Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/10878/2015 (P)

THE IMMIGRATION ACTS

Decided without a hearing **Decision & Reasons Promulgated On 14 July 2020**

Before

UPPER TRIBUNAL JUDGE BLUNDELL

Between

AB (ALBANIA)
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

I ORDER under rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 that no one shall publish or reveal the name or address of the Appellant who is the subject of these proceedings or publish or reveal any information which would be likely to lead to the identification of the Appellant or of any member of his family in connection with these proceedings.

1. The appellant is an Albanian national who was born on 17 October 1997. He entered the United Kingdom clandestinely in March 2014 and claimed asylum on 17 March 2014, aged 16.

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Asylum Claim

2. The appellant had a screening interview in Croydon on 20 March 2014. He said that he was an ethnic Gorani and a Muslim from Shishtavec in north-eastern Albania. He said that he had received little education in Albania and he made reference to his father having attacked him with a knife. He gave a short account of his route to the UK, via Kosovo, Macedonia and Hungary. He said that his uncle had arranged his passport and his journey after he had been threatened by his father: "My father said that you will have to come out with me and sell drugs otherwise I will kill you", he claimed. It appears that this interview was conducted in Albanian. At the end of the interview, in bold, the interviewing officer noted that the appellant had requested that any further interview should be conducted in Gorani.

3. The appellant's representatives submitted a completed Statement of Evidence Form on or about 14 April 2014. In the form itself, the appellant gave details of his family in Albania and other such matters. In the accompanying statement, he set out, over the course of fourteen paragraphs, the basis upon which he sought asylum.

4. The appellant stated that he was from an ethnic group called the Gorani, which speaks a dialect which is "completely different from Albanian", containing a mixture of Macedonian and Bulgarian dialects. He gave further details about the composition of his family. He stated that his father had been a farmer. He had difficulties at school because Gorani was not a language of instruction and because his father refused to buy him the necessary books. His father had been imprisoned in 2005 or 2006 for assaulting someone whilst he was drunk. He was imprisoned for four years, during which time the family was supported by the appellant's mother and his uncles.

5. The appellant stated that his father was a changed man upon his release from prison. He became withdrawn and would drink excessively at a bar in Shishtavec, regularly returning home late and inebriated. He started gambling and would be violent towards the appellant, his mother and his siblings when he lost money. The police were called on occasion, to no avail. The wider family attempted to intervene, only to be met with threats from the appellant's father. The appellant's mother and his siblings left home but were persuaded to return by the appellant's father. The violence continued.

6. The appellant came to learn, through his mother, that his father was transporting bags illegally into Kosovo. In 2012, the

appellant's father forced the appellant to accompany him on one of these trips. They met two people in a forest and were given four shoulder bags to carry through the forest to a pre-arranged location in Kosovo. They gave the bags to two men in Kosovo, and received a bag of money in return. They undertook the journey approximately ten times, despite the appellant's protestations about the illegality and the presence of mines in the forest. The appellant's father told him that he would kill him if he discussed these activities with anyone. After the final journey, the appellant's father told the appellant's mother what they had been doing. She became concerned about the appellant's safety and her brother made arrangements for the appellant to obtain a passport and to leave the country. He feared to return to Albania because of the threats from his father and his association with powerful criminals. He was unable to relocate within Albania because he was still a minor and would have no support.

7. The appellant then underwent an interview, on 31 October 2014. He was accompanied by a solicitor and a responsible adult at the interview. It is recorded that he was interviewed in Gorani. He provided further information about his claim. Amongst other matters, he described how his mother's family lived in a place called Borje but that he had had no contact with his family since arriving in the UK. He provided some further information about where he had lived. He stated that his father would kill him if he returned to Albania. It had been difficult when his father was in prison. His mother had left his father in late 2013 and had gone to her family in Borje. She had remained there until January 2014. He had started taking bags to Kosovo with his father in 2012. It was only on the third trip that he found out that the bags contained drugs, when he heard one of the other men talking to his father. The appellant had made the trip ten times but his father had done it many more times. He had only done so because his father had threatened him. He told his mother in January 2014 and had not done so any sooner because he was scared. The police were eventually called by the appellant's family but his father had by that stage left home. The appellant had travelled using a genuine passport arranged by his uncle.

