



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

**Appeal Number: PA/00286/2020**

**THE IMMIGRATION ACTS**

**Heard at Field House by (MS Teams)  
On the 27<sup>th</sup> September 2021**

**Decision & Reasons  
Promulgated  
On the 19<sup>th</sup> October 2021**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON**

**Between**

**O G (ALBANIA)  
[ANONYMITY ORDER MADE]**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

Representation:

For the appellant: Mr Gregory Olphert of Counsel, instructed by SMA Solicitors

For the respondent: Ms Alexandra Everett, a Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Anonymity order**

*Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) The Tribunal has ORDERED that no one shall publish or reveal the name or address of O G who is the subject of these proceedings or publish or reveal any information which would be likely to lead to the identification of him or of any member of his family in connection with these proceedings.*

***Any failure to comply with this direction could give rise to contempt of court proceedings.***

## **Decision and reasons**

1. The appellant appeals with permission from the decision of the First-tier Tribunal dismissing her appeal against the respondent's decision on 22 December 2019 to refuse her refugee status under the 1951 Convention, humanitarian protection, or leave to remain in the United Kingdom on human rights grounds. The appellant is a citizen of Albania.
2. **Vulnerable appellant.** The appellant is a vulnerable person and is entitled to be treated appropriately, in accordance with the Joint Presidential Guidance No 2 of 2010: Child, Vulnerable Adult and Sensitive Appellant Guidance.
3. **Mode of hearing.** The hearing today took place remotely by Microsoft Teams. Ms Everett appeared remotely: her daughter has Covid at present and that was appropriate.
4. The appellant's Counsel, Mr Olphert, was present in person at Field House, as was an Albanian interpreter booked by the Upper Tribunal to assist the appellant in giving oral evidence.
5. Both the appellant and her solicitor had technical difficulties in joining the hearing electronically. Mr Olphert's instructing solicitor was able to connect briefly before the hearing, but the connection broke down before I came into court and Mr Olphert was unable to improve his instructions regarding the appellant's non-attendance.
6. Ms Everett indicated that the limited cross-examination she had been intending to make could be dispensed with and the hearing proceeded on submissions alone. Mr Olphert was also content to make submissions without the need for oral evidence. I therefore released the Albanian interpreter who had attended to assist the appellant in giving oral evidence.
7. I am satisfied that, despite the technical difficulties, the hearing was completed fairly, with the cooperation of both representatives.

## **Background**

8. The appellant was born and raised in Tirana, the capital of Albania. She has two children born outside marriage, the elder born in June 2017, following a period when she was living in the Netherlands and forced into prostitution by her trafficker boyfriend, and the younger child born in February 2019, the child of the appellant and her new partner, who has an EU Settlement Scheme application pending. The parentage of the appellant's second child remained unexplained until shortly before the hearing on 27 September 2021.

9. The appellant benefits from a positive Conclusive Grounds decision made on 14 August 2019 in which the respondent accepted that she was a victim of trafficking, but not that she had been subjected to domestic abuse. That decision was made to the higher civil standard of balance of probabilities, and the Upper Tribunal must have regard to it in considering the international protection appeal.
10. The international protection claim was rejected. In her December 2019 refusal letter, the respondent relied on *TD and AD (Trafficked women) Albania CG [2016] UKUT 92 (IAC)* (9 February 2016). She considered that the appellant was not at risk of re-trafficking on return to Albania and that there was sufficiency of protection for her against her family, or her trafficker boyfriend, should she experience difficulty on return.
11. The appellant appealed against the refusal of protection. Her appeal was dismissed by the First-tier Judge and she then appealed to the Upper Tribunal.

