



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

Appeal Number: PA/00803/2020 (V)
PA/00804/2020 (V)

THE IMMIGRATION ACTS

**Heard at Field House (via remote video means)
On 25th January 2021**

**Decision & Reasons
Promulgated
On 24th February 2021**

Before

UPPER TRIBUNAL JUDGE JACKSON

Between

**AT & AT
(ANONYMITY DIRECTIONS MADE)**

Appellants

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Bobb, Solicitor

For the Respondent: Mr T Lindsay, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was by video, using Skype. There was a brief interruption to the video hearing near the end with connection being lost, following which the hearing was reconvened and continued without any further technical difficulties or interruption. A face to face hearing was not held to take precautions against the spread of Covid-19

and as all issues could be determined by remote means. The file contained the documents in paper format.

2. The Appellants appeal with permission against the decision of First-tier Tribunal Judge Davies promulgated on 2 April 2020, in which the Appellants' appeals against the decision to refuse their protection and human rights claims dated 31 December 2019 were dismissed.
3. The Appellants are a mother and her three year old daughter, who are both Albanian nationals. I refer in this decision to the First Appellant, the adult, as the Appellant and where needed to the Second Appellant as the child Appellant or Appellant's daughter. On occasion both are referred to together as the Appellants.
4. The Appellant claims to have entered the United Kingdom on 22 July 2015, claiming asylum on 23 July 2015. The Appellant was referred through the National Referral Mechanism for consideration of whether she was a victim of trafficking on 6 August 2015, which resulted in a conclusive grounds decision on 31 May 2017 that she was not a victim of trafficking or modern slavery. The Respondent refused the asylum claim on 5 February 2018 and the Appellant's appeal against that refusal was dismissed by the First-tier Tribunal on 17 October 2018.
5. First-tier Tribunal Judge Jones in the decision promulgated on 17 October 2018 made significant adverse credibility findings against the Appellant in her first appeal, rejecting the core of her claim to have been trafficked and to be at risk on return to Albania. The only part of the claim that was accepted was that the Appellant had previously worked as a prostitute in Belgium and as to her family circumstances in Albania (namely that she had previously lived with her parents, who were both registered as disabled, and her younger brother, then aged 18). It was found that the Appellant would continue to have the support of her family on return to Albania and with that support could raise her child. Further, it was found to be plainly in the best interests of the child to remain living with the Appellant and to enjoy her full rights of citizenship on return to Albania with the Appellant.
6. The Appellant sought permission to appeal from both the First-tier Tribunal and the Upper Tribunal, both of which were refused. The Appellant sought permission to apply for Judicial Review of the refusal of permission by the Upper Tribunal, was refused by Her Honour Judge Robinson sitting as a Deputy High Court Judge on 5 April 2019. In that refusal, the ground relating to reliance on country guidance was found to have poor prospects of success given the adverse credibility findings and finding that the Appellant had not been trafficked (the country guidance being applicable to trafficked women). The challenge to the finding that the Appellant had not been trafficked was found to be hopeless and the remaining grounds amounted to no more than disagreement.

7. The Appellant made further submissions on 29 April 2019, which raised a number of areas of disagreement with the previous First-tier Tribunal decision, with findings said to be clearly perverse and then focused on the claim that the Appellants had been abandoned by family in Albania and at risk on return there as a single parent family with a child born out of wedlock. The further submissions were refused on 31 December 2019.
8. The Respondent refused the application the basis that much of the submissions were a repeat claim, previously considered and rejected (with reliance placed on findings of First-tier Tribunal Judge Jones) and it was not accepted that the new evidence was sufficient to establish a real risk to the Appellant on return to Albania (as it did not establish that the Appellant had been disowned by her family as claimed), nor would there be any breach of Articles 3 or 8 of the European Convention on Human Rights on medical grounds, as treatment would be available on return. The Appellants did not meet any of the requirements for a grant of leave to remain under the Immigration Rules, within Appendix FM or under paragraph 276ADE. The best interests of the child Appellant were considered and the Respondent found that the Appellant and her daughter could return, as Albanian nationals, to reside in a secure environment together, with the Appellant being able to obtain employment and re-establish herself and the child Appellant entitled to undertake education. Specific reference was given to the support of extended family as found by First-tier Tribunal Judge Jones.
9. First-tier Tribunal Judge Davies dismissed the appeal in a decision promulgated on 2 April 2020 on all grounds. The starting point in the decision in accordance with the principles in *Devaseelan* was the decision of First-tier Tribunal Judge Jones with a summary of the earlier findings set out, including the adverse credibility findings and that the Appellant was not a victim of trafficking, she would not be at risk of trafficking on return to Albania and that on return she would have the support of family and with such support she could raise her daughter there. Although the Appellant continued to rely on claimed errors in the decision of First-tier Tribunal Judge Jones, it was found that there was no basis for departing from the earlier decision.
10. The First-tier Tribunal then considered in paragraphs 42 to 55 the fresh evidence relied upon by the Appellants, which included a letter from the Department of Social Protection at Gramsh (the Appellant's home area) dated 20 March 2019 (the "social worker's letter") and a letter from the Appellant's younger brother. Although lengthy, it is helpful given the nature of the grounds of appeal to set out the First-tier Tribunal's findings and reasons for rejecting the further evidence; which are as follows:

