



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

Appeal Number: AA/05549/2013

**THE IMMIGRATION ACTS**

**Heard at Columbus House, Newport**

**Determination  
Promulgated**

**On 12 November 2013**

**Before**

**UPPER TRIBUNAL JUDGE GRUBB**

**Between**

**B Z**

**and**

Appellant

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

Respondent

**Representation:**

For the Appellant: Mr M McGarvey of McGarvey Immigration and Asylum Practitioners

For the Respondent: Mr I Richards, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. This appeal is subject to an anonymity order made by the First-tier Tribunal pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 (SI 2005/230). Neither party invited me to rescind the order and I continue it pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698).

## **Introduction**

2. The appellant is a citizen of Albania who was born on 24 February 1979. She arrived in the United Kingdom, along with her son (whom I shall refer to as "K") on 16 August 2012. She arrived illegally concealed in a lorry and claimed asylum on that date. There followed an asylum screening interview on that date and a full asylum interview on 13 September 2012. On 23 May 2013, the Secretary of State refused the appellant's application for asylum and humanitarian protection under paras 336 and 339C of the Immigration Rules (HC 395 as amended) and made a decision to remove the appellant to Albania as an illegal entrant by way of directions under Schedule 2 to the Immigration Act 1971.
3. The Secretary of State did not accept that the appellant had been subject to sexual exploitation in Italy but, even if that was established, she was not at risk of persecution on return to Albania as the Albanian authorities would provide a sufficiency of protection.

## **The First-tier Tribunal's Decision**

4. The appellant appealed to the First-tier Tribunal. In a determination dated 18 July 2013, Judge M J Waygood dismissed the appellant's appeal on asylum and humanitarian protection grounds and under Arts 2, 3 and 8 of the ECHR. The judge made an adverse credibility finding and did not accept that the appellant had been trafficked from Albania to Italy where she had been forced to work as a prostitute. Before Judge Waygood, both the appellant and her son, K, gave oral evidence. At paras 38 to 69, Judge Waygood gave detailed reasons for reaching his conclusion in para 69 that:

"I do not accept that the appellant was subject to sexual exploitation in Italy as claimed and therefore does not come within a particular social group of Albanian women who have formerly been the subject of sexual exploitation".

5. In any event, Judge Waygood found that even if the appellant had been sexually exploited in Italy she could safely return to Albania where the Albanian authorities would provide a sufficiency of protection to her and that, in any event, she could internally relocate, for example to Tirana. The judge applied the country guidance case of AM and BM (Trafficked women) Albania CG [2010] UKUT 00080 (IAC).
6. The appellant sought permission to appeal to the Upper Tribunal. Those grounds challenged the judge's adverse credibility finding, including on the basis that he failed to properly consider the evidence of the appellant's son. The grounds also argue that the judge fell into error by failing to make a finding on whether the appellant was trafficked. The grounds do not challenge the judge's finding, taking the appellant's case at its highest, that she would not be at risk on return to Albania, even if she had been subject to sexual exploitation and the judge's finding that the Albanian authorities would provide a sufficiency of protection and that, in any event, she could safely and reasonably relocate within Albania.

7. On 20 August 2013, the First-tier Tribunal (Judge E M Simpson) granted the appellant permission to appeal, in particular on the ground that the judge had arguably erred in law in reaching his adverse credibility finding by failing to properly consider the evidence of the appellant's son.
8. In a rule 24 response dated 30 August 2013, the Secretary of State opposed the appellant's appeal and argued that the judge's adverse credibility finding was sustainable and that the judge was under no obligation to make a finding on whether the appellant had been trafficked.