8. The appellant's solicitors made representations in writing on 19 December 2014. They summarised the claim once again and sought to clarify some of the answers given at interview.

9. On 2 March 2015, the respondent received information from the British Embassy in Tirana, which had made contact with the Albanian Ministry of the Interior. The information received corresponded with the details given by the appellant, both in respect of his family's location and composition. It also

confirmed that the appellant had used his own passport to leave the country.

Respondent's Decision

10. On 22 July 2015, the respondent refused the appellant's application for asylum. At this stage, I will confine myself to the following outline of the decision. The appellant's age and identity were accepted: [6] and [12]-[15]. The respondent noted that the appellant had been referred to the Competent Authority ("CA") via the National Referral Mechanism ("NRM") and that it had been accepted on conclusive grounds that he was a victim of trafficking: [5] and [16]. It was not accepted that the appellant's claim engaged the Refugee Convention: [8]-[11]. Nor was it accepted that the appellant had been threatened by his father at knifepoint, since it was thought that his account in this regard had been inconsistent: [17]-[19]. It was accepted that he had been involved in 'forced criminality' but not that he had been threatened by his father: [20]. In any event, the respondent concluded that the appellant could avail himself of a sufficiency of protection in Albania or that he could relocate internally so as to avoid any threat from his father: [21]-[29] and [30]-[36] respectively. It was not accepted, in the circumstances, that the respondent would be in breach of her international obligations if she removed the appellant to Albania.

Appellate History

11. The appellant gave notice of his appeal to the First-tier Tribunal ("FtT") on 6 August 2015. I need not rehearse the grounds of appeal.

12. The appeal was heard before a judge of the FtT on 4 May 2016. In a decision which was sent to the parties on 18 May 2016, the appeal was dismissed on all grounds. Permission to appeal was granted by the FtT later that year, however, and on 8 August 2016, the appeal came before Upper Tribunal Judge Perkins. In a decision which was sent to the parties on 26 September 2016, Judge Perkins dismissed the appellant's appeal. The appellant was granted permission to appeal to the Court of Appeal by Sir Stephen Silber, however, and it was subsequently ordered by consent that the appeal should be remitted to the Upper Tribunal because Judge Perkins had erred in proceeding in the absence of the appellant and his representatives.

13. The appeal returned to the Upper Tribunal for fresh consideration of whether the FtT had erred in law. In a decision which was sent to the parties on 14 March 2018, Judge Smith concluded that two of the appellant's grounds disclosed no error of law but that the third, which related to the judge's failure to consider an expert

report from Antonia Young, disclosed an error of approach. Judge Smith accordingly ordered that the appeal would be remitted to the FtT on a limited basis.

14. The appellant sought to appeal to the Court of Appeal again, submitting that Judge Smith had been wrong to reject the ground of appeal that the appellant's claim engaged the Refugee Convention Permission to appeal was refused by Judge Smith and by Sir Ross Cranston, however, and the appeal returned to the FtT, where it was heard again (although not afresh) by First-tier Tribunal Judge Grant. In a decision which was sent to the parties on 23 April 2019, Judge Grant dismissed the appeal. She accepted (as had the first judge in the FtT and the NRM) that the appellant had given a credible account of his identity and his history. She proceeded on the basis (preserved by Judge Smith in the Upper Tribunal) that the appellant was not a member of a Particular Social Group but she considered whether he was entitled to subsidiary protection. She did not consider him to be so entitled because he could relocate internally so as to live with his mother in Borje: [28]. She did not accept that the appellant would be shunned by his family on return. She considered that he could seek the protection of the Albanian authorities, as there was nothing to suggest that they would not act against the appellant's father as they had in the past: [35]. The judge did not consider that the appellant would be at risk of re-trafficking upon return: [36]. She held that he was able to speak Albanian and that he might be able to use his knowledge of English to find work in a tourist destination in Albania: [42].

