



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-003691
UI-2024-003693
FtT No: PA/53958/2023; LP/01800/2024
PA/55882/2023; LP/01802/2024

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 22 October 2024

Before

UPPER TRIBUNAL JUDGE LANE

Between

BD
DC

(ANONYMITY ORDER MADE)

and

Secretary of State for the Home Department

Appellant

Respondent

Representation:

For the Appellant: Ms Walker

For the Respondent: Mr Wain, Senior Presenting Officer

Heard at Field House on 15 October 2024

DECISION AND REASONS

1. The background to this appeal in the First-tier Tribunal is set out by the judge at [1] of his decision:

The first appellant is a 33-year old national of Albania. The second appellant is her son who will turn 4 in September of this year. He is dependent on his

mother's claim. It is accepted that the first appellant was a victim of trafficking in Albania following the commencement of a relationship with a male in 2018. She was forced to work as a prostitute in a brothel and held against her will for some five months or so from December 2018. It is further accepted that she was sent to Ireland for the purpose of the trafficking continuing there. However, she travelled to Ireland on her own and was able to avoid the control of the gang by travelling to the UK instead of remaining in Ireland. On arrival in the UK she claimed asylum. The positive reasonable grounds decision was made on 11 May 2000.

2. The First-tier Tribunal dismissed the appellant's appeal and she appealed to the Upper Tribunal. The grounds of appeal at [1] state:

Ground one: In undertaking an assessment of whether the appellant would be at risk of being re-trafficked and subjected to further serious harm, the FTTJ has only considered the possible risks to the appellant from the particular gang that previously trafficked and sexually exploited her (see paragraph 9 FTT determination). He has erred by not giving any consideration to the appellant's future risk of being re-trafficked by others or subjected to other forms of exploitation generally, as per the approach endorsed in the country guidance decision of TD and AD (Trafficked women) CG [2016] UKUT 00092 (IAC). He has not properly considered the appellant's vulnerability to further exploitation from other gangs, after leaving an initial reception/reintegration programme (paragraphs 119 (e)-(g), TD and AD), applying the risk factors identified in paragraph 119(h), TD and AD. He has not considered, adequately or at all, whether and to what extent she would be vulnerable generally to further exploitation from "unscrupulous others" (see risk assessment undertaken at paragraph 151, TD and AD).

3. At the outset of the initial hearing at Field House on 15 October 2024, Mr Wain, Senior Presenting Officer for the Secretary of State, told me that the Secretary of State now considered that the judge of the First-tier Tribunal had erred in law such that his decision falls to be set aside. Referring to Ground 1 (see above), the Secretary of State now accepts that the judge failed adequately to consider the risks to the appellant of being re-trafficked on return to Albania. Further in the context both of internal flight within Albania and of the Tribunal's assessment of risk on return and re-trafficking, the judge had also failed to carry out an adequate assessment of the appellant's mental health condition. Having considered the papers, I agree with both parties. The decision of the First-tier Tribunal is set aside and the appeal shall returned to the First-tier Tribunal for that Tribunal to remake the decision following a hearing *de novo*.
4. There was a brief discussion in court regarding the findings of fact of the First-tier Tribunal. I direct that none of the findings of fact (including the finding at [9] regarding the appellant's lack of contact with family in Albania) shall stand but I record that the presenting officer before the First-tier Tribunal did not seek to challenge the appellant's account of past events in Albania (see First-tier Tribunal decision at [9]: *'...she has in essence been accepted as credible in her account. Mr Hulme did not point to any feature of her evidence that would cast doubt on its*

reliability.')

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision following a hearing *de novo*.

C. N. Lane

Judge of the Upper Tribunal Immigration and Asylum Chamber

Dated: 16 October 2024