"46. There are a number of concerns I have about this additional evidence. First of all, it followed a few months after the dismissal of the Appellant's case by Judge Jones. The Judge had specifically found that she would have the support of her parents. The letter or declaration as it is called appears as a piece of advocacy for the

Appellant. The letter is unbalanced in that it makes no reference to any protection available through the Department for the Appellant and her child but simply concluded that return would be suicidal.

47. The author of the social services letter referred to her visit to the family home where a mother and father and brother lived. Both the Appellant in her oral evidence and the younger brother in his letter confirmed that he lived at home with his parents upon whom he was dependent. The younger brother is supportive. However, the social worker referred to the brother's reactions being extreme. No reference was made to a conversation with an older brother not living in the house. The reference could only be to the younger brother and what the social worker stated is of course inconsistent with the support he has demonstrated.

48. The Appellant was asked if her older brother was present at the social work visits to the family home. She did not know. She did not know either whether [the younger brother] was present at the visits.

49. The Appellant confirmed that all the information in the possession of the social worker was from [younger brother]. She was asked why the social worker did not contact her. The Appellant stated: "I am not in contact with these people. Don't want to be in touch with anyone else in Albania." It is difficult to understand how social workers could make an appropriate assessment of any danger to the Appellant and her child without having contact with her. It was clear from the Appellant's response that she had no intention of having any contact with the people it is alleged younger brother contacted in order to facilitate a return to Albania.

50. The Appellant demonstrated in her oral evidence that she knew little or nothing about the visits. She did not know the number of visits. She knew that several visits were made. She did not know if they were invited into the house. She claimed that the social workers explained why they had come to the house but was unable to provide details of the explanation.

51. The Appellant was also asked whether [her younger brother] was present at the visits. She stated that she did not know. The question was put again. She was asked if he was present at any visits. She did not know. There are the big the question as to how [her younger brother] was able to give such a detailed account of what was said at the meeting. I remind myself that the Appellant confirmed that she was periodically in contact with [her younger brother].

52. I noted that [the Appellant's younger brother] used the same (translated) word 'harsh' to describe the attitude of the family. On the other hand, it was put to the Appellant in cross-examination that his letter was different from what the social work declaration stated. According to the social worker, the older brother stated that he would

not feel sorry to kill the Appellant, he would prefer to be in jail with honour and they had always been a good family and he could not forgive his sister. [The Appellant's younger brother's] description of the brother's words was completely different. The Appellant's explanation was that the letter was from his own experience and the social worker letter was more detailed because of their experience. However, both documents report to state what the older brother had said. Taken with my concerns about which brother was present at the alleged interviews, the discrepancy amplifies my concern about the weight I can put on the social work document.

53. I also note that although the document was written for the benefit of the Tribunal in the UK there is no indication in the report as to how the social workers became involved in the first place. The position is unclear. The Appellant had not been in touch with social services. Indeed she did not wish to speak to them. The report indicated that the father was completely dismissive and did not wish to prolong the discussion. Yet the suggestion is that a number of visits were made.

54. The burden is on the Appellant to the lower standard to establish that I can put weight upon the document on which she relies. Taking account of all the evidence and with the concerns about the Appellant's credibility from the earlier appeal I am not satisfied that she has done so. There are too many unanswered questions. Much of [her younger brother's] letter is also based on what was reportedly said by the Appellant's family to the social workers notwithstanding the uncertainty as to whether he was even at the meetings."

11. Overall on risk on return, the First-tier Tribunal was not satisfied that there were grounds to depart from the earlier decision, notwithstanding the additional evidence, because that additional evidence was not reliable. The Appellant was not at risk on return to Albania solely on account of having a child out of wedlock and it was in the best interests of her daughter to remain living with her, in a country of which she was a national. The First-tier Tribunal found that the Appellant's younger brother, whilst young and unemployed, would be likely to offer personal support. The Appellant's parents had previously supported her, notwithstanding her history of working as a prostitute in Belgium and at the time of the earlier Tribunal, must have been aware of the birth of the child Appellant.
12. In relation to the medical grounds, the First-tier Tribunal considered the further medical evidence available but concluded that there was no fresh evidence to justify departure from the previous conclusion that medical treatment would be available to the Appellant on return to Albania. There is no further challenge to these findings.
13. In relation to Article 8 of the European Convention on Human Rights, the First-tier Tribunal recorded in the decision that there were no oral

submissions on this point and also found no reason to depart from the previous findings on this from First-tier Tribunal Judge Jones.