### **Error of law decision**

12. By a decision dated 31 March 2021, I set aside the decision of the First-tier Tribunal. The First-tier Judge had not applied properly the country guidance decision of the Upper Tribunal in *TD and AD (Trafficked women) Albania CG [2016] UKUT 92 (IAC)* and the risk to her on return, when she would be returned with two children born outside marriage.
13. In addition I found that the First-tier Judge had erred in concluding that the treatment of the appellant by her father in Albania and her trafficker boyfriend in Albania and in the Netherlands did not amount to domestic violence.
14. It was common ground that the appropriate approach was to set aside the decision and remake it, taking into account the February 2021 CPIN on Albania which had not been before the First-tier Judge.
15. That is the basis on which this appeal came before the Upper Tribunal.

### **Upper Tribunal hearing**

16. There is additional evidence from the appellant. She now confirms that she is in a relationship with another Albanian national, who has no leave to remain in the United Kingdom (although he has applied to the Home Office under the European Union Settlement Scheme). They met in March 2018 at a shopping centre in Dudley. They became friends and by May or June 2018 they were in a physical relationship from which the appellant became pregnant.
17. The appellant says this about the relationship:

“I had informed [him] that I was pregnant and was so pleased to know he was going to stick by me. He had been supportive from the start of our

relationship and has constantly reassured me that everything will be good. He had helped me through the pregnancy and then after that. He comes with me to appointments, and even with my health issues he tries his best to help me and even the doctors know about him and how supportive he has been.

After what I had gone through in the previous years, I never thought I would find myself in this position. I gave birth to our child on the 18<sup>th</sup> February 2019... My partner ...has been involved and has helped me a lot since [our baby] was born. He is an active and heads on father. He has always been there, especially during doctors' appointments with me."

18. The appellant produced the child's birth certificate, which shows her partner as the father, with his nationality Albanian but no occupation given. She also produced an acknowledgment from the respondent on 16 December 2020 that the partner had made an EUSS application.
19. There are letters from the appellant's general medical practitioner, Dr D S Manivasagam, who says that despite arriving in the United Kingdom in May 2017, the appellant still has poor English and cannot communicate very well because of the language barrier. She was referred for counselling to help with her traumatic experiences. She has been on antidepressants since January 2020.
20. The appellant does not work. The doctor's opinion is that if the appellant is removed from the United Kingdom 'she will be separated from her boyfriend who is the father of her second child and will lose his support which will significantly affect her mental health'. Dr Manivasagam disclosed the appellant's medical records. They record in August 2017 that the appellant told the doctor that she had met 'an Albanian friend'. By November 2018, she was pregnant but living alone with the older baby. By February 2019, her partner was her interpreter at medical appointments.
21. On 31 January 2020, the appellant attended the doctor's surgery with her partner. At her next appointment on 14 February 2020, she said that she was still not sleeping through the night, but medication was helping. Once more, her partner acted as interpreter during the appointment. A telephone consultation on 17 July 2020 (during the Covid pandemic period) says that the appellant spoke only Albanian and her friend asked the doctor to ring her partner, who could translate. The same happened on 11 September 2020 when she had a telephone medication review.
22. There is no witness statement from the appellant's partner, nor does the appellant's written evidence provide any detail of his involvement in her life or with the children, apart from his being a 'heads on father' [sic].

### **Country evidence**

23. The report of Dr James Korovilas dated 17 January 2020 assists the Upper Tribunal in assessing risk. Dr Korovilas is a senior lecturer at the

University of the West of England and has worked closely with the UN Anti Trafficking Unit for the Balkan region, based in Kosovo, as well as the OSCE anti trafficking coordinators in both Pristina and Tirana. He has taught a Masters course at the University of Tirana on four separate occasions since 2008, the most recent visits being in September 2010 and December 2011. He also conducted in April 2018 a research project on behalf of the University of Helsinki focusing on the process of return migration.