### **The Appellant's Claim**

9. Before the judge, the appellant's case was that she was an Albanian national who, at the age of 16, married an Albanian man ("AZ"). In June 1998, she and her husband had a son, K. The appellant's husband lived and worked in Greece. He sent money to her in Albania returning for periods of time. However, in 2000 those visits became less and he stopped financially supporting the appellant and their son. Consequently, the appellant began to work in Albania.
10. In October 2008 the appellant met a man ("E"). A relationship developed between them and in September 2009, E suggested that the appellant and her son should move to Italy with him to start a new life. In September 2009, they left Albania and travelled by speedboat to Italy which they entered illegally. They settled in Milan. They were unable to find work and E moved to Rome in search of work. The appellant and her son were left with a man ("B") and his wife ("A"). The appellant and her son lived with B and A. After about two weeks, B told the appellant that she would have to work as a prostitute as his own wife, A did. The appellant worked as a prostitute in Milan for about a year. Thereafter, they moved to Rome where the appellant worked as a prostitute for about a further year and eight months. During the day, the appellant and her son and A were locked in the house. When the appellant was working at night her son was locked in the house also. Both the appellant and her son were physically ill-treated by B. In May 2012, the police visited the house and showed the appellant and A a photograph of B who had been arrested for dealing in drugs and human trafficking.
11. A week later, in June 2012, the appellant and her son together with A left Italy to return to Albania using money they had found in the house. The appellant returned to her home town where she stayed with a friend ("S"). She remained there throughout June and July 2012 but, having learned from S's brother that B had been released from prison in Italy, through an agent she arranged for herself and her son to leave Albania. She left Albania by lorry on 13 August 2012 and entered the UK on 16 August 2012 concealed in a lorry.

### **Credibility**

12. In his skeleton argument, Mr McGarvey succinctly stated four grounds upon which Judge Waygood's decision is challenged. Grounds 1, 3 and 4 relate to his adverse credibility finding and I will return to them shortly. I begin, however, with ground 2.

A. Ground 2

13. This ground raises two discrete points. The first relates to the process that led to the UKBA as a competent authority taking a "conclusive grounds" decision on 22 May 2012 that the appellant had not been trafficked. The judge referred to this at paras 38 and 39. It is not suggested, nor could it be, that he was wrong to disregard the "conclusive grounds" decision in reaching his own findings. Instead, it is said that it was wrong for the "conclusive grounds" decision to be taken by the same individual who rejected the appellant's asylum claim on 23 May 2012. It is said that there is an inconsistency since the "conclusive grounds" decision dated 22 May refers to the asylum decision letter which is dated one day later on 23 May 2012.
14. There is no merit in this ground. First, it does not appear to have been a matter raised before Judge Waygood. It is difficult to see how he could have erred in law by failing to deal with an argument (which even if sustainable) was not made to him as a basis for his reaching a decision in the appeal. Secondly, in any event, Judge Waygood had no jurisdiction to consider the legality of the "conclusive grounds" decision. That could only be challenged by judicial review and Mr McGarvey informed me that no such challenge had been brought. Thirdly, the appellant's case before Judge Waygood was not that the Secretary of State's asylum decision was unlawful but rather, on the merits, was the wrong decision. That was precisely the ground of challenge which Judge Waygood dealt with in his determination in some detail. In any event, even if it had been raised, I see no basis for concluding that the same official, acting on behalf of the Secretary of State, is disentitled as a matter of law from making both the "conclusive grounds" decision and in determining the underlying asylum claim. Provided each decision is approached fairly, having regard only to relevant considerations and, having considered all the evidence, a rational decision is reached, I see no basis for disentitling the same official from making both decisions. That, of course, accounts for the cross references and, what might otherwise appear a curiosity, that a letter dated 22 May refers to information contained in the asylum decision letter dated the following day. The two processes were clearly ongoing contemporaneously. I see nothing sinister or untoward in the fact that this cross-referencing has occurred.
15. In addition, Mr McGarvey argues that the judge erred in law in failing to make a finding on whether the appellant had been trafficked. In this appeal, the judge was required to make findings relevant to, inter alia, the appellant's asylum claim. It was her case that she had been the victim of trafficking and had been sexually exploited in Italy by being forced to act as a prostitute. The judge did not accept that she had been sexually

exploited. There was no question, therefore, that the appellant had been trafficked. Her own case was that she had travelled with E willingly as part of an economic relocation to Italy. Once the judge found that her account of sexual exploitation could not be accepted, the appellant's claim to have been trafficked fell away also.

