THE HIGH COURT

JUDICIAL REVIEW

[2016 No. 872 J.R.]

BETWEEN

M.S. (ALBANIA)

APPLICANT

AND

THE REFUGEE APPEALS TRIBUNAL, THE MINISTER FOR JUSTICE AND EQUALITY, THE ATTORNEY GENERAL AND IRELAND

RESPONDENTS

JUDGMENT of Mr. Justice Richard Humphreys delivered on the 30th day of May, 2018

1. The applicant was born in Albania in 1995. He arrived in Ireland on 14th December, 2014 and claimed asylum, asserting that death threats had been made to him due to his seeking to end a relationship with a woman. These threats were allegedly made by the woman's family. The application for asylum was rejected on 28th May, 2015 by the Refugee Applications Commission on credibility grounds. On 15th September, 2016 an appeal to the Refugee Appeals Tribunal was also rejected on credibility grounds.

2. The substantive relief sought in the present application is *certiorari* of the decision of the tribunal of September, 2016.

3. I have received helpful submissions from Mr. Mark de Blacam S.C. (with Mr. Garry O'Halloran B.L.) for the applicant and from Ms. Ann Harnett O'Connor B.L. for the respondents.

Standard of proof
4. The applicant's submissions accept that grounds 1 and 2 are related to the standard of proof, and have already been determined adversely to the applicant's contentions in *O.N. v. Refugee Appeals Tribunal* [2017] IEHC 13 (Unreported, O'Regan J., 17th January, 2017).

Credibility assessment
5. Ground 3 relates to an alleged failure to consider the reasons for the applicant's difficulty in recalling dates. Any reasons put forward by the applicant were considered. The applicant certainly has not demonstrated otherwise (see *G.K. v. Minister for Justice Equality and Law Reform* [2002] 2 I.R. 418 [2002] 1 I.L.R.M. 401 *per* Hardiman J.).

6. The tribunal member saw and heard the applicant and was best placed to consider the applicant's credibility, which was rejected comprehensively. At para. 4.1 of the decision it was accepted that the applicant was Albanian. At para. 5.6 the tribunal notes the applicant's inability to state when the threatening encounter with the woman's father occurred. It was noted at paras. 5.7 to 5.9 that the applicant gave contradictory evidence as to how the threats were made. Inconsistencies about when he left Albania were discussed at paras. 5.10 to 5.11. At para. 5.14, it was noted that the applicant raised an issue because his lawyers had raised it, even though it did not in fact relate to an actual threat. His evidence was described as evasive. Further, there were an accumulation of inconsistencies and contradictions, and a lack of a clear and coherent account.

7. It seems to me that these conclusions were entirely open to the tribunal. The exercise now being engaged in is very much a legalistic one. The tribunal is certainly far better positioned than a court to make judgments of these kinds, but certainly on the materials before the court these were perfectly lawful and legitimate findings.

Alleged failure to consider country information
8. Grounds 4 and 5 relate to alleged failure to consider country of origin information. No particularly relevant country of origin information was put forward in any event. The country material refers to forced marriages by women and girls. That does not give particular support to the applicant's claim, but in any event, there was no failure to consider the material because it is considered expressly at paras. 3.14 and 6.2. Thus, there is no analogy with *I.A. (Pakistan) v. Minister for Justice and Equality* [2018] IEHC 273 [2018] 4 JIC 2007 (Unreported, High Court, 20th April, 2018). All the decision-maker says at para. 6.2 is that having considered the country material, it does not need to be discussed any further because in effect the applicant's credibility is in tatters. That approach seems to me to be entirely lawful, and indeed logical and commonsensical. That finding by the tribunal is, contrary to Mr. de Blacam's submission, not remotely tantamount to saying that reg. 5(1)(a) of the European Communities (Eligibility for Protection) Regulations 2006 (S.I. No. 518 of 2006) does not apply. No such finding occurs in the decision. The tribunal is not failing to consider the country material. Rather, the tribunal is merely saying that having considered it, the applicant is found to be incredible so the country material does not need to be "*discussed*" further. The tribunal is not generally under an obligation to get involved in narrative discussion of an applicant's points anyway.

Alleged uncertainty of the decision
9. Ground 6 claims that the decision is uncertain. That is a point of no substance. The applicant's credibility is rejected generally; a decision-maker does not need to engage in a micro-specific analysis further to that (see e.g. *K.R. v. Refugee Appeals Tribunal* [2014] IEHC 625 (Unreported, McDermott J., 2nd December, 2014)).

Time
10. Ground 7 relates to an application for an extension of time. However, since the claim fails on the merits anyway I do not need to get into the time issue.

Order
11. The application is dismissed.