15. Permission to appeal against Judge Grant's decision was refused by the FtT but granted on renewal by Upper Tribunal Judge Keith, who concluded that it was arguable that the judge had fallen into error in her conclusion regarding internal relocation to Borje. In a decision which was sent to the parties on 18 October 2019, I found that the FtT had fallen into legal error when it concluded that the appellant's mother was in Borje, when it was quite clear that the appellant's account was that his mother had returned to the family home in Shishtavec. I did not accept the contention advanced at that stage by Mr Tufan on behalf of the Secretary of State that the appellant could in any event relocate to another part of Albania in safety. As noted by Mr Collins of counsel, who has since represented the appellant throughout, that submission failed to take account of the appellant's Gorani ethnicity, his status as a victim of trafficking and his limited education. I concluded my decision in the following way:

> "[13]It follows that the judge's decision will have to be set aside and the decision on the appeal must be remade. As I indicated at the hearing, I consider the Upper Tribunal to be the proper venue for that exercise, given the protracted proceedings which have led to this point. I will retain the

matter and will remake the decision on the basis of the primary facts found thus far. In particular, I note the following. It was accepted by the respondent and the Competent Authority that the appellant was involved in smuggling with his father under threat of violence from the latter. It has been accepted throughout that the appellant is Gorani. It was accepted by Judge Oliver and by Judge Smith that there is an extant threat from the appellant's father in Shishtavec. The principal focus of the resumed hearing will therefore be to consider whether the appellant can relocate so as to avoid the threat from his father and whether there is a sufficiency of protection for him in Albania. Those questions, and the question posed by paragraph 276ADE(1)(vi) of the Immigration Rules (very significant obstacles) will be considered with reference to the reports prepared by Antonia Young and to the appellant's mental health condition. The parties will recall that the question of whether or not the appellant's claim engages the Refugee Convention was resolved adversely to him by the FtT, the Upper Tribunal and the Court of Appeal, and that is not a matter which I am entitled to revisit. The protection claim which remains arises under Article 15 of the Qualification Directive and Article 3 ECHR only, although the appellant will be at liberty to submit that Article 8 ECHR would be breached by his removal, whether that submission is made within the Private Life provisions of the Immigration Rules or outside those Rules.

[14] I will direct that the appeal is to be relisted for half a day before me on the first available date. A native Gorani speaking interpreter will be arranged, since Mr Collins indicated his intention to call the appellant on the next occasion. Given the absolute disarray into which these papers have fallen over the course of the litigation, I also direct that the appellant's solicitors file and serve a consolidated bundle of *all* the material upon which they propose to rely not later than 10 working days in advance of the next hearing. In the event that further directions are sought or further time required, there is liberty to apply."

16. What followed, however, served only to add to the concern that the proceedings had become protracted. The resumed hearing was listed before me on 9 December 2019 but the Gorani interpreter who had been booked telephoned the Tribunal on the morning of the hearing to state that she was unwell. Gorani is such a rare language that it was not possible to arrange an alternative interpreter. The appeal was relisted before me on 24 January 2020. The evening before that hearing, I was informed that no Gorani interpreter was available. At very short notice to the parties, therefore, that hearing was also stood out of the list.