16. For these reasons, I reject ground 2 set out in Mr McGarvey's skeleton argument.
17. I turn now to the remaining grounds which challenge the judge's adverse credibility finding. Mr McGarvey addressed me at some length and with some persuasive force that the judge's adverse credibility finding could not stand.

#### B. Ground 1

18. Mr McGarvey criticised the judge's reasons for rejecting the evidence of the appellant's son, K as not being of any "particular weight" to support the appellant's claim to be the subject of sexual exploitation in Italy is wholly persuasive. Before the judge there was a written statement from K and he also gave oral evidence before the judge. Mr McGarvey indicated to me that K had been asked over 50 questions in cross-examination. The judge dealt with K's evidence at para 67 of his determination as follows:

"I have taken into account the fact that [K] has made a statement in support of his mother. [K] was very young at the time that he went to Italy and as indicated in his oral evidence he did not know what work his mother was doing in Italy. With regard to his life in the flats in Milan and Rome he largely replicates the detail in his mother's statement regarding the fact that he was locked in a bedroom and that sometimes [B] would shout at him and hit him and the police came to the flat. In addition he has said in oral evidence today that he had learned what his mother did only from the asylum papers. I do not find that [K's] evidence adds any particular weight to the Appellant's claims to have been the subject of sexual exploitation in Italy."

19. I do not accept Mr Richards' submission that K's evidence could not carry much (if any) weight as he had not witnessed the sexual exploitation of the appellant. As Mr McGarvey pointed out in his submissions, K's evidence supported the appellant in a number of material respects. It supported her evidence that they had travelled with E to Italy by boat; that they had lived in a flat in Milan and then subsequently in another flat with a man called B and his wife A. E then disappeared. K's evidence also spoke of B locking him in his bedroom and that the appellant went out at night and he did not see her return until the morning when she would be upset and sometimes cry. K spoke of how B had shouted at him and had also physically hit him. K also spoke about their move to Rome where they stayed in a flat with B and A and he was again locked up and abused by B. K's written statement also spoke about a day when the police visited the flat and questioned the appellant and A before leaving.
20. That K's evidence was consistent with the appellant's evidence was not a reason for giving it less weight or not recognising its probative value in

supporting material parts of the appellant's evidence. This was so even if, as was K's evidence, he only became aware that his mother was sexually exploited as a result of reading the asylum papers in the UK. It added credence to parts of the appellant's case close to or near the very core of the issue which the judge decided against the appellant. Indeed, at paras 47-48 the judge gave a number of reasons for not accepting that the appellant and A had been visited by the police and questioned about B in May 2012. It was not suggested before me that K's evidence was internally inconsistent or its integrity had, in any way, been damaged during cross-examination.

21. In my judgment, the reasons given by the judge at para 67 of his determination were not adequate to justify discounting K's evidence when assessing whether the appellant was a witness of credit and her evidence was credible.
22. That error, in itself, is sufficient to undermine the judge's adverse credibility finding.

#### C. Grounds 3 and 4

23. Mr McGarvey also submitted that the Judge had fallen into error in a number of other respects in reaching his adverse credibility finding. As I have indicated, the judge gave detailed reasons for disbelieving the appellant. I do not, by any means, accept all of Mr McGarvey's challenges to the judge's reasons under Grounds 3 and 4. There are, however, a number of challenges which are, in my view, well-founded. It suffices to identify the follow three.
24. First, in para 47 of the determination the judge doubts the appellant's account that the police came to her flat in May 2012 looking for B. So far as relevant, the judge said this:

"It lacks credibility therefore that if this individual was involved in people trafficking and drug dealing, was an Albanian national and two Albanian women and a child were at the premises, with no legal basis to be in Italy, certainly in the case of the Appellant and her son, that further questions were not asked them about their situation and they were not for example taken in for questioning or asked more questions about their situation, particularly as there was a child on the premises."