24. Dr Korovilas' report supports the appellant's core account of her trafficking history. That has been accepted by the respondent in the Conclusive Grounds decision. He notes 'a wealth of objective evidence' to support the assertion that the Albanian police force is poorly trained, unprofessional, corrupt and unlikely to take the appellant's domestic violence or trafficking concerns seriously. He refers to the respondent's previous CPIN on the issue of domestic violence.
25. Dr Korovilas' opinion is that this appellant would not have an internal relocation option. Internal relocation to Tirana would be the usual choice, but that is where the appellant comes from and where she would risk coming into contact with the people who trafficked her, or her family. People in Albania maintain strong family links and it would be very difficult for her to establish herself elsewhere in the country.
26. There are only 3 million people in Albania: it is a very small country. The appellant would have to register with her local municipality to gain access to state services for herself and her two children. A single woman attempting to re-establish herself would be considered likely to have a dishonourable past and would be stigmatised. That would make her more vulnerable to exploitation by criminal gangs.

## Submissions

27. For the appellant, Mr Olphert relied on his skeleton argument dated 17 September 2021. The appellant did not wish to return to Albania and she did have a positive Conclusive Grounds decision in her favour, which concluded that there were 'no significant credibility issues in your account...your account has met the required threshold, namely on the balance of probabilities it is more likely than not to have occurred'. As a victim of trafficking, the appellant is a member of a particular social group.
28. Applying the tests in *TD and AD*, Mr Olphert argued that the appellant risked persecution, by reason of her low social status, her limited education (she left school aged 15 after 9 years' education), her mental health issues, her two children born out of wedlock, her Tirana origin, and the absence of any support network, as her family have disowned her. Although the appellant was now over 25 years old, Mr Olphert submitted that her age alone should not be treated as conclusive as to the risk of re-trafficking.

29. Mr Olphert referred to the respondent's CPIN *Albania: human trafficking* dated February 2021 at 2.4.11 and 2.6. He reminded me that this appellant was a victim of domestic violence as well as trafficking. To remove the appellant to Albania would breach both her Refugee Convention rights and her human rights under Articles 3 and 8 ECHR. There would be very significant obstacles to her reintegration in Albania, which would also engage paragraph 276ADE of the Immigration Rules HC 395 (as amended).
30. In oral submissions, Mr Olphert drew my attention to the report of Dr James Korovilas, which set out all of the evidence in the round. Otherwise, he relied on his skeleton argument.
31. For the respondent, Ms Everett relied on the refusal letter of 22 December 2019. Ms Everett accepted that facilities for victims of trafficking and domestic violence were sparse in Albania, but they did exist. The traffickers would not force her off the street and the evidence was not sufficient to establish that the appellant would be desperate enough to seek out re-trafficking. There was considerably lower risk of re-trafficking for a woman who was older than 25 years, and who knew now how the traffickers operated, such that she would not cooperate in her own re-trafficking. There was no suggestion that her vulnerabilities ran deeper than her previous trafficking history.
32. As regards the children, the appellant had not put forward any evidence of their lives in the United Kingdom or her Albanian partner's involvement with them. It was striking that there was no evidence from him before the Tribunal, an inexplicable omission. The appellant had not chosen to mention her partner earlier and that did not assist her, even if the Tribunal were not minded to draw any inference from it. There was no information as to whether the appellant's partner would return to Albania with her if she went, or support her financially.

## **Analysis**

33. The first issue is what facts can inform my decision. The appellant has been found to be a credible witness in the Conclusive Grounds decision and her core account of being trafficked, and being confined and beaten by her father and later her trafficker boyfriend, I treat as credible to the international protection standard. She is therefore a victim of both trafficking and domestic violence.
34. The updated witness statement about the appellant's new relationship is supported by a birth certificate showing her Albanian partner as her son's father. It shows them to have been joint informants in relation to the birth. The only evidence we have as to the partner's involvement and intentions is the letter from Dr Manivasagam stating that if the appellant is returned to Albania she will lose his support, and that the appellant has depression, for which she uses both counselling and antidepressants. The evidence from her doctor is that on at least two occasions, the partner

acted as the appellant's interpreter because she still has not learned to speak English despite being in the United Kingdom for 4 years.