17. The appeal then came before me on 20 March 2020, the day on which the nationwide 'lockdown' was announced as a result of the Covid-19 pandemic. The appellant was again represented by

Mr Collins. The respondent was represented by a Senior Presenting Officer, Ms Cunha. It transpired that, despite the best efforts of the staff at Field House, the interpreter who had attended the hearing was not a native Gorani speaker. For reasons which were not entirely clear to me, she was an Albanian speaker who thought that she would be able to speak Gorani. On attempting to converse with the appellant about basic matters, it was abundantly clear to all concerned that the appellant was not able to understand her satisfactorily or at all. That hearing was therefore adjourned. After the hearing, I issued a note to the parties. For reasons which will shortly be apparent, it is necessary to set [4]-[5] of that note out in full:

> "[4] In light of the extraordinary history of this case, I turned to Mr Collins and Ms Cunha to agree on the way forward. It was agreed by the advocates that matters would proceed in the following way, and it was therefore with their full agreement that I made the directions which follow. I explained to the advocates that my directions were being issued orally and that I did not expect there to be any facility in Filed House for any written record to be sent to the parties. Despite the current closure of Field House, however, I understand there is a facility for the electronic issuance of directions. What follows, therefore, is a written record the directions previously issued; it is not that I am issuing these directions at today's date.
>
> (i) No later than 4pm on 9 April 2020, the respondent is to file and serve written questions for the appellant which are to stand in place of cross-examination.
>
> (ii) No later than 4pm on 7 May 2020, the appellant's representatives are to file and serve the responses to the questions at (i).
>
> (iii) No later than 4pm on 29 May 2020, the respondent is to file and serve any final submissions in the appeal.
>
> (iv) No later than 4pm on 19 June 2020, the appellant's representatives are to file and serve any final submissions in the appeal.
>
> [5] In light of the current situation, and particularly the difficulties which might be encountered by the appellant's representatives in light of the current lockdown, there is liberty to apply. In the absence of an application to vary the agreed timetable above, however, a defaulting party may expect the Tribunal to proceed to determine the appeal without further notice."

18. Those directions, which are perhaps more aptly described in the circumstances as an agreed timetable for the progression of the appeal, were sent (by an Upper Tribunal Lawyer) by email to the respondent and the appellant's solicitors on 2 April 2020. A further copy was sent (by a member of the administrative staff on this occasion) by email on 7 May 2020.

19. On 14 May 2020, the appellant's solicitors wrote in compliance with the second of the directions above. In response to that communication, I issued another order, which was materially in the following terms:

> "[4] The date for the respondent to comply with the first of those directions has passed. There has been no compliance with it, nor has there been any request for an extension of time. The appellant's solicitors have therefore complied with the second direction to this extent only. They have written to the Tribunal, noting the absence of any questions from the respondent and submitting that the respondent has foregone the opportunity to cross-examine the appellant. I consider that submission to be meritorious. The appellant has provided his answers the points taken in the letter of refusal and the respondent has elected not to challenge his account by cross-examination. She must be taken not to dispute the factual account: MS (Sri Lanka) [2012] EWCA Civ 1548, at [14]. The appellant's account has already been accepted to a large extent by the Competent Authority in any event.
>
> [5] The third and fourth directions which I issued on 20 March 2020 remain in force. Should either party seek to make submissions in compliance with those directions they will be considered in the final decision upon this appeal."

20. To date, nothing whatsoever has been received from the respondent in accordance with any of these directions. There have been no written questions for the appellant, no submissions on the merits and no request for any amendment of the directions. I am entirely satisfied that the directions are known to the respondent. As I was at pains to explain at the hearing, the directions were agreed between the representatives. They were sent out twice, by email. The email address used (UTdirections@homeoffice.gov.uk) is the address which has been agreed for service upon the respondent during the pandemic and I now have extensive experience of the respondent replying to directions served using that address. The directions have clearly been received and acted upon by the appellant's solicitors, who complied with the final direction by filing written submissions from Mr Collins on 24 June 2020. Given the history of this case, and the attempts I made at the hearing on 20 March to ensure that realistic timescales were given in light of the pandemic, it is frankly shocking that there has been such silence from the respondent.