25. As I have already indicated, the judge made an adverse assessment of this aspect of the appellant's evidence without giving any weight to K's evidence that such a visit had in fact occurred. That is an error in itself. In addition, however, the judge's reasons are inadequate to sustain his finding. The appellant's evidence was that she and A were questioned about B but they said that they did not know him because they were scared of B and his friends. There is nothing incredulous or implausible in the police behaving in the way that the appellant said they did and K said they did. Both the appellant and A were questioned. B was, apparently, already under arrest. It is, with respect to the judge, pure speculation as

to how the Italian police would respond in this situation and whether further questioning would take place.

26. Secondly, at para 52 the judge relied on an inconsistency, as he saw it, in the appellant's evidence, where she had said in her screening interview (question 4.2) that she had managed to leave Italy by escaping through the help of a friend but in her asylum interview had said that she had escaped because B had been arrested by the Italian police. There are clear and recognised dangers in expecting detail to be given by an individual in a screening interview. There is, in fact, nothing significant in the two answers given. It is true that the appellant did escape through the help of a friend, namely B's wife A. It is also true that this was enabled, on the appellant's case, by the arrest of B in May 2012. In my judgment, the apparent differences do not justify any adverse inference being drawn.
27. Thirdly, at para 56, the judge doubted the appellant's account, stating that:

"What I do not find plausible however is that [E] would effectively groom the Appellant, according to her own account, for a year with a child of 11 years old in tow when clearly in Albania there are other women in a lower age profile with no such encumbrances who are unfortunately regularly targeted".
28. The difficulty is that the appellant never claimed that she had been trafficked by E. Her case was that she had a genuine relationship with E and that they relocated to Italy. Her evidence was that they both sought work unsuccessfully before E abandoned her and B forced her into prostitution. It is mere supposition on the part of the judge that E was "grooming" the appellant for year. And, whilst the evidence might well suggest as a more common target group for targeting younger women than the appellant who had an 11 year old child, to conclude that it was not "plausible" that the appellant in her circumstances could be forced into prostitution was, in my judgment, raising the bar of plausibility too high.
29. Given the errors I have identified under Ground 1 and in relation to the above elements of Ground 3, I can deal with Mr McGarvey's remaining arguments briefly. The adverse credibility finding cannot stand.
30. Mr McGarvey submitted that the judge had wrongly seen inconsistency in the appellant's evidence (for example of the volume of clients she had had in Milan) and in requiring in effect corroboration because the appellant and her son, K were unable to give details of B's friends, connections and overheard phone conversations (see paras 60-63 of the determination). In themselves, I do not consider that these grounds are expressing anything other than disagreement with the judge's assessment of the evidence and his reasons.
31. Likewise, I do not accept Mr McGarvey's submission that the Judge was wrong (at paras 58 and 59) to take into account in assessing the appellant's credibility that the appellant had not mentioned in her

interview (raising it only later) that she had been sexually molested at a bar and raped by B. In that respect, the Judge's approach did not, in my judgment, contravene the *Gender Guidelines* relied upon in para 27 of Mr McGarvey's skeleton argument. The Judge was alive to the need for caution in assessing the evidence of a person claiming sexual assault. The Judge was entitled to find that the interview record was reliable and as the Judge pointed out the appellant had not mentioned the sexual harassment in the BAWSO report when, despite Mr McGarvey's attempt to persuade me otherwise, there was no reason to believe she did not have the time and opportunity to mention these matters.

32. However, despite the fact that the judge gave detailed (and other) reasons for his adverse credibility finding, Ground 1 together with such parts of Ground 3 that I have identified above, lead me to conclude that the judge's adverse credibility findings cannot stand.

