



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-005232

First-tier Tribunal No: PA/58244/2023
LP/06146/2024

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 4 February 2025**

Before

**UPPER TRIBUNAL JUDGE PICKUP
SITTING IN RETIREMENT**

Between

**EV
(ANONYMITY ORDER MADE)**

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr J Gajjar, instructed by SMA Solicitors

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

Heard at Field House on 29 January 2025

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, [the appellant] (and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified) 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 (and/or other person). Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant is a national of Albania. This is her appeal against the decision of the First-tier Tribunal (Judge Sangha) promulgated 30.8.24 dismissing her appeal against the respondent's decision of 6.10.23 refusing her protection claim.
2. The issue in the appeal to the First-tier Tribunal was whether the appellant had a well-founded fear of persecution as the (accepted) victim of human trafficking and modern slavery, on the basis that she would be at risk of re-trafficking on return to Albania, and whether internal relocation within Albania would be reasonably open to her.
3. In summary, the grounds of appeal assert that the First-tier Tribunal erred in law in: (i) failing to consider material matters, namely the risk of re-trafficking by persons other than those who had trafficked her to the UK, relying on TD & AD (Trafficked Women) Albania CG [2016], and the appellant's mental health and her circumstances of return as a single parent with one child and (then) expecting a second; (ii) reaching an irrational conclusion that the appellant could turn to her mother in Albania for support; (iii) failed to provide adequate reasons for findings at [23] of the decision that the appellant's child/ren would not place her at increased risk; and (iv) failed to consider the child/ren when assessing the reasonableness of relocation within Albania.
4. On 26.10.24, the First-tier Tribunal (Judge Lester) refused permission to appeal to the Upper Tribunal. However, when the application was renewed to the Upper Tribunal, Upper Tribunal Judge Ruddick granted permission on 27.11.24, considering that: (i) it is just arguable that the judge erred by only considering the risk of re-trafficking by the same traffickers, which is inconsistent with the guidance in TD & AD; (ii) that the judge erred by failing to take the appellant's personal circumstances into account, in particular her mental health and that she would be returning as a single parent; (iii) by not taking into account the country context and the appellant's accepted history of trafficking when finding that the appellant would not be at increased risk because there was no "clear evidence" that her child (or children) are in fact illegitimate, [23]; (iv) failing to take into consideration that the appellant would be returning as the mother of at least one child when considering the reasonableness of relocation at [27-29] of the decision.
5. I have carefully considered the decision of the First-tier Tribunal, the grounds, the submitted documents, and taken into account the helpful submissions of both representatives before reaching my decision. I note in passing that some of the grounds overlap and some are poorly drafted. For example, at paragraph 11 it is submitted that the judge "failed to give inadequate reasons." However, the intent is discernible.
6. At [15] of the decision, the judge concluded on the evidence that the appellant does not now have a well-founded fear of persecution on return, having escaped from her traffickers on the very day of her arrival in the UK in July 2021 and given that there has been no further contact or threat, to her or her family in Albania. The judge found that on return she would not willingly place herself in circumstances where she would be at risk of re-trafficking and found that those who had trafficked her were not likely to actively pursue her or forcibly re-traffic her. It is also clear that the judge considered and purported to apply the guidance of TD & AD, as can be seen from [16] of the decision.
7. Some aspects of the grounds amount to little more than a disagreement with the findings and an attempt to reargue the case. For example, at paragraph 11 the grounds plead the appellant's case that she maintained her child would be

perceived as illegitimate. There can be no doubt that the judge has addressed this issue, at least to some extent, as discussed below.

8. In relation to the appellant's circumstances, I must bear in mind that it matters not what order the relevant factors are considered, as the written decision is but a summary of the reasons for the decision made after consideration of all evidence and all relevant factors. It should not be assumed that the decision is made by a series of sequential findings, and only then the final decision reached.
9. It is important to point out that the judge made alternative findings, both on the basis of no family support, and even if wrong on the assessment of risk. Those alternative findings from at [24] onwards were that there would be a sufficiency of protection, and from [28] onwards that relocation would be reasonably open to her. It follows that even if the judge was wrong on the risk of re-trafficking under protection grounds, the appeal could not succeed if there would be either or both a sufficiency of protection and reasonable internal relocation.
10. The issue of sufficiency of protection is largely ignored in the grounds, though I accept it was referenced at paragraph 7 of the grounds in relation to the first ground.
11. In relation to that first ground, I accept that the judge made no specific reference to the risk of the appellant being re-trafficked by persons other than those who trafficked her to the UK. Mr Gajjar pointed to paragraph [11] of his skeleton argument before the First-tier Tribunal where the Tribunal was invited to consider the 'wider risk' of trafficking based on her personal circumstances. However, at [12] the judge confirmed that all of the evidence had been taken into consideration and it was not necessary to specifically address each and every element.
12. The risk from the same traffickers is certainly addressed at [15] and [29] of the decision and cogent reasoning provided for the findings. It is not clear to me, however, that the decision would or could be any different if the judge had specifically referred to a risk of trafficking from others. Reading the decision as a whole, I am satisfied that in addressing the risk of re-trafficking, the judge must be taken to have also considered the risk of trafficking by anyone else, i.e. the risk of trafficking in general. I also note that at [23] the judge reached a conclusion on both trafficking or re-trafficking, which I take as a good indication that the judge was considering the risk of trafficking generally, on the basis of the appellant's circumstances. I do not accept that the judge adopted such a narrow view of the risk of trafficking as is asserted in the grounds and submissions.
13. The second part of this first ground is that the judge failed to have regard to the guidance in TD & AD in relation to the appellant's vulnerability arising from mental health issues when considering the reasonableness of internal relocation and the provision of shelters. Reliance was placed by Mr Gajjar on (e) of the headnote, to the effect that unless the individual has particular vulnerabilities, such as physical or mental health issues, the option of staying in a shelter cannot generally be said to be unreasonable. However, the judge had already set out at [16] the relevance of mental health in the assessment of risk. The mental health issues were also cited at [22] of the decision and the judge found that appropriate treatment would be accessible by the appellant in Albania for her depression, insomnia, stress and anxiety. I am satisfied that the judge had properly taken the appellant's vulnerabilities into account. It follows that no material error of law is disclosed by this first ground of appeal.
14. At [17], the judge rejected the assertion that the appellant would have no support from her mother, finding that she would be able to access a network of