The appeal

14. The Appellants appeal on four grounds, the first of which is broken down into numerous sub-parts which need to be set out relatively fully. The first ground of appeal is that the First-tier Tribunal erred in law in its approach to the reliability of the social worker's letter, in particular that it was not considered in light of objective country background material and country guidance cases on Albania, considering the document in isolation and with too great a focus on how and why it was obtained rather than its substantive contents. The Appellant states that there was detailed evidence before the First-tier Tribunal from her and her younger brother as to how the letter came about, in essence it was an attempt to reconcile the family when the Appellant was faced with the prospect that she may need to return to Albania if she was unable to overturn the decision of First-tier Tribunal Judge Jones. The scenario was said not to be inherently incredible or implausible.
15. The sub-parts of this ground which specifically address the reasoning of the First-tier Tribunal set out above are as follows:
 - (i) In circumstances where the Respondent had not asserted that the document was a forgery, the First-tier Tribunal in any event found the document not to be genuine, therefore a fraud, but failed to apply the higher standard of proof in relation to this.
 - (ii) The First-tier Tribunal failed to consider the document in the round against the background of country evidence which establishes that Albania, particularly the northern parts, have traditional conservative values with a strong concept of honour. Further, that the Respondent had the opportunity to verify the genuineness of the document which came from a named individual and official source, but had failed to do so.
 - (iii) In relation to paragraph 46 of the First-tier Tribunal's decision, the letter was only in relation to efforts to reconcile the family and there was no evidence either way as to whether the Department of Social Protection could offer any protection.
 - (iv) In relation to paragraph 47 of the First-tier Tribunal's decision, it is bordering on perverse to find an inconsistency as to the Appellant's brother's approach where it is clear that the Appellant has two brothers, the younger of which is supportive and it was obviously the older brother who made the threat to her recorded in the social worker's letter.
 - (v) In relation to paragraph 49 of the First-tier Tribunal decision, the Appellant submits that contrary to the finding that the social worker

could not have assessed the situation without direct contact with her; it was entirely possible to do so with information from the Appellant's younger brother and visits to the family home.

- (vi) In relation to paragraphs 48, 50 and 51 of the First-tier Tribunal's decision, the Appellant submits that contrary to the decision, it was clear from the context that the Appellant's older brother was at one of the meetings and the Appellant was not present and therefore could not be expected to give details of it. Further, the Appellant's younger brother gave his evidence either from his presence at one or more of the meetings, and/or having read the social worker's letter.
 - (vii) In relation to paragraph 52 of the First-tier Tribunal's decision, the Appellant submits that the reasoning is illogical and there are inconsistent findings between paragraphs 51 and 52.
 - (viii) In relation to paragraph 53 of the First-tier Tribunal's decision, the Appellant submits that contrary to the findings, there was sufficient evidence as to how the social worker's letter came about and on its face it explains that there were a number of visits. Conversely, there was a lack of evidence that the Appellant's father was dismissive nor that he did not want to prolong the discussion. It would be reasonable to infer that the letter was a summary or concluding statement after all of the discussions.
 - (ix) In relation to paragraph 54 of the First-tier Tribunal's decision, a higher standard of proof than that applicable was applied to the question of whether there was a real risk to the Appellant. In particular, matters are taken into account which are said not to be relevant to the reliability of the evidence or risk (such as whether the Appellant knew if either brother was at any of the meetings) and that any deficiencies in the letter should not be judged by the standard of social services in the United Kingdom.
16. Overall, the Appellant submits that although a number of the points taken individually may appear to be disagreement with the findings, taken cumulatively they amount to errors of law, including demonstrating a lack of reasoning.
17. The second ground of appeal is that the First-tier Tribunal failed to properly assess the best interests of the child Appellant; relying only on the earlier findings of First-tier Tribunal Judge Jones on this rather than assessing the best interests at the date of hearing. The Appellant submits that the First-tier Tribunal should have considered the child Appellant's age, vulnerability as a child born out of wedlock, the perception of her extended family that shame has been brought upon them by her birth, the direct and implied threat to her mother and the conservative nature of Albanian society. Further, that the First-tier Tribunal relied upon earlier findings which were demonstrably perverse given that the Appellant's evidence as to her family situation was wrongly recorded.