### **The Appellant's Case "at its highest"**

33. Mr Richards did not seek to address me on the detailed challenges to the judge's reasoning and approach when assessing the appellant's evidence set out in ground 3 of Mr McGarvey's skeleton argument. Rather, he submitted that any error in reaching the adverse credibility finding was not material to the outcome of the appeal. He pointed out that the judge's findings that there would be a sufficiency of protection and the possibility of internal relocation in Albania even if the appellant had been sexually exploited in Italy, had not been challenged. He pointed out that those findings were no part of the grounds upon which permission to appeal had been sought (or granted). The findings were not challenged in Mr McGarvey's skeleton argument nor raised by him in his oral submissions.
34. In reply, Mr McGarvey sought to argue that there was an implicit challenge to these findings of the judge.
35. No reading of the grounds or Mr McGarvey's skeleton argument could lead to the conclusion that the appellant was challenging anything other than the judge's adverse credibility finding. The entirety of Mr McGarvey's oral submissions were directed to that finding alone. Mr McGarvey pointed to a copy of an ABC News item entitled "Albanian girls trafficked for sex" dated May 21 2013. That document, however, is referred to in para 22 of Mr McGarvey's skeleton argument to support a submission, relevant to the judge's adverse credibility finding, that it was reasonably likely that the appellant would not have contacted the Albanian police on return to Albania. It was, in fact, a paragraph in his skeleton argument which Mr McGarvey resiled from in his oral submissions but, in any event, it does not relate to any challenge to the judge's finding that, putting the appellant's case at its highest, she could not succeed. More importantly, however, the grounds contained no suggestion that that finding was challenged by the appellant.



36. It is extremely doubtful whether the appellant should be allowed to amend the grounds of appeal to challenge the judge's findings on 'sufficiency of protection' and 'internal relocation' at this very late stage – halfway through the Upper Tribunal hearing (see, Azimi-Moayed and others [2013] UKUT 00197 (IAC) at [16]). That said, I invited Mr McGarvey to indicate what, if anything, he wished to say about the judge's adverse findings accepting the appellant's case "at its highest". He submitted, in effect, that the judge had wrongly interpreted the country guidance case of AM and BM. Mr Richards submitted that the judge had properly applied AM and BM, in particular he had considered the appellant's individual circumstances (at para 87) and had been entitled to conclude that the appellant's claim failed even at its highest. If Mr Richards is correct, then the integrity of the judge's adverse credibility finding cannot affect the outcome of this appeal.

37. Under the heading "Consideration of the Appellant's case at its Highest", the judge stated at para 76 as follows:

"If a contrary conclusion were reached to that which I have reached in relation to the appellant's alleged sexual exploitation in Italy, then consideration would need to be given to the issues of sufficiency of protection and relocation."

38. At para 77, the judge began his consideration of the case of AM and BM, stating that the Tribunal:

"clearly indicated that with regard to such matters each case would need to be considered on a case-by-case basis."

39. Then, at paras 78 and 79 of his determination the Judge set out [155], [156] and [158] of AM and BM which dealt with the situation of returned trafficked women to Albania as follows:

"155. On return, if the victim of trafficking does not agree to go to her home or does not disclose where she came from, the border police are able to direct the victim of trafficking to a shelter. If that is the case, as the border police are not empowered to detain a returnee for any length of time, she will not be detained. Where the victim of trafficking decides that she does not wish either to return to her home or to go to a shelter the police would not be able to force her to do so.

156. If the victim of trafficking does go to a shelter then there are some rehabilitation programmes where attempts are made to find work for the victim of trafficking and even, it appears, a system of micro loans to enable the victim of trafficking to set up in business. Dr Schwandner-Sievers was sceptical of these programmes and of the ability of the victim of trafficking to hold down a job. Although we accept Mr Blundell's proposition that the statistics indicate that the numbers of victims of trafficking who are able to find work is in the same proportion as applies to the female population as a whole, we also accept the argument that the figures of women in work in Albania in general is much higher because of the 'grey' economy as a very large proportion of women work on the land, an alternative to formal employment that would not be available to a victim of trafficking who chooses not to return to her family.

.....

158. We find that it is clear from the evidence that a victim of trafficking, especially if accompanied by a small child, would find it significantly more difficult to achieve re-integration into Albanian society than would be the case in many other countries. But that does not mean that all such victims of trafficking will fail to re-establish themselves. Each case will turn upon its particular facts. Among the features or characteristics that will be relevant to such an assessment are these:

- 1) The social status and economic standing of the appellant's family;
- 2) The level of education of the appellant and her family;
- 3) The appellant's state of health, particularly her mental health;
- 4) The presence of an illegitimate child;
- 5) The area of origin of the appellant's family;
- 6) The appellant's age.