Remaking the Decision

21. Rule 34(2) requires me to have regard to the views expressed by the parties when deciding whether to hold a hearing. The appellant remains content for the appeal to be decided without a further hearing. The only view expressed by the respondent was expressed at the hearing on 20 March 2020, when Ms Cunha

expressly agreed to proceed as above. The discretion to proceed without a hearing is nevertheless to be considered and I recall, in that connection, what was said in Osborn v The Parole Board [2014] 1 AC 1115. The scope of the remaining factual issues is comparatively limited. Both parties have had ample opportunity to consider their positions and to make submissions. There is clearly an interest in concluding this appeal. Form IAFT-1 was lodged nearly five years ago. The case has been considered by judges of the FtT, the UT and the Court of Appeal on more than one occasion. The appellant has been accepted to be a victim of trafficking. There is nothing, in reality, which serves to dissuade me from the course agreed at the hearing on 20 March 2020. I will therefore remake the decision on the appeal without a further hearing.

22. I undertake that remaking exercise on the basis that the appellant's account is reasonably likely to be true. As already noted, he was accepted by the Competent Authority to be a victim of trafficking. The first judge in the FtT (Judge Oliver) accepted his account and then it was accepted before the second judge in the FtT (Judge Grant) that those findings should stand. I note in any event that the only point taken against the appellant's account in the letter of refusal was illogical. It was accepted that the appellant was the victim of 'forced criminality' but not that he had been threatened by his father. But the only person who is said to have coerced the appellant is his father, and it makes no sense in those circumstances for the respondent to have accepted that there was forced criminality unless it was also accepted that the appellant's father exerted that force. The appellant's account was given as a child and is to be evaluated in light of his minority at the material times. He was a vulnerable individual at the time and he remains a vulnerable individual, by reference to his accepted status as a victim of modern slavery (the Equal Treatment Bench Book refers). His story is nevertheless essentially consistent and plausible and I accept the account he has given in its totality.

23. At [5] of his excellent written submissions, Mr Collins draws together the essential facts of this protracted case. I gratefully adopt that summary, minus his meticulous cross-referencing, and find as follows. The Appellant is now 22 years of age. He is an ethnically Gorani male from Shistavec in the far north of Albania. His village is very small. He has never lived anywhere else in Albania. The Appellant has never visited Tirana and he knows nobody there. The Appellant had a disjointed education, only up to primary level. He has limited knowledge of the Albanian language; he understands some but his *"speaking and written skills are not very good"*. His father and family worked the land. Other than helping on the land the Appellant has never had a job in Albania. He has no contact with his family. Family tracing

indicated that his father and family remain in Shistavec. His father is an alcoholic and a violent man who has served 4 years in prison for stabbing another man. He has also threatened neighbours. His father beat the Appellant's mother and subjected his young children to egregious abuse. The Appellant's uncles have reported his father to the police on three occasions and whilst the police attended the family home they never arrested him. On one occasion when an uncle intervened, the Appellant's father beat the uncle up. When the uncle reported this incident the police turned up once only but the Appellant's father was not there. The police never returned in relation to this incident and never arrested the Appellant's father. The police were fully aware of his father's presence in the village but did not arrest him. The Appellant's extended family are also scared of his father. In 2012 The Appellant's father forced the Appellant – then aged 14 – to transport drugs alongside him into Kosovo threatening to kill him if he did not go with him. His father threatened to kill him if he told anybody about the drug running. When on occasion the Appellant refused to go with his father to transport drugs his father would beat him up, threaten to kill him and force him to go. The authorities had been paid off and they did not need to worry if the police stopped them. His father's criminal associates *"have a lot of connections"*. When on one occasion in 2013 the Appellant's mother took the other children and fled the house the Appellant remained with his father because his father threatened to kill him if he left. When the Appellant informed his mother about the drug running his mother was so concerned for his safety she immediately contacted her brothers and they arranged for the Appellant to flee Albania. The Appellant is afraid of the gang that his father worked for as well as his father. As a result of his past experiences the Appellant has received counselling in the United Kingdom. He is on a waiting list for further counselling.

