



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/03693/2014

**THE IMMIGRATION ACTS**

Heard at Birmingham  
On 17<sup>th</sup> April 2015

Decision & Reasons Promulgated  
On 23<sup>rd</sup> April 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE M A HALL

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

RL

(ANONYMITY ORDER MADE)

Respondent

**Representation:**

For the Appellant: Mr N Smart, Senior Home Office Presenting Officer  
For the Respondent: Mr C Lane of Counsel, instructed by Coventry Law Centre

**DECISION AND REASONS**

**Introduction and Background**

1. The Secretary of State appeals against a decision of Judge of the First-tier Tribunal Cox promulgated following a hearing on 7<sup>th</sup> August 2014.

2. The Respondent before the Upper Tribunal was the Appellant before the First-tier Tribunal and I will refer to her as the Claimant.
3. The Claimant is a female national of Albania born 18<sup>th</sup> November 1991 who claimed asylum on 17<sup>th</sup> September 2013. The application was refused on 22<sup>nd</sup> May 2014, and a decision made to remove the Claimant from the United Kingdom.
4. The appeal was heard by Judge Cox (the judge) on 7<sup>th</sup> August 2014. The judge heard evidence from the Claimant and her partner. There was no cross-examination. The Secretary of State did not dispute the facts that had caused the Claimant to claim asylum but contended that she could safely return to Albania as there would be a sufficiency of protection, and a reasonable option of internal relocation.
5. The judge found otherwise and allowed the appeal under the Refugee Convention, and with reference to Article 3 of the 1950 European Convention on Human Rights (the 1950 Convention).
6. This caused the Secretary of State to apply for permission to appeal relying upon two grounds. In summary it was contended firstly that the judge had failed to give adequate reasons for findings on material matters and reliance was placed upon MK [2013] UKUT 00641 (IAC). It was contended that the judge had provided no reasons at all as to why the submissions of the Claimant's Counsel were accepted and preferred to the submissions made on behalf of the Secretary of State. It was contended that the judge's findings amounted to no more than a bare statement of acceptance of the Claimant's case, which according to MK did not satisfy the requirement to give reasons.
7. Secondly it was contended that the judge had failed to take into account, or resolve conflicts of fact or opinion on material matters. It was submitted that the judge had failed to take into account any of the submissions or arguments put forward by the Secretary of State. The judge had failed to take into account any of the issues in dispute, in relation to sufficiency of protection and internal flight.
8. Permission to appeal was granted by Judge of the First-tier Tribunal Heynes who stated in the concluding paragraph of his grant of permission to appeal;

"It is arguable that adopting the submissions of the Appellant's representative without explanation as to the basis upon which they must prevail over the stance taken by the Respondent amounts to an error of law. It is also arguable that the judge did not give sufficient reasons for concluding that the Appellant, individually, did not have an internal flight option."
9. Following the grant of permission the Secretary of State lodged a response pursuant to rule 24 of The Tribunal Procedure (Upper Tribunal) Rules 2008. This contended, in summary, that the judge had not simply adopted the submissions made on behalf of the Claimant, but had made additional findings of his own. The Respondent's case had not been ignored and the judge had set out a summary of that case, and taken into account all of the evidence and submissions made by both parties. The

Claimant relied upon Shizad [2013] UKUT 00085 (IAC) in contending that the judge had given adequate reasons for his findings.

10. Directions were subsequently issued making provision for there to be a hearing before the Upper Tribunal to decide whether the First-tier Tribunal decision should be set aside.