18. The third ground of appeal is that the First-tier Tribunal erred in law in failing to apply the parts of AM and BM (Trafficked women) Albania CG [2010] UKUT 80 (IAC) and TD and AD (Trafficked women) Albania CG [2016] UKUT 00092 (IAC) which are of general application about the nature of society in Albania, the position of women and the approach to illegitimate children. These matters were submitted to be relevant even through the Appellant was found not to have been trafficked.
19. The fourth and final ground of appeal is that the First-tier Tribunal failed to make any findings on Article 8 of the European Convention on Human Rights when this was raised as a ground of appeal with written submissions made in the skeleton argument on behalf of the Appellant. The Appellant specifically claimed that she met the requirements in paragraph 276ADE(1)(vi) of the Immigration Rules on the basis that she would face very significant obstacles to reintegration as a single parent with a child born out of wedlock and a family who could not or would not support her.
20. At the oral hearing, Mr Bobb relied on the detailed written grounds of appeal, with further oral submissions expanding on the same. Mr Bobb sought to rely on the case of MJ (Singh v Belgium: Tanveer Ahmed unaffected) Afghanistan [2013] UKUT 00253 (IAC) that the social worker's letter was one of a category of documents identified that the Respondent should have sought to verify as it would be easy to do so, having come from an unimpeachable source and having been signed by a named individual. The Respondent had previously verified the Appellant's travel records with the authorities in Albania. Although it was accepted that there was no express reliance on MJ before the First-tier Tribunal, Mr Bobb submitted that the First-tier Tribunal erred in failing to conduct a proper assessment of the document by not considering the Respondent's lack of verification and/or not reducing the weight to be attached to the Respondent's submissions on the genuineness of the document because of her failure to verify it.
21. In relation to paragraph 46 and the First-tier Tribunal's reference to the letter being self-serving, Mr Bobb reiterated that all evidence is to an extent self-serving and this statement takes the matter no further in the First-tier Tribunal's reasoning.
22. Mr Bobb placed specific reliance on the grant of permission by Upper Tribunal Judge Pitt against the Respondent's initial refusal to accept the Appellants' further submissions as a fresh claim under paragraph 353 in relation to the First-tier Tribunal's reliance on the earlier finding that the Appellant had not previously claimed any risk of harm to her or her child because she was born out of wedlock; without any consideration of the background country evidence or general information contained in the country guidance decisions relied upon. In addition, Mr Bobb submitted that as in paragraph 152 of AM and BM, the Appellant would be returned to Albania without a passport and/or at public expense, such that it is

likely that she would be identified at the border and her family contact; therefore at risk on return.

23. As to the second ground of appeal, Mr Bobb submitted that First-tier Tribunal Judge Jones erred in law as to the assessment of the best interests of the child Appellant and First-tier Tribunal Judge Davies erred in law in relying on the same without detained assessment of the child Appellant's best interests following the new evidence about a lack of family support on return to Albania.
24. Mr Bobb relied on the written grounds of appeal in relation to the fourth ground of appeal and accepted that this ground essentially stands or falls with the other grounds given the specific factual matrix in this case.
25. On behalf of the Respondent, Mr Lindsay opposed the appeal on all grounds which he submitted were in essence disagreement with the decision under appeal and continuing disagreement with the decision of First-tier Tribunal Judge Jones.
26. In relation to the first ground of appeal, it was submitted that the Respondent never alleged fraud or that the social work letter was a forgery, nor was there any such finding by the First-tier Tribunal and therefore no errors as to the correct standard of proof. The First-tier Tribunal was however right to approach the document with circumspection given the previous adverse credibility findings, which included a rejection of the core of the Appellant's protection claim, two refusals of permission to appeal against the decision of First-tier Tribunal Judge Jones and a failure to obtain permission to Judicially Review the Upper Tribunal's refusal. The document was considered in the round together with all other evidence and the principles in *Tanveer Ahmed* were applied by the First-tier Tribunal.
27. Mr Lindsay submitted that the social worker's letter was not evidence that it would be easy for any First-tier Tribunal to give weight to given that it was not a witness statement, nor an expert report. In the circumstances of this case, it is also problematic that the letter was not commissioned by the Appellant and that she had had no direct contact or involvement at all in it or the substance contained therein; nor was there any discussion between the Appellant and her younger brother about the visits. As such, the Appellant was not in a position to demonstrate the reliability of the letter or its contents. There was no explanation from the Appellant as to why she did not seek the evidence herself and there was no evidence that her younger brother was at any of the visits to report what happened.
28. Overall, the First-tier Tribunal gave careful and thorough reasons in paragraphs 46 to 52, with entirely appropriate findings as to the weight to be attached to the social worker's letter. Mr Lindsay suggested that the Appellant placed too much weight on the reference to the Appellant's brother in paragraph 47 given the contents of paragraph 52 which shows that the Judge clearly understood there were two brothers.