24. Against that backdrop, it is clear that the appellant is reasonably likely to be at risk in his home area of Shishtavec. His father threatened that he would kill him if he left. It was for that reason that the appellant was unable to leave the family home with his mother, when she left (temporarily) to go to her own family in Borje. It is reasonably likely that the appellant's dangerous and violent father would seek to harm him as a result of his disobedience.

25. I also accept the argument made by Mr Collins at [12]-[13] of his written submissions, to the effect that the appellant is also likely to be at risk from the drug-trafficking gang with whom his father is (or was) connected. It is reasonably likely, in my judgment, that this gang, which was seemingly transporting large amounts of drugs between Albania and Kosovo on a regular basis would seek to 'cover its tracks' by seeking to silence the appellant if he

returned to his home area. As submitted by Mr Collins, the appellant is clearly privy to information about the routes used by the gang and the people involved in the drug trafficking.

26. There has been no indication of any ongoing or extent risk since 2014 but the appellant has not been in touch with his family and, in any event, there need not be; corroboration is not a requirement in such cases It is also to be recalled that past ill-treatment is probative of future ill-treatment: Article 4(4) of the Qualification Directive refers, reflecting pre-existing jurisprudence in the UK in the form of Demirkaya [1999] Imm AR 498. Given the threats and ill-treatment suffered by the appellant in the past, there is no good reason to think that he would not be exposed to the same treatment in the future, were he to return to Shishtavec.

27. Having concluded that the appellant remains at risk in his home area, I turn to consider the submission made by the respondent at [21]-[29] of the letter of refusal: sufficiency of domestic protection. In reaching the conclusion that the appellant would receive adequate protection from the Albanian authorities, the respondent took account of the facts of his case, the background material then available to her, and the country guidance decisions in VD (Albania) CG [2004] UKIAT 115 and AM & BM (Albania) CG [2010] UKUT 80 (IAC). Neither of those decisions, nor TD & AD (Albania) CG [2016] UKUT 92 (IAC) and EH (Albania) CG [2012] UKUT 348 (IAC) are *directly* on point. The trafficking cases concern female victims of sex trafficking and EH (Albania) concerns blood feuds. To the extent that they provide a certain level of background information about the situation in Albania, however, it is appropriate to take those decisions into account. Having done so, and having also considered the Asylos report of May 2019, upon which Mr Collins relies throughout is written submissions, I consider the position in Albania to be as follows. As was recognised in TD & AD, Albania has made significant progress in respect of the detection and prevention of trafficking and the prosecution of those involved in it. The Asylos report notes, at p63, that there is in place a strong legislative and policy framework in place. It is this framework which prompted the Upper Tribunal to conclude in TD & AD that there is, in general, a sufficiency of protection for (female) victims of trafficking in Albania.

28. As Auld LJ explained at [55](6) of Bagdanavicius [2003] EWCA Civ 1605; [2004] 1 WLR 1207, however, even where there is a systemic sufficiency of state protection, it remains necessary to take account of the particular circumstances of an individual case. At [182] of TD & AD, the Upper Tribunal emphasised that it was not possible to reach a clear conclusion that there was – in all trafficking cases – a sufficiency of protection from the former

traffickers. Instead, it was necessary to make an assessment taking into account the particular circumstances of the individual. In applying that approach to the facts of this case, I accept the submission made by Mr Collins that the source of the principal risk to the appellant is relevant. It is relevant, in other words, that he fears his father. TD & AD shows, as does EH (Albania), a degree of unwillingness on the part of the Albanian authorities (particularly in Northern Albania) to become involved in matters which they perceive to be family disputes.