We note that among the group who were interviewed by Dr Davies many hoped to return to Albania to build homes, have children, and set up in business. We consider women from wealthier backgrounds or those who are better educated would find it easier to reintegrate. Women from those groups would, however, be far less likely to be trafficked in the first place."

40. In paras 80-83 of his determination, Judge Waygood then considered the particular circumstances of the appellant on return and concluded that he did not accept that B would pursue the appellant in her home area. The judge said this:

"80. The Appellant is an educated, intelligent woman of 34 who has a 15 year old son who was born when she was married to [AZ]. She is not from a rural area she is from the town of [F] and has already returned to that area recently in 2012. She has skills as a tailor and waitress having worked as both in the past. I find that given her background that her circumstances would be reasonably positive upon return. Given what was found on the case of AM and BM.

....

82. It was not argued before me that the Albanian State could be considered to be an actor of persecution, nor indeed was it argued that the Albanian people in general were actors of persecution. Rather it was argued that both the traffickers from whom the Appellant allegedly escaped and other traffickers were the actors of persecution. At paragraph 168 of the case of AM and BM the Tribunal considered that whether or not the trafficker would pursue the Appellant as a victim of trafficking who had escaped from them or been returned is an issue which must be fact specific.

83. In the Appellant's case the allegation is that the person who initially trafficked her was [E] although his brothers are all in Italy. I do not find it likely that he would pursue her in the circumstances or that he would be in a position to persecute her upon return as she has not seen him for more than 3 years and there is no evidence that he has had any contact with her during that time or that he is in Albania. In addition there is no indication that she has had any difficulty from his or indeed her own family when she returned to [F] for a period of more than two months in 2012. Further while the Appellant referred to [B] being well known and

having gang connections there is no evidence whatsoever that this is the case. The Appellant on her own account never met any of his alleged friends and was not able to name any of them. There is no evidence that [B] was anything other than a person acting upon his own and he may well still be in prison on the Appellant's own account. There is no evidence that he had control over any women other than his wife [A] and the Appellant. This I find indicates that he was likely operating at a limited level. Furthermore whilst the Appellant indicated that [B] was Albanian there is no evidence that he has any connection other than [E], with the Appellant's home area, he clearly operates in Italy and according to the Appellant has connections with the Italian police. I cannot see any reason why he would wish to pursue the Appellant to her own home area and given the conclusion of the tribunal in AM and BM with regard to the age group of women who are either coerced or forced into prostitution, or as noted in the case are prepared to enter into 50-50 arrangements why the Appellant would now be pursued by this man or re-trafficked. The Tribunal also said that the Trafficker who acts on his own or with one or two accomplices is less likely to be able to either re-traffic or hurt the victim of trafficking than the trafficker who is part of a large gang. I conclude from all the evidence that there is a reasonable degree of likelihood that [B] is a small time operator who comes within the category of those less likely to be able to either re-traffic or pursue the Appellant. In addition the tribunal considered victims of trafficking who were duped into being trafficked by a 'false marriage promise' or by accepting the prospect of working abroad are unlikely to be taken in the same way again. I conclude this equally applies to the Appellant."

41. The judge then cited [172]-[173] of AM and BM dealing with societal discrimination as follows:

"172. We have considered the issue of the general societal discrimination because the appellant was 'kurva'. We do not consider that that in itself would amount to persecution .... We do not consider, however, that any discrimination which may be faced by women because they are on their own in Tirana would reach a level where it could either amount to persecution or treatment contrary to their rights under Article 3 of the ECHR.

173. It is argued that women in Tirana - either those that came from Tirana or those who went to Tirana as a place of internal relocation - without family support would suffer such deprivation that it would amount to persecution or treatment contrary to their rights protected by Article 3 of the ECHR. While we accept that there is discrimination and that family connections are the usual way to obtain work, that there is a shortage of housing and that day-care facilities for children are inadequate, it is the case that there is work, there are programmes to get women who are returned victims of trafficking back into the work force and there is some form of social benefits for those that are destitute. We do not therefore conclude that a woman returned to Albania, on her own, would face treatment contrary to her rights under Article 3 of the ECHR. In reaching that conclusion we note the terms of the determination of the Tribunal in MK (Lesbians) CG UKAIT 00036 with which we agree on this issue."

