



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

Appeal Number: PA/12267/2017

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 30 April 2018**

**Decision & Reasons Promulgated  
On 08 May 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE NORTON-TAYLOR**

**Between**

**A N  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure  
(Upper Tribunal) Rules 2008**

**Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.**

**Representation:**

For the Appellant: Miss M Gherman, Counsel, instructed by Virgo Solicitors  
For the Respondent: Mr I Jarvis, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is a challenge by the Appellant to the decision of First-tier Tribunal Judge M R Oliver (the judge), promulgated on 8 January 2018, in which he dismissed her appeal against the Respondent's decision of 8 November 2017. The Appellant, a citizen of Albania, had based her protection claim on matters relating to forced marriage and sexual abuse prior to her departure from her country. The Respondent rejected the claim.

### **The judge's decision**

2. Put briefly, at [30] and [31] the judge rejects the Appellant's account "in its entirety". This is based primarily on matters of plausibility and the absence of corroborative evidence, in particular from various family members.

### **The grounds of appeal and grant of permission**

3. In essence the grounds make the following assertions. First, that the judge failed to take the Appellant's young age into account when assessing her evidence as to past events. Second, the judge failed to make sufficient findings of fact in relation to the Appellant's claim. Third, the judge failed to provide any or any adequate reasons. Fourth, the judge in effect was requiring corroborative evidence from the Appellant. Fifth, the judge failed to deal with an oral application for an adjournment at the hearing before him.
4. Permission to appeal was granted by First-tier Tribunal Judge Robertson on 27 February 2018. It is right to say that the judge was more impressed with some of the grounds than others. Having said that the grant of leave was not expressly restricted in any way.

### **The hearing before me**

5. At the outset Mr Jarvis, in his customary fair and pragmatic manner, made a number of observations relating to the decision under appeal. Without conceding anything he acknowledged that the judge did not seem to have taken account of the Appellant's minority at the time at which material events are said to have occurred in Albania. He also recognised what seemed to be a lack of findings and/or reasons relating to the judge's criticisms of the absence of corroborative evidence and other aspects of the Appellant's case.
6. For her part Miss Gherman confirmed that she did not have any evidence relating to the claimed oral application for an adjournment before the judge. There was no witness statement from previous Counsel and no note of hearing either. I pointed out to Miss Gherman that when assertions are made in grounds relating to procedural matters it is very often important (even if not strictly necessary) to provide written evidence of what is said to have happened or not happened at a hearing. I indicated to both representatives that the Record of Proceedings on file made no mention of an oral application for an adjournment. I noted that a

written application for an adjournment had been refused on the papers prior to the hearing before the judge.

### **Decision on error of law**

7. As I announced to the parties at the hearing, I conclude that there are several material errors of law in the judge's decision.
8. It is right that during the processing of the protection claim in the United Kingdom and at the hearing the Appellant was over the age of eighteen. To that extent she was not a "vulnerable witness" within the meaning of the Joint Presidential Guidance Note No 2 of 2010. However, it is clear that at the time at which claimed events are said to have occurred in Albania, the Appellant was a minor. She had only turned nineteen in the early autumn of 2017, some three months after arriving in this country. In light of this I agree with the observation made by Mr Jarvis that her young age was a relevant consideration when assessing her credibility in general, whether she would have obtained corroborative evidence at any time, and also whether there were any credible explanations as to why corroborative evidence had not been adduced. On the face of the judge's decision there is no reference to the Appellant's young age at material times, and I see no substantive consideration of this factor in [30] and [31]. There is an error here.
9. There is also in my view a lack of adequate reasons in [30] and [31]. Judges are entitled to express themselves relatively briefly, but sufficiently clear reasons must be provided and these reasons must relate to material aspects of the claim being put forward by an Appellant. In this case, the wholesale rejection of the Appellant's account appears on the face of it to have been based in very large part by a lack of corroborative evidence (something which is not a legal requirement of course) and the judge's view of what was or was not plausible. It is somewhat difficult to discern any assessment of the Appellant's own evidence, whether in respect of specific findings and/or reasons for rejecting it. An absence of corroborative evidence can be relevant to credibility, but really only insofar as it means that the fact-finder has only the word of the Appellant to go by. This can make it more difficult for an Appellant to succeed, depending on their own individual credibility, but it is by no means impossible. To this extent I agree with the second of Mr Jarvis's observations and find there to be a further error here.
10. In respect of factual findings, there are in a sense none save for the bald, overarching conclusion that the Appellant's story was being rejected in its entirety. In a protection claim with at least a couple of strands to it, it is in my view important for an unsuccessful Appellant to be able to see what specifically the Tribunal is saying in terms of their case. That has not occurred here, and that is an error.
11. I acknowledge that at the end of [30] the judge has apparently made an alternative conclusion that in any event the Appellant could receive state

protection or could internally relocate. In this case that is, with respect, insufficient. There is no detailed assessment of the Appellant's particular factual circumstances in relation to either of these two issues. That is in part because there has been a failure to make relevant findings of fact.

12. I leave aside the issue of the adjournment. There is no clear evidence before me to show that an oral application was in fact made. I make it clear this issue had no bearing on my overall conclusion that the judge has erred.
13. It is clear that the errors identified above are material. In light of this I exercise my discretion under section 12(2)(a) of the Tribunals, Courts and Enforcement Act 2007 and set the judge's decision aside.

### **Disposal**

14. Both representatives were agreed that this appeal would have to be remitted to the First-tier Tribunal. In light of paragraph 7.2 of the Practice Statement, I agree. It is quite clear that there has been insufficient findings of fact in this case. All material aspects of the Appellant's claim are in dispute and she is entitled for her claim to be looked at afresh, with a full and detailed assessment conducted as to the credibility of her account. To this end, I issue directions below.

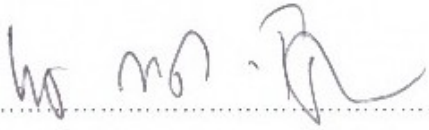
### **Notice of Decision**

**The decision of the First-tier Tribunal contains material errors of law and I set it aside.**

**This appeal is remitted to the First-tier Tribunal for a complete rehearing.**

### **Directions to the First-tier Tribunal**

- 1. The appeal is remitted to the Hatton Cross Hearing Centre.**
- 2. The remitted hearing shall not be before First-tier Tribunal Judge M R Oliver.**
- 3. An Albanian interpreter is required.**
- 4. There will be three witnesses at the remitted hearing.**
- 5. It is expected that the remitted hearing will have a time estimate of four hours.**
- 6. The Appellant will be serving a consolidated bundle upon both the First-tier Tribunal and the Respondent in due course.**

A handwritten signature in black ink, appearing to read 'W. Norton-Taylor', written over a horizontal dotted line.

Signed

Date: 1 May 2018

Deputy Upper Tribunal Judge Norton-Taylor