29. The respondent notes in the letter of refusal that the police were previously called and that they attended the family home in response to allegations of domestic violence. As Mr Collins notes in his written submissions, however, to attach weight to this is to ignore the remaining facts of the case. When the police attended, the appellant's father was not there. They did not wait for him or search for him and they left, taking no further action. This is suggestive of, at best, a 'box ticking' approach, and not one in which the police were determined to detect and prosecute an offender. It was as a result of the police's inaction that the appellant's mother took matters into her own hands and left the family home to relocate to Borje.

30. Neither the appellant nor, it seems, his family members, have informed the Albanian authorities about the appellant's father's role in drug trafficking between Albania and Kosovo. Were that information to be given, it is reasonably likely that it would serve to reduce rather than to increase the appellant's chances of receiving a sufficiency of protection. He stated in his claim that the authorities had been 'paid off' and that the gang had a lot of connections. Section 4.6 of the Asylos report, which draws on evidence from many respected commentators including Dr Stephanie Schwandner-Sievers, demonstrates how plausible this assertion is. Unfortunately, corruption within the police and the judiciary remains widespread in Albania. Given the involvement or acquiescence of the police in the appellant's father's operation, it is reasonably likely that they would take no action to protect the appellant, given their vested interest in the activities of the gang.

31. Mr Collins also highlights, at [15]-[16] of his written submissions, the list of factors which were said by the Tribunal in TD & AD to be relevant to the ability of an individual to access a sufficiency of protection on return to Albania. Those factors are accepted to be correct by the respondent, since they feature at [2.4.2] of the 5 March 2019 CPIN entitled *Albania: People Trafficking.* I consider those factors in turn.

32. *The social status and economic standing of the family.* The appellant's family is of low social standing, having tended a small area of land in rural northern Albania.

33. *The level of education of the victim of trafficking or their family.* The appellant received very little education because of the language problems discussed above and his father's reluctance to buy school books for him. As a Gorani speaker, the appellant will be less able to advocate on his own behalf than a fluent Albanian speaker.

34. *The victim of trafficking's state of health, particularly mental health.* The appellant does not suffer from acute mental health problems but he has received counselling in the past and is on the waiting list for more.

35. *The presence of an illegitimate child.* This factor is obviously not relevant. *The area of origin*. As above. *Age of victim.* 22.

36. *What support network will be available.* I consider that there will be no support network available to the appellant. He would not be able to return to his family in Shishtavec. Borje, where his maternal family live, is nearby and I consider that the appellant would be at risk if he went there, for reasons considered more fully below.

37. It follows that consideration of many of the factors set out in TD & AD also points to the appellant's inability to access a sufficiency of protection on return. In the circumstances, and despite the inroads which Albania has made against traffickers and their pernicious trade in recent years, I conclude that this appellant would not receive a sufficiency of protection on the facts of his individual case.

38. In the further alternative, the respondent relies at [30]-[46] on a submission that the appellant could relocate safely and reasonably within Albania, so as to avoid the threat from his father and his associates. As foreshadowed above, I do not consider that the appellant would be safe in the event that he relocated to a different part of Albania. It is well established that Albania is a small country in with a small population, in which "there would be an attempt by those with whom the victims came into contact, either officially, starting with the border police or when they attempted to find work or merely acquaintances whom they would meet, to place them within their family context and to endeavour to find mutual acquaintances.": AM & BM refers, at [165]. That would be particularly so in the case of the appellant who would, as Mr Collins puts it at [22] of his written submissions 'stand out' as a Gorani who does not speak a great deal of Albanian. Many Gorani have migrated to Tirana (the CPIN

on Ethic Minority Groups in Albania refers, at [10.1.2]). There is a risk, on the facts of the appellant's particular case, that those with whom he came into contact, and particularly those Gorani with whom he came into contact, would attempt to trace his family back to Shishtavec. Were they to do so, there is a reasonable likelihood that the appellant's father or his associates would seek to harm the appellant in a place of relocation. These are dangerous people with an extant grudge who would wish to silence the appellant if they came to know his location which, on the facts of this case, seems entirely likely. This risk would be particularly acute, in my judgment, were the appellant to attempt to relocate to Borje. This is near to his family home in Shishtavec and is known by his father to be the location of the appellant's mother's family. It is reasonably likely that the appellant would be detected swiftly if he went there.