42. At para 83, the judge concluded:

"It is clear therefore that women on they (sic) own who are returned to Albania would not face societal discrimination which would amount to persecution under Article 3 for that reason."

43. I see no basis upon which it can be said that the judge's reasoning that led him to conclude that B was not likely to pursue the appellant to her home area and that she would not be at risk of being re-trafficked was not properly open to him having carefully considered the appellant's own personal circumstances. Likewise, it was entirely open to the judge given the appellant's background to find that her return to Albania would not place her at risk of ill-treatment contrary to Art 3 because of her past history.
44. As regards 'sufficiency of protection' the Upper Tribunal in AM and BM summarised their views at [182] as follows:

"... We accept that there is considerable corruption in Albania but we conclude that the steps taken by the Albanian authorities are sufficient to meet the standard of sufficiency or protection from re-trafficking from 'new' traffickers as set out in the judgment of Lord Clyde in Horvath from which we have quoted above. However, when considering the issue of whether or not the victim of trafficking has a sufficiency of protection from her former traffickers, should they wish to re-traffic her or harm her we consider that that issue must again be fact specific. We note the clear evidence of the brutality of those who have abducted women and trafficked them to Europe. We consider that the levels of corruption in Albania and societal attitudes towards women, particularly those that are thought of as 'kurva', are such that it is not possible to reach a conclusion that there is in all cases for a victim of trafficking a sufficiency of protection from her former traffickers. we conclude that, for each individual it is necessary to make an assessment taking into account the particular factors of that individual. These would include her age, her social, economic and educational background, the network of support which she might have, whether or not she has an illegitimate child and the way in which she has been trafficked in the past. If the victim is at real risk of persecution from her family or her 'husband' then there is little evidence that the State would intervene, particularly in the north of the country."

45. In relation to that, the judge dealt with the appellant's individual circumstances at paras 87-88 as follows:

"87 ... With regard to the [issue of 'sufficiency of protection'] the Tribunal said that the steps taken by the Albanian authorities are sufficient to meet the standard of a sufficiency of protection from re-trafficking from 'new' traffickers as set out in the judgment of Lord Clyde in Horvath. With regard to the Appellant, taking into account in deciding whether or not there is a sufficiency of protection, I note that she is 34 years of age, mature, that she has a social background of working and had been able to support herself and her child, that she has been educated, she clearly has a network of support as there were friends in Albania to whom she turned when she returned to Albania and has a legitimate child of 15. In addition the Appellant has not evidenced that she is suffering from any health problems and there is no evidence that she is suffering in particular from any mental health problems. I have also considered the way she was trafficked previously and find that she would be most unlikely to be abducted, this has become much less of a risk in Albania, as noted in AM and BM and I find it most unlikely that she would be duped in the same way she was before.

88. In addition as far as a sufficiency or protection is concerned it appears that the position in Albania has improved even since the case of AM and BM. The Respondent in the refusal letter referred to the United States

State Department trafficking in Persons report 2012 on Albania. It referred to the government of Albania sustaining its anti-trafficking law enforcement efforts over the last year and criminally prohibits sex and Labour trafficking. It is also recorded that the NGOs praised the sensitive response from prosecutors appointed to trafficking cases during 2011 including their referral of victims to care. Just as the tribunal in AM and BM came to the conclusion that generally there is sufficiency of protection. I conclude that there is sufficiency of protection for the Appellant in this case.”