29. As to verification of the document, Mr Lindsay submitted that there was no duty on the Respondent to verify the letter on the facts of this case; the principle in MJ not arising here as the document in question was of a different category and in circumstances where such documents are easily falsified. Further, the Appellant had not been involved in obtaining the evidence and had previous adverse credibility findings against her. The First-tier Tribunal expressly applied the principles in *Tanveer Ahmed* which were expressly confirmed as applicable in MJ.
30. Finally, on the first ground of appeal, the reliance on MJ and verification was not raised before the First-tier Tribunal and it was not a *Robinson* obvious point. In any event, it does not assist the Appellant.
31. In relation to the second ground of appeal, there was no evidence of any change in circumstances in relation to the child Appellant since the decision of First-tier Tribunal Judge Jones and therefore nothing new to consider as to her best interests. If there is no error of law in the finding that the Appellant had not been disowned by her family and would have family support on return, then there can be no material error of law as the child Appellant would not be materially worse off in Albania compared to in the United Kingdom given her entitlement to benefits as an Albanian national.
32. Overall, this ground stands or falls with the first ground of appeal. Mr Lindsay accepted that if a material error of law was found on the first ground, then there would be some difficulty in the Respondent supporting the assessment made; but if there was family support, this could not be a free-standing ground of appeal with any prospect of success.
33. In relation to the third ground of appeal, Mr Lindsay submitted that they were simply not relevant as the country guidance was all focused on trafficked women and the Appellant was not trafficked. Although the decisions contained evidence of circumstances more generally, the Appellant should have relied upon specific evidence of those matters. In essence, in this ground of appeal, the Appellant is suggesting that the First-tier Tribunal erred in law in not expanding the categories in the country guidance.
34. In relation to the final ground of appeal, the Appellant essentially continues on the theme that First-tier Tribunal Judge Jones made perverse findings and misunderstands the nature of findings and particularly adverse credibility findings which involved not all of the Appellant's claim being accepted. The fact that the Appellant stated something in her witness statement before the first Tribunal does not mean that it was an accepted fact.
35. In reply, Mr Bobb reiterated that the grounds must be considered cumulatively, although some stood individually as errors of law in their own right.

Findings and reasons

36. The lengthy grounds of appeal in this case all essentially turn on whether there was an error of law in the First-tier Tribunal's rejection of the two further pieces of evidence relied upon by the Appellant since her last appeal was dismissed, namely a letter from the Department of Social Protection (the social worker's letter) and to a lesser extent, a letter from her younger brother. It is accepted on behalf of both parties that the second ground of appeal in relation to the best interests of the child Appellant stands or falls with the first ground of appeal. If the First-tier Tribunal did not err in finding family support on return to Albania, it was accepted that there was nothing further to consider in relation to the child Appellant's best interests, there was no change since the earlier Tribunal decision and no further factors were raised. If however there was an error in the finding of family support being available on return to Albania, then there would likely be further considerations for the assessment of the child Appellant's best interests which needed to be taken into account by the First-tier Tribunal who would, in those circumstances, have erred in not considering the same.
37. Although I find that the second ground of appeal does stand or fall with the first, there is one specific point relied upon by the Appellant that it is convenient to deal with given the repeated reliance upon it. The Appellant submits that a finding in paragraph 55 of the decision of First-tier Tribunal Judge Jones was plainly perverse and therefore should not have been relied upon by First-tier Tribunal Judge Davies. The part of this paragraph challenged as perverse is that the decision recorded that it was not suggested by the Appellant's Counsel that the Appellant would be at risk of ill treatment on return to Albania solely as a result of having a child out of wedlock. The Appellant states that this is directly contrary to her evidence before that Tribunal, which was that her parents would never accept a child out of wedlock and would never accept her or the child.
38. The Appellant does not, in reliance on this, understand the difference between her own evidence as to family acceptance (or otherwise) of her having a child out of wedlock and the legal submission on her behalf as to risk on return because she had had a child out of wedlock. The two are not the same thing and are not directly contradictory and in any event, her claim about a lack of family support was rejected.
39. In this particular case, there was nothing to suggest any risk to the Appellant outside of her family (or even home area) as a result of having a child out of wedlock and the evidence upon which the Appellant now relies in the form of the social worker's letter refers directly to her parents' view that the Appellant can do whatever she wants as long as she stays away from the family and the threat said to have been made was on the basis of what her brother said would happen if she returned home. Further, there is a clear misunderstanding of the very high threshold for perversity, particularly in the circumstances of this case where the permission to

appeal was refused by both the First-tier Tribunal and the Upper Tribunal and permission to apply for Judicial Review of the latter was also refused.