### **The Secretary of State's Submissions**

11. Mr Smart relied upon the grounds contained within the application for permission to appeal. I was asked to note that in paragraph 16 of his decision, the judge had not specified which paragraphs of AM and BM (Trafficked women) Albania CG [2010] UKUT 80 (IAC) had been relied upon by the Presenting Officer. I was provided with the Presenting Officer's notes, which recorded her submissions, and which confirmed that she had relied upon paragraphs 61, 109, 120, 181, 173, and 187 of AM and BM.
12. In relation to paragraph 173 Mr Smart pointed out the conclusion was that a woman on her own, returned to Albania, would not face treatment contrary to her rights under Article 3 of the 1950 Convention.
13. In relation to paragraph 181, this confirmed that the issue of risk was fact specific.
14. In relation to paragraph 187 it was accepted that Albania is a country where there is a real fear that traffickers might be able to trace those who have escaped them, but whether they would be motivated to do so is another matter.
15. Mr Smart submitted that the judge had not analysed the points referred to above and made findings upon them. With reference to paragraph 22(vi) of the First-tier Tribunal decision, the judge had set out one of the submissions made by Counsel for the Claimant and referred to paragraph 170 of AM and BM. Mr Smart pointed out that paragraph 170 while accepting that victims of trafficking are psychologically vulnerable and that single women without protection may well be harassed, also stated that the profile of women who are trafficked is changing, and that kidnapping or abduction is now rare, and victims of trafficking who had been previously duped were unlikely to be duped in the same way again.
16. As the judge had not provided reasons why the arguments put forward by the Secretary of State were not accepted, I was asked to conclude that he had erred in law.

### **The Claimant's Submissions**

17. Mr Lane relied upon the rule 24 response and his skeleton argument. In summary I was asked to note that the Claimant's factual account was accepted, and therefore the task of the judge was not the same as the task of the judge in MK, as in this case the judge had to assess a country guidance decision on an accepted set of facts.

18. Mr Lane submitted that the judge had had regard to the reasons for refusal letter issued by the Secretary of State, and had adequately set out the Secretary of State's case. The judge had identified that the issues to be decided related to sufficiency of protection and internal relocation.
19. Mr Lane pointed out that the submissions made on behalf of the Claimant before the First-tier Tribunal, were considerably more comprehensive than the submissions made on behalf of the Secretary of State. I was asked to conclude that if the judge found the Claimant's submissions persuasive he was entitled to adopt them without setting them out as his own. The judge had adopted the reasoning given on behalf of the Claimant.
20. The judge dealt with sufficiency of protection at paragraphs 25 and 26 of his decision, noting that the risk to the Claimant, from her family, and former traffickers, emanated from Tirana where the Claimant had lived, and that an additional element of risk was that the Claimant was going to have an illegitimate child. Mr Lane submitted the judge had made it clear throughout his decision, that he was aware that each appeal needed to be assessed on its own particular facts. With reference to paragraph 173 of AM and BM Mr Lane pointed out that the judge had taken into account that the Claimant was not simply claiming that she would be at risk on return to Albania because she is a woman, as in addition, it was accepted that she had been a victim of trafficking, that she was at risk from her family, that the risk was in Tirana, and that she was due to have an illegitimate child.
21. Mr Lane placed reliance upon Shizad, pointing out that reasons need not be extensive if the decision as a whole makes sense having regard to the material accepted by the judge, and in this case there had been no misdirection of law, and the relevant country guidance had been taken into account, and the conclusions made by the judge were reasonably open to him.
22. At the conclusion of oral submissions I reserved my decision.

### **My Conclusions and Reasons**

23. The Claimant's account presented to the First-tier Tribunal had been accepted by the Respondent. The task of the judge was to assess whether there was a reasonable option of internal relocation, or a sufficiency of protection available to the Claimant.
24. I firstly consider the complaint that the judge failed to take into account any of the submissions or arguments put forward by the Secretary of State, and the contention in the second ground of appeal, that the decision makes no reference to any of the submissions made on behalf of the Secretary of State.
25. While it is true that a greater part of the decision is taken up by setting out the Claimant's account and submissions, I do not find that the judge failed to make any reference to the Secretary of State's case, nor do I find that the judge failed to take into account that case.

