



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/09206/2013

**THE IMMIGRATION ACTS**

Heard at Field House  
On 7 August 2015

Decision and Reasons Promulgated  
On 14 August 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE KAMARA

Between

**MRS SD**  
(ANONYMITY DIRECTION MADE)

Appellant

and

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

Respondent

**Representation:**

For the Appellant: Mr E Nicholson, counsel instructed by Times PBS Ltd  
For the Respondent: Mr L Tarlow, Senior Home Office Presenting Officer

**DECISION AND DIRECTIONS**

1. This is an appeal against a decision of FTTJ Turquet, promulgated on 4 February 2015, in which she dismissed the appellant's appeal against a decision to refuse to grant her asylum.

## Background

2. The appellant last left Albania in December 2012, travelling by air to France. She entered the United Kingdom clandestinely and applied for asylum on 20 August 2013. The basis of the appellant's asylum claim is that she is a victim of trafficking. That application was refused. A previous appeal against that decision was dismissed by FTTJ Napthine on 19 December 2013, however that decision was set aside and the matter remitted to the First-tier Tribunal for a de novo hearing.
3. During the course of the hearing before the First-tier Tribunal, the FTTJ heard evidence from the appellant alone. A psychiatric report was also submitted on the appellant's behalf along with other evidence. The FTTJ dismissed the appeal on credibility grounds as well as concluding that none of the requirements of the Rules, in relation to the appellant's private and family life, had been met.

## Error of law

4. Permission to appeal to the Upper Tribunal was sought on the basis that it was arguable that the FTTJ did not consider the psychiatric report prior to making adverse credibility findings; that she erred in relying on apparent discrepancies between the screening and substantive interview records and that she failed to put alleged discrepancies to the appellant prior to concluding that they were detrimental to her credibility.
5. The Deputy Upper Tribunal Judge granting permission did so on all grounds.
6. The Secretary of State's response of 1 July 2015 stated that the respondent did not oppose the appellant's application for permission to appeal on the basis that the FTTJ reached a conclusion on credibility before considering the psychiatric report. The Tribunal was invited to determine the appeal with a fresh oral hearing on the issue of whether the appellant was a refugee.

## The hearing

7. Mr Tarlow relied on the Rule 24 response and both parties were in agreement that the manner in which the FTTJ considered the psychiatric report amounted to a material error of law. There was also agreement as to the appropriateness of remitting the appeal to the First-tier Tribunal for a de novo hearing.
8. The FTTJ set out detailed reasons, over 7 pages of the decision, for concluding that the appellant's account was a fabrication. It was only after reaching that conclusion that she turned her attention to Professor Katona's report. While commenting on the psychiatric report, the FTTJ reiterated her earlier negative credibility findings on several occasions, concluding that the report is not "*of great value in the assessment of credibility.*" It is abundantly clear from reading the decision that the FTTJ failed to consider all of the evidence before her in the round prior to making findings of fact, Karanakaran v SSHD [2000] INLR 122 applies.
9. In these circumstances I am satisfied that there are errors of law such that the decision be set aside to be remade. None of the findings of the FTTJ are to stand.
10. Further directions are set out below.

11. An anonymity direction was made by the FTTJ. I consider it appropriate for anonymity to be continued and therefore make the following anonymity direction:

*“Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.”*

### **Conclusions**

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision to be re-made.

### **Directions**

- This appeal is remitted to be heard de novo by any First-tier Tribunal Judge except FTTJ Turquet and FTTJ Naphine.
- The appeal should be listed for a hearing at Hatton Cross.
- An interpreter in the Albanian language is required.
- Time estimate is half a day.

Signed

Date: 9 August 2015

Deputy Upper Tribunal Judge Kamara