40. I also find that the final ground of appeal in relation to Article 8 of the European Convention on Human Rights similarly stands or falls with the first ground. That is because in essence, the same factual circumstances are relied upon by the Appellant in relation to both risk on return for the purposes of her protection claim and as to whether there are very significant obstacles to reintegration for the purposes of paragraph 276ADE of the Immigration Rules and Article 8 of the European Convention on Human Rights. Whilst I accept that there were written submissions on behalf of the Appellant in relation to Article 8 upon which no express findings were made by the First-tier Tribunal (on the basis that no Article 8 claim was not orally), upon which specific findings should have been made, in reality, this could not have been material to the outcome of the appeal given the rejection of the core of the Appellant's protection claim to the lower standard of proof on identical facts. There were no further findings of fact required and on those already made, it is clear that the Appellant's human rights claim would in any event have been dismissed for the same reasons.
41. The third ground of appeal overlaps with aspects of the first ground of appeal and I consider these together. The third ground of appeal as to applicability of country guidance is not a free-standing error of law in the absence of factors relied upon in the first ground of appeal and it is important to note that this same ground of appeal was relied upon in relation to the decision of First-tier Tribunal Judge Jones and rejected, up to and including in the application for permission to apply for Judicial Review of the refusal of permission to appeal.
42. On the first and third grounds of appeal, I deal with each of the distinct points raised in the grounds of appeal and orally on behalf of the Appellant, bearing in mind that it is accepted that not all are independently capable of amounting to a material error of law and that the Appellant has expressly relied upon the cumulative nature of the points raised.
43. The first point relates to whether the Respondent and/or the First-tier Tribunal had alleged or found that the social worker's letter was a forgery and if so, whether the correct standard of proof had been applied. There is nothing to suggest that the Respondent alleged that the document was a forgery and the point that such documents are easily available in Albania does not go this far. The First-tier Tribunal does not suggest any such allegation of fraud by the Respondent and in its own findings, only goes so far as finding that the Appellant has not established, to the lower standard applicable, that weight can be attached to the document taking into account the earlier adverse credibility findings and all of the evidence in the round. That is not a finding that the document is fraudulent or a forgery and the issue before the First-tier Tribunal was not a binary question of whether it was genuine or not, but an assessment as to the

weight to be attached to it considering everything in the round. In these circumstances, where there was no finding, expressly or implicitly in the decision that the document was a forgery, there can be no error as to the standard of proof applied.

44. The second point in the first ground of appeal is linked to the third ground of appeal, as to whether the social worker's letter was considered in the round against the background country evidence as to the traditional nature of society in Albania. This is a point which the Appellant has repeatedly relied upon, including when seeking to challenge the decision of First-tier Tribunal Judge Jones and/or the refusal of permission to appeal the same. This same point was rejected in all of those applications, up to and including the High Court on the basis that the country guidance cases relied upon were specific to the circumstances of trafficked women and therefore not applicable to this Appellant who had not been trafficked. Those reasons remain applicable in the present appeal against First-tier Tribunal Judge Davies' decision. The country guidance relied upon was specifically in relation to trafficked women and authoritative (subject to the exceptions of cogent evidence being relied upon to depart from it) only in relation to that category of person, which the Appellant does not fall in to.
45. In any event, the wider evidence before the Upper Tribunal in the country guidance cases as to the conservative nature of society in Albania and the importance of honour, particularly in the north, could only support the Appellant's claim to the limited extent that her claim to have been disowned by her family was plausible in accordance with background country evidence. However, that does not and could not have advanced her claim in any significant or material way in light of the adverse credibility findings, specific finding (on her own claim) that her family continued to support her previously despite having worked as a prostitute in Belgium and given the range of reasons given by the First-tier Tribunal as to why the further evidence in the form of the social worker's letter and letter from the Appellant's younger brother could not be given weight (even if it was factored in that such evidence was not inconsistent with background country evidence).
46. On verification of the social worker's letter, I find that the Respondent was not under any obligation to do so on the facts of this case and the basic principles in *Tanvir Ahmed* continued to apply and were applied in this appeal. In any event, this is not a matter which was raised before the First-tier Tribunal and it does not come close to a *Robinson* obvious point such that the First-tier Tribunal did not err in law in not considering either whether the Respondent should have verified the document, or, as put in oral submissions, in not reducing the weight to be attached to the Respondent's submissions on the document. The latter was unnecessarily convoluted given that the task for the First-tier Tribunal was to determine the weight to be attached to the document (not submissions on it by one or other party) and it is trite that the weight to be attached to a document is primarily a matter for the First-tier Tribunal.