26. The judge in paragraph 5 specifically confirmed that he had taken into account the Secretary of State's bundle, and in paragraphs 16-18 set out in summary the Secretary of State's case. At paragraph 19 the judge confirmed that he had considered all of the evidence and submissions before him.
27. It was noted that there was no cross-examination of the Claimant or her partner. At paragraph 20 the judge correctly set out the issues in the appeal, those being sufficiency of protection and internal relocation.
28. The judge observed that both parties relied on AM and BM, and set out the head note to that decision. While it is true that the judge did not, in paragraph 16, set out the paragraph numbers in AM and BM relied upon by the Presenting Officer, these are set out in the Record of Proceedings. It is not an error of law not to record paragraph numbers, if it is clear that the submissions made have been considered, and in this case the submissions made on behalf of the Secretary of State were considered.
29. The judge was aware that each case is fact specific, as referred to in paragraph 181 of AM and BM, and made specific reference to this in paragraph 21(e) and (f) of his decision, with further references being made in paragraphs 25 and 26, which sets out paragraph 182 of AM and BM. I have taken into account the principles in MK, relied upon by the Secretary of State, and Shizad relied upon by the Claimant, and also taken into account the most recent decision on adequacy of reasons, Budhathoki [2014] UKUT 00341 (IAC), the head note of which I set out below;

It is generally unnecessary and unhelpful for First-tier Tribunal judgments to rehearse every detail or issue raised in a case. This leads to judgments becoming overly long and confused and is not a proportionate approach to deciding cases. It is, however, necessary for judges to identify and resolve key conflicts in the evidence and explain in clear and brief terms their reasons, so that the parties can understand why they have won or lost.

30. It is therefore essential that a party must know why the appeal has been won or lost. In my view it is apparent from reading the First-tier Tribunal decision, why the judge found that the Claimant had discharged the burden of proof, and why there was no reasonable option of internal relocation or sufficiency of protection available.
31. The judge analysed the country guidance decision, taking into account the accepted facts. The judge, having considered the submissions of both parties, decided to accept the submissions made on behalf of the Claimant, but did not fail to give reasons for that decision. The submissions are comprehensively set out in the decision, as are the reasons for the submissions. The judge has adopted those reasons, and therefore I conclude that the judge has given adequate reasons for his decision, and those reasons are contained in paragraphs 22 to 28 of the decision. Paragraphs 22 to 24 relate to the submissions made on behalf of the Claimant, and paragraphs 25 to 28 are findings made by the judge, based upon his analysis of the country guidance decision, in addition to the submissions made by Counsel for the Claimant. The judge in paragraph 25 records that it is not disputed that the Claimant would be at risk from her parents, and that the risks from the parents and from the

former traffickers are Tirana based, and in paragraph 26 sets out paragraph 182 of AM and BM which relates to sufficiency of protection, and acknowledges that the issue is fact specific. In relation to sufficiency of protection, the judge records that the Claimant is from a Muslim family, is the bearer of an illegitimate child, and is at accepted risk from her family.

32. In relation to internal relocation, the judge sets out in full paragraphs 183 and 187 of AM and BM, and I note that paragraph 187 was also relied upon by the Secretary of State. Paragraph 187 concludes that the internal relocation is unlikely to be effective for most victims of trafficking who have a well-founded fear of persecution in their home area, although it is important to consider each case on an individual basis.
33. In my view, the grounds contained within the application for permission to appeal indicate a disagreement with the conclusions reached by Judge Cox, but they do not disclose a material error of law. I conclude that the Secretary of State's arguments have not been disregarded, and that adequate reasons for the findings made have been given.

### **Notice of Decision**

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision and the appeal of the Secretary of State is dismissed.

### **Anonymity**

An anonymity direction was made by the First-tier Tribunal. I continue that order pursuant to rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed

Date 20<sup>th</sup> April 2015

Deputy Upper Tribunal Judge M A Hall