support. Mr Gajjar explained something of the appellant's interview evidence as to the controlling behaviour of her father and his apparent hostility towards the appellant, arguing that the finding that there would be support from the mother was an irrational conclusion. On this issue, ground 2, I am satisfied that the finding made was open to the Tribunal on the evidence, to the rather limited extent it was made. At the commencement of [17], the judge noted the appellant's case on this issue. Furthermore, as Ms Everett pointed out, the judge did not make a finding that the appellant could rely on her mother alone for support and did not purport to quantify the extent of the support. Unarguably, the evidence was that the appellant remained in contact with her mother; it would have been an error of law to leave this potential support out of account. Furthermore, the judge went on in the following paragraph, [18], to consider that even if there was no family support, Albanian state support would be available to the appellant, for the reasons stated. At [18] and [19], the judge noted the various forms of support available from the Albanian government, as highlighted in the country background information before the Tribunal. At [20] the judge concluded that with that support from the authorities, the appellant would be able to reintegrate in Albanian society. That conclusion took into account steps taken to protect against trafficking as referenced at [21] of the decision and support for mental health issues as noted at [22]. In the circumstances, the finding was not irrational and there is no merit in this ground of appeal.

15. In assessing the risk of re-trafficking, the judge explicitly assessed a number of factors, including the finding on family support as well as the appellant's education. Ground 3 relates to [23] of the decision and argues that the judge failed to provide adequate reasons for finding that the appellant's daughter would not place her at increased risk. It was the appellant's case that her daughter would be perceived as illegitimate, a relevant factor in the guidance of TD & AD. Plainly, the judge did not accept that the child was illegitimate. For the reasons given at [23] and again at [31], the judge concluded that the appellant would not be at any increased risk of being re-trafficked or made more vulnerable (stigmatised) even if her child/ren were considered to be illegitimate. It is implicit from the decision that the appellant would be returning as a single mother, and the judge was entitled to consider and reach a conclusion as to whether the child/ren would be considered as illegitimate.
16. However, I accept Mr Gajjar's overarching submission that the judge appears to have addressed each issue individually and did not take a holistic approach, considering the evidence as a cumulative whole. In the drafting of a decision, any judge has to start somewhere and address each issue. The real question is whether in addressing and rejecting individual issues the judge overlooked the need to take a holistic approach in assessing the overall risk, or alternatively in accessing a sufficiency of protection or the reasonableness of relocation. For example, the reference to illegitimacy at [23] refers to "*in view of that alone,*" suggesting that factor alone would be insufficient. There is no indication that returning as a single mother with one child and another expected was considered in the round with other factors. Furthermore, there was no consideration of whether she would be able to find a shelter in her 'single parent' with child/ren circumstances. This criticism equally applies to the treatment of the appellant's mental health; each issue has been addressed in turn but not together.
17. The same point is made in ground 4, alleged failure to consider the child/ren when assessing the issue of reasonable internal relocation, which is addressed at some length, on the basis of the appellant as an individual, but not on the cumulative circumstances of, e.g. mental health, single parent, another child

expected, limited family support, etc. The criticism was again made in the oral submissions that there was no adequate holistic assessment.

18. In her submissions, Ms Everett pointed out that Mental health is considered at [22], and whether the child/ren would be considered as illegitimate is more than adequately considered and the finding reasoned at [23] and referenced again at [31] of the decision. The points made on this aspect of the decision in the grounds at paragraph 12 are ill-founded. Specifically, I do not accept that the decision can or ought to be interpreted as that the judge reached a conclusion at [30] and only as an afterthought addressed the issue of whether the child/ren might be considered as illegitimate and whether that created any additional risk on return.
19. However, taking a step back and considering what was otherwise a clear and detailed analysis of the evidence, I am driven to conclude that it was flawed by the separate treatment of individual factors without making thereafter an overall, holistic assessment. In the circumstances, I am satisfied that it has been demonstrated that the decision is materially flawed for material error of law and must be set aside.
20. Given that it would not be appropriate to preserve any of the findings, I am persuaded that this is a case which should be remitted to the First-tier Tribunal to be made afresh.

Notice of Decision

The appellant's appeal to the Upper Tribunal is allowed.

The decision of the First-tier Tribunal is set aside.

The remaking of the decision in the appeal is remitted to the First-tier Tribunal with no findings preserved.

I make no order as to costs.

DMW Pickup

Judge of the Upper Tribunal
Immigration and Asylum Chamber
Sitting in Retirement

29 January 2025