35. I consider the guidance given in *TD and AD*, which remains the relevant country guidance for this appeal. I note that those with children outside marriage are particularly vulnerable, and that it is more difficult for them to relocate internally or reintegrate into their home areas. The particular circumstances of an appellant will always be relevant to sufficiency of protection:

*"d) In the past few years the Albanian government has made significant efforts to improve its response to trafficking. This includes widening the scope of legislation, publishing the Standard Operating Procedures, implementing an effective National Referral Mechanism, appointing a new Anti-trafficking Co-ordinator, and providing training to law enforcement officials. There is in general a Horvath-standard sufficiency of protection, but it will not be effective in every case. When considering whether or not there is a sufficiency of protection for a victim of trafficking her particular circumstances must be considered.*

*e) There is now in place a reception and reintegration programme for victims of trafficking. Returning victims of trafficking are able to stay in a shelter on arrival, and in 'heavy cases' may be able to stay there for up to 2 years. During this initial period after return victims of trafficking are supported and protected. Unless the individual has particular vulnerabilities such as physical or mental health issues, this option cannot generally be said to be unreasonable; whether it is must be determined on a case by case basis.*

*f) Once asked to leave the shelter a victim of trafficking can live on her own. In doing so she will face significant challenges including, but not limited to, stigma, isolation, financial hardship and uncertainty, a sense of physical insecurity and the subjective fear of being found either by their families or former traffickers. Some women will have the capacity to negotiate these challenges without undue hardship. There will however be victims of trafficking with characteristics, such as mental illness or psychological scarring, for whom living alone in these circumstances would not be reasonable. Whether a particular appellant falls into that category will call for a careful assessment of all the circumstances."*

36. In this case, the appellant is a mother of two illegitimate children, but she does have a relationship, which she did not reveal until asked to do so by the Tribunal, three years after the relationship began, and two years after the birth of their child.
37. The appellant's partner is also Albanian, and is awaiting a decision under the EU Settlement Scheme. He lives with and supports her, including acting as her interpreter. There is very little information before me about the appellant's current relationship or about the appellant's two children: her partner has not provided a witness statement and there is no evidence about his relationship with the appellant, or the children, except that she considers him a 'heads on' father.

38. The appellant is not integrated in the United Kingdom, having not learned to speak the language or worked here. Both her children are very young still, and of an age where they will be more focused on relationships at home, rather than socialising outside the home.
39. The risk of re-trafficking falls to be assessed on the facts, including the appellant's background, age, and willingness and ability to seek help from the authorities.
40. As to her background, there is little evidence about the family's social status, but I place only limited weight on that, given that they have apparently rejected her. This appellant is not now a young woman: she is 25 years old and has been able to seek help from the authorities in the United Kingdom. The appellant attended school up to the age of 15: she has 9 years' education.
41. There is no medical evidence that she has significant mental health problems, although she does have sleep issues. Although the appellant has children outside marriage, she also has a supportive partner. I am not prepared to assume, without evidence from the appellant's partner, that he would not return to Albania with her if she had to leave. The likelihood therefore is that the appellant would not return as a lone woman and attract negative attention because she has children outside marriage.
42. Based on the rather limited evidence advanced as to risk on return, I am not satisfied that this appellant is one of those who will be at risk of re-trafficking, nor that returning her to Albania would be unduly harsh. Given her lack of integration in the United Kingdom, where she has not even learned to speak the language, and her Albanian partner, I do not find that there would be significant obstacles to her reintegration in Albania if her partner were to accompany her. Even if he did not, there are shelters available and as a 'heavy case' (because she has children), the appellant would be entitled to a longer stay in a shelter to enable her to recover.
43. The appeal is therefore dismissed.

## **DECISION**

44. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law.

I set aside the previous decision. I remake the decision by dismissing the appeal.

Signed [Judith AJC Gleeson](#)

Date: 13 October 2021

Upper Tribunal Judge Gleeson