39. In any event, I accept the submissions made by Mr Collins about the undue harshness of the appellant relocating to Tirana or another part of Albania. He has never lived elsewhere in that country and he has never had any employment. He has limited knowledge of Albanian. He is an ethnic minority and his ethnic group are perceived as having collaborated with the Yugoslav aggressors during the conflict: MB (Serbia and Montenegro) [2003] UKIAT 105 refers. Members of ethnic minorities are known to face difficulty in obtaining formal civic registration: 13.1.1 of the July 2017 Albanian Background Information CPIN. Unlike female victims of trafficking, who can expect to be placed in a shelter for anything up to two years, the Asylos report shows that there are no such shelters for male victims of trafficking. In the event that the appellant was able to engage with these services in any realistic way (given his linguistic difficulties), the most that he could hope to be provided with would be a rented apartment: page 150 of the Asylos report refers. Even assuming, contrary to the findings of I have reached above, that the appellant would be safe in such a place, I do not consider that he would be able to live a relatively normal life by local standards. The challenges he would face, as a young man from an ethnic minority background with little education and life experience, are such that he would find it particularly difficult to survive. Having considered the Asylos report as a whole, and the sections highlighted at [29] of Mr Collins' submissions in particular, I find that it would be unduly harsh for the appellant to relocate within Albania.

40. I have reserved to the end of my decision the question addressed by Mr Collins at an earlier stage in his written submissions: the existence of a Refugee Convention Reason. Mr Collins submits that the appellant belongs to a Particular Social Group of a 'young adult who was trafficked under duress by his father into criminality' but I do not consider this question to be before me.

The FtT previously found that such young men would not be perceived as different by the surrounding society in Albania, and therefore that the group identified could not satisfy the second of the two tests in regulation 6(1)(d)(ii) of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006. Upper Tribunal Judge Smith rejected the ground of appeal which was advanced against that conclusion. She then refused permission to appeal to the Court of Appeal on that ground. In his decision refusing permission to appeal to the Court of Appeal, Sir Ross Cranston said:

> "The applicant was forced by his father to traffic drugs from Albania to Kosovo. He therefore falls within the definition of being a victim of trafficking/modern slavery. Both the FtT and the UT determined that he was not a member of a particular social group for the purposes of the Convention. Both drew the sensible and reasonable distinction with trafficked Albanian women forced into prostitution. Further, here [sic] was no evidence of discrimination against persons like him. I cannot see that there is any reasonable prospects of the Court of Appeal differing from the conclusions of both the FtT and the UT."

41. Mr Collins does not engage with these conclusions in his written submissions, reverting instead to the analysis which was rejected by the FtT, UT and Court of Appeal, that the appellant's situation is comparable to that of a woman who was trafficked for sexual exploitation. That submission having been rejected in the past, I do not consider that I am able to find that the appellant belongs to a Particular Social Group for the purposes of the 1951 Convention. It follows that the appeal stands dismissed on Refugee Convention grounds but is allowed on Humanitarian Protection (Article 15(b) QD) and Article 3 ECHR grounds.

42. In light of the findings in the preceding paragraph, I will not consider the alternative submissions made by Mr Collins on Article 8 ECHR.

Notice of Decision

I remake the decision in this appeal by allowing it on Humanitarian Protection and Article 3 ECHR grounds.

M.J.Blundell
Upper Tribunal Judge Blundell

14 July 2020

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:

2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically).**

3. Where the person making the application is in detention under the Immigration Acts**, the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically).**

5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.

6. The date when the decision is "sent' is that appearing on the covering letter or covering email.