47. The third point within the first ground of appeal directly relates to paragraph 46 of the First-tier Tribunal's decision and the Appellant submits that the First-tier Tribunal errs in finding that the social worker's letter is unbalanced because it does not refer to protection available to the Appellant in circumstances where the letter was never intended to do other than confirm the failed attempts to reconcile the Appellant with her family.
48. However, this reason relied upon by the First-tier Tribunal is clearly related to the final paragraph of the letter which states: *"I think returning to Albania will be 'suicidal' for [the Appellant] because she does not have the support of her family and she will be faced with economic difficulties. She will have difficulty in raising her child, she will be subject to prejudice from people. To have a child out of wedlock is not normal for a lot of people in Albania. It is considered immoral and a breaking of the family code."*
49. The reason in the last part of paragraph 46 does not apply to the letter as a whole or the purpose for it, but to this last conclusion reached without the Appellant having any direct contact with the social worker, without any information as to what information had been given to them about her and without any reasons given for this conclusion which is outside of the main substance and reason for the letter, the Appellant's claim to have been disowned by her family. The concern raised at the end of paragraph 46 of the decision that the letter is unbalanced and reaches a simple (and I would add, unreasoned conclusion) about return was entirely reasonable and open to the First-tier Tribunal. There is no error of law in this and none is specifically asserted in the grounds of appeal, which on this point, amounts to no more than disagreement or further submissions on behalf of the Appellant.
50. The fourth point in the first ground of appeal concerns the finding in paragraph 47 of the decision that the social worker's reference to the Appellant's brother threatening her was the Appellant's younger brother and not, her older brother, on the basis that there was no record of any conversation with an older brother not living in the house.
51. The social worker's letter states that several visits were made to the house where the Appellant's father, mother and brother live; which in the context of the evidence from the Appellant and her younger brother, is inferred to be the house where the Appellant's father, mother and younger brother live. There is nothing in the evidence before the First-tier Tribunal as to where the Appellant's older brother lives, although the social worker's letter does refer to 'sons' and therefore two brothers; it does not refer to any contact at all with the older brother at the family home or otherwise. In addition, there was no evidence before the First-tier Tribunal as to the number of visits or who was present during them; either from the Appellant herself who simply did not know, or from her younger brother who wrote a letter in support. Whilst at first sight the First-tier Tribunal appears to have reached a surprising conclusion about which brother

threatened the Appellant in the social worker's letter, read in the context of other findings and considering what information is (and is not) on the face of the letter itself, I do not find that it discloses any error of law when considering the weight to be attached to the two further pieces of evidence by the First-tier Tribunal, particularly when clear findings were made as to the younger brother being supportive later in the decision. There was no failure by the First-tier Tribunal to understand the Appellant had two brothers. It was open to the First-tier Tribunal to raise concerns as to inconsistent evidence about the Appellant's brother when the social worker's letter did not itself identify which brother was being referred to (having only identified who could only be the younger brother living in the house visited), nor directly refer at all to the Appellant's older brother, nor did it refer in any way to the younger brother's claimed role in obtaining the assistance or evidence.

52. In any event, even if the First-tier Tribunal were wrong in that the letter referred to a threat from the Appellant's older brother (not the younger brother), it is difficult to see how this alone could be a material error of law in the context of the reasons given for little weight being attached to the documents; which were more wide ranging than this point and in the context of the decision as a whole which finds the Appellant's younger brother to be supportive and the Appellant not to be credible. I return later to whether there could cumulatively be an error of law.
53. The fifth point within the first ground of appeal relates to paragraph 49 of the decision, the Appellant stating that contrary to the decision, it was entirely possible for the social worker to assess the situation without direct contact with the Appellant. Although this may be the case for assessing whether the Appellant had been disowned by her family (upon which an assessment could reasonably be made on the evidence of interactions with the family alone), this paragraph in the decision is clearly in relation to the risk to the Appellant and her child on return and therefore primarily aimed at the final conclusion paragraph in the social worker's letter upon which it was entirely reasonable and open to the First-tier Tribunal to question whether an appropriate assessment could be made without the Appellant's involvement.
54. In any event, even if it was possible for the social worker to make an appropriate assessment without any involvement at all with the Appellant, the grounds of appeal fail to identify the error of law in the First-tier Tribunal considering that it was difficult to understand how an appropriate assessment of danger to the Appellant and her child could be made without such contact. This is particularly so in the context of the letter itself containing no information as to what the social worker knew about the Appellant and her child, nor from whom. The contents of and reasons in paragraph 49 of the decision were reasonably open to the First-tier Tribunal on the evidence before it.
55. The sixth point in the first ground of appeal also fails to identify any error of law in the three paragraphs specifically referred to (paragraphs 48, 50

and 51), instead making submissions as to an inference that the First-tier Tribunal should have made but without reference to any evidence that was before it upon which to base the proposed conclusion. Contrary to the grounds, it was far from clear that the Appellant's older brother was at one of the meetings and to say that the younger brother gave his evidence from either presence at one or more meetings and/or from reading the social worker's letter takes the matter no further and does not address the concerns highlighted in paragraphs 51 and 52 in particular. There was simply no evidence at all before the First-tier Tribunal as to who was present at any of the visits by the social worker, the Appellant did not know and her younger brother's letter was silent on the issue, as is the social worker's letter.