46. Mr McGarvey submitted that the judge’s finding was not supported by AM and BM. That submission cannot be sustained in the light of [182] of AM and BM. There was no evidence that the appellant’s family or her husband (who had long ceased to be part of her life) had any interest in harming her. The judge took into account all the factors required by AM and BM including the appellant’s age and working and educational background in Albania and the fact that K, her son was legitimate and aged 15. In my judgment, the judge’s finding were entirely consistent with the approach required of him by AM and BM and his conclusion was one properly open to him which cannot be characterised as perverse or irrational or otherwise unsustainable.
47. Given Judge Waygood’s findings in relation to B’s lack of interest in pursuing the appellant and that a sufficiency of protection would be available, the appellant’s appeal necessarily fell to be dismissed taking her case “at its highest”. Any error in reaching the adverse credibility finding was not material to the outcome of the appeal.
48. At paras 89-91, the judge also found that, in any event, the appellant could internally relocate within Albania. The judge began by setting out the correct approach in [187] of AM and BM as follows:

“187. We consider therefore that Albania is a country where there is a real fear that traffickers might well be able to trace those who have escaped from them or indeed those whom they fear might expose them. Whether such persons would be motivated to do so is, of course, another matter, as we have discussed above. It is therefore a country where, at least, internal relocation is problematical for the victim of trafficking. To that should be added the difficulties for a single woman to reintegrate into a society where the family is the principal unit for welfare and mutual support as well as, it appears, the channel through which employment is most often obtained. We have therefore concluded that 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 once again we consider that it is important to consider each case on an individual basis.”

49. At paras 90-91 the judge said this in relation to internal relocation:

“90. Firstly I do not consider that this Appellant has a well-founded fear of persecution in her home area. She returned there in June 2012. She returned there for two months when she did not have to. In addition as I have already stated she has not seen [E] who was the person that initially trafficked her since 2009. There is no evidence that she fears the members of his family who remained in her home area and there is

no evidence whatsoever that [B] would or could pursue her and persecute her as a result of her having left Italy. There is no evidence whatsoever that he would be motivated to do so, given her age and background. I acknowledge the difficulties for a single woman to reintegrate in society where family is the principal unit of welfare and mutual support, however it is clear that the Appellant was able to manage previously without the help of a family or husband and was able to obtain employment in order to support herself and her son who is now 15. In addition if she did have a well-founded fear of persecution in her own area there is always the possibility of her moving for example to Tirana. It has been noted as outlined above that there is work, there are programmes to get women who are returned victims of trafficking back into the work force and there is some form of social benefits for those that are destitute. The Appellant is from a town not from a rural area, she has worked in the past and is a mature and intelligent individual, there is no evidence that she is a particularly vulnerable individual and no evidence that she has any medical issues, physical or mental. In the circumstances I find that it would be open to the Appellant to relocate to a city such as Tirana and therefore relocation is available to the Appellant.

91. In coming to my conclusions in relation to sufficiency of protection and re-location I have taken into account the most up to date background information from the evidence of the USSD Trafficking in persons report on Albania 2013 which indicates that in Albania there are state run and NGO run shelters for the victims of trafficking and that the Government provides some support for NGO shelters. There would therefore be shelter and support for the Appellant should she require it. In addition as pointed out by the Respondent the Appellant could avail herself of the Voluntary Assisted Return and Re-integration Programme (VARRP) assisting in short term accommodation, setting up business, job training, work placements or education and vocational training.”
50. Again, I see no basis for impugning the judge’s finding for the reasons he gave which involved a careful consideration of the appellant’s individual circumstances and concluding that the appellant could safely and reasonably live, for example, in Tirana. In [187] of AM and BM, although the Upper Tribunal noted that internal relocation was “unlikely to be effective for most victims of trafficking”, the Tribunal nevertheless noted that: “Once again we consider that it is important to consider each case on an individual basis.”
51. That, in my judgment, is precisely what Judge Waygood did in this appeal and given the appellant’s individual circumstances he was entitled to reach the conclusion that she could internally relocate within Albania. That finding was an additional reason why the appeal necessarily failed regardless of the appellant’s credibility.
52. For these reasons, therefore, the appellant’s appeal inevitably failed. Errors in relation to the credibility finding were not material to the outcome of the appeal and there is no basis upon which his decision to dismiss the appellant’s appeal should be set aside by the Upper Tribunal.

## **Decision**

53. For these reasons, the First-tier Tribunal's decision to dismiss the appellant's appeal did not involve the making of a material error of law and its decision to dismiss the appellant's appeal on all grounds stands.

Signed

A Grubb  
Judge of the Upper Tribunal