



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/02684/2020

**THE IMMIGRATION ACTS**

Heard at Field House Remotely  
On 12 January 2021

Decision & Reasons Promulgated  
On 14 January 2021

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

SB  
(ANONYMITY IN FORCE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr D Ball, Counsel instructed by Duncan Lewis & Co Solicitors

For the Respondent: Mr S Whitwell, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the Appellant. Breach of this order can be punished as a contempt of court. I make this order because the Appellant is an asylum seeker and publicity might put him at risk.
2. The appellant is a citizen of Albania. He was born in January 2003. He appeals a decision of the First-tier Tribunal dismissing his appeal against a decision of the Secretary of State on 5 March 2020 refusing him international protection.
3. It is established that the appellant is a victim of trafficking. The appeal was dismissed because the First-tier Tribunal Judge was satisfied that the appellant could reasonably be expected to relocate to a place of safety within Albania.
4. The judge said at paragraph 116:

“The appellant’s family are (as far as he is aware) still in his home area of Shkodër. This is where the drug gang first recruited the Appellant and I acknowledge that the Appellant may be at risk if he were to return to his home area, however he could choose to internally relocate. If the Appellant were to internally relocate he could not avail himself of effective protection from his family, there is support available from the NGOs such as Different and Equal. With this support upon his return to Albania the Appellant could rehabilitate and reintegrate into Albanian society. Accordingly, I consider internal relocation to be reasonable and not unduly in the Appellant’s circumstances”.

5. As is plain from paragraphs 109 and 115 of the Decision and Reasons, the problem with this is that the judge considered the difficulties the appellant would face in the event of his return to Albania after he had achieved his majority rather than at the date of decision while he was a minor. As was explained correctly in the skeleton argument, it is plain following **ST (Child asylum seekers) Sri Lanka [2003] UKUT 00292 (IAC)**, if it was not plain before, that where the appellant is a child the claim must be assessed at the date of the decision and