56. In relation to the seventh point in the first ground of appeal, there is no illogicality or inconsistency in the reasons and findings made by the First-tier Tribunal in paragraphs 51 and 52 of the decision. In paragraph 51 it is recorded that the Appellant, even when pressed, stated that she did not know if her younger brother was at any of the social worker's meetings, despite being in contact with him, which raised the question of how he could give a detailed account of what was said with no evidence that he was there. In paragraph 52, the First-tier Tribunal highlights the difference in wording between the Appellant's younger brother's letter and the social worker's letter of what both present as a direct quote of the (older) brother's threat; which it was not accepted was adequately explained by the Appellant. The First-tier Tribunal placed weight on the discrepancy and lack of information as to who was at the home visits. There is no inconsistency between these findings, they are entirely consistent and were open to the First-tier Tribunal to make on consideration of discrepancies between the two documents relied upon.
57. The eighth point in the first ground of appeal relates to paragraph 53 of the decision which the Appellant states the First-tier Tribunal erred in reaching a finding contrary to the evidence before it as to how the social worker's letter came about. However, although the Appellant gave an explanation as to this, the First-tier Tribunal's point in this paragraph is that there was no indication in the document itself as to how the social workers became involved. That is correct on the facts, there was no such information in the document itself and the First-tier Tribunal had already raised concerns about the Appellant's evidence about this (or more specifically, lack of involvement and evidence about it) and as to her credibility generally.
58. The further point raised by the Appellant is that there was a lack of evidence before the First-tier Tribunal that the Appellant's father was dismissive and did not want to prolong the discussion with the social worker. However, although that exact description was not in the letter, it was reasonable and open to the First-tier Tribunal to conclude this on the basis of the record of the Appellant's father's words in the letter which included "*I am ending this conversation here and I do not want to hear about her.*". This point in the grounds of appeal amounts to no more than

disagreement with the decision, does not identify any error of law and in any event, is a relatively minor point rather than a key part of the reasoning, being just one of many examples of a discrepancy or lack of information on the face of the document itself.

59. The final point in the first ground of appeal is said to relate to the standard of proof applied to the question of risk to the Appellant on return, that too high a standard was applied and irrelevant matters were taken into account. This point simply misreads paragraph 54 which is not a conclusion as to whether the Appellant faces a real risk of persecution on return but is solely and expressly only a conclusion on the weight to be attached to the social worker's letter. There is further and contrary to the grounds of appeal, no express reliance on the Appellant's lack of knowledge about whether either of her brothers were present at any social worker visits in this paragraph; only a reference to the lack of any evidence at all as to whether the younger brother's letter was based on what he personally heard as it was unknown whether he was present at the relevant time.
60. What is clear from paragraph 54 is that the document has been considered in the round, including taking into account earlier adverse credibility findings and the information which is missing from the Appellant's claim (either from her, her younger brother or on the face of the social worker's letter itself). There is no suggestion in the decision, express or that can be inferred that there has been any unfair comparison with the standards of social services in the United Kingdom, nor in fact that there had been any comparison at all.
61. For the reasons set out above, the matters identified in the first ground of appeal do not individually have any merit in establishing an error of law in the First-tier Tribunal's decision. The numerous points raised disclose in the main, no more than disagreement with the findings made (including the findings made by First-tier Tribunal Judge Jones) and/or misunderstanding or misreading of the decision in both specific paragraphs and when read as a whole.
62. At first sight, the only point with arguable merit and which was specifically referred to in the grant of permission was as to whether the First-tier Tribunal erred in finding the social worker's letter referred to the Appellant's younger brother (not older brother) threatening her if she returned home; but on closer consideration in the context of the document itself, wider evidence and the full reasoning given by the First-tier Tribunal; this was a conclusion that was not irrational or perverse; nor did it disclose any error of law. In any event, as above, this alone could not be an error of law which materially affected the outcome of the appeal given the range of adverse reasons and findings made; of which this was one relatively minor point. Further, there are no other errors of law within the numerous points relied upon by the Appellant within the context of the first and third grounds of appeal which could be considered cumulatively

as material to the outcome of the appeal. I find no error of law on the first or third grounds of appeal.

63. As above, the second and fourth grounds of appeal stand or fall with the first and third grounds of appeal on the specific facts of this case. As I have found no error of law on either of those grounds, there can not, as accepted by both parties, be any error of law material to the outcome of the appeal on these remaining grounds. The appeal is therefore dismissed.

Notice of Decision

The making of the decision of the First-tier Tribunal did not involve the making of a material error of law. As such it is not necessary to set aside the decision.

The decision to dismiss the appeal is therefore confirmed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed G Jackson

Date

7th February 2021

Upper Tribunal Judge Jackson