supposedly involved; the vagueness

as to what was meant by 'Arabia'; that the journey would be close to 3000 km with the proposal that it be made on foot in the period of 3 weeks; the terrain would be difficult; there would be numerous borders to cross but the Appellant was not taking his passport; it was July so the temperatures would be high. All these matters – in my judgement entirely sustainably – informed the conclusion at the end of paragraph 15, that it was "*implausible that the appellant was genuinely attempting to, or as a child 16 years old was permitted to attempt, this journey with a group of men that for the most part the family didn't know at all*", and it was "*implausible that this excursion occurred as alleged by the appellant*".

20. Further in this context I note that the Judge was appropriately "*cautious about making adverse findings in relation to plausibility*" (paragraph 15).

21. It is pleaded in aid in this context that the expert expressed the opinion that the Appellant's account in this regard was "*highly plausible*" (Grounds at paragraph 14b). However, upon scrutiny of Mr Harvey's report at paragraphs 160 and 161 (in which cross-reference is made to paragraphs 152-154 of the report), I can identify nothing that undermines the evaluation of the First-tier Tribunal Judge. The fact that the expert opines that the sort of events that the Appellant describes may happen, and to that extent his account is plausible, does not in any way undermine the Judge's own evaluation of the Appellant's specific narrative being implausible for all of the reasons set out at paragraph 15 and adverted to in my analysis above. The expert does not engage with the plausibility of the Appellant being permitted by his parents to embark on what was essentially a fantastical journey; the Judge does.

22. I accept that there is, when taken in isolation, some limited substance to the pleading at paragraph 14c in respect of the Judge's comment that it was "*surprising*" that the 'men from the mosque' were not mentioned in the Appellant's appeal witness statement, given that the statement commented that it was being made in addition to the contents of his interview. However, this does not address the additional inconsistency identified in the penultimate sentence of paragraph 16. More particularly, in my judgement there is nothing in this analysis that remotely undermines the reasoning at paragraphs 14-15 with regard to the implausibility of the purported excursion to Arabia.

23. I do not accept that the pleading at paragraph 14d identifies any material error of law. It is submitted that the Judge was in error – "*irrational and/or failed to take into account the material matter of the witness' degree of knowledge*" – in respect of the Appellant's uncle's evidence relating to the Appellant's experience of the Arabia episode. It is be recalled that the usual rules of evidence in respect of hearsay that apply in the civil courts do not apply in the Tribunal. It is not unusual for witnesses to relate things that they have been told by others. Indeed, it is plainly the case that some of what the Appellant's paternal uncle had to say about the community shock in respect of the activities of some of the men at the local mosque was not wholly based on his direct knowledge of such matters. It was not

untoward of the Judge to observe the witness's caution in relating any detail with regard to the Appellant's own experiences – particularly in circumstances where the Judge had found that the relationship between uncle and nephew was essentially a supportive relationship. It is also to be recalled that the uncle was in touch with the Appellant's father (his brother) and had visited him. In any event it is clear that the Judge gave consideration to the extent of the Appellant's uncle's knowledge: see in particular paragraph 37 where the Judge notes the witness's claim that the Appellant's father had not given him any information in respect of any ongoing risk from the agent who had made the arrangements to travel to Belgium – the Judge concluding, as was open to her – that the witness was "*deliberately evasive*".

24. In my judgement paragraph 14e is misconceived because ultimately the Judge's focus was not on whether or not the debt to the agent had been repaid, but whether there was any evidence that the agent was interested in pursuing the debt.

25. In all such circumstances I find that the Appellant has not made out the challenges to the Decision of the First-tier Tribunal pleaded in Grounds 2 and 4. For the reasons already discussed the other grounds cannot, therefore, avail the Appellant. The challenge fails accordingly.

## Notice of Decision

26. The decision of the First-tier Tribunal contains no material error of law and accordingly stands.

27. The appeal of AB remains dismissed.

**I. Lewis**
Deputy Judge of the Upper Tribunal
(Immigration and Asylum Chamber)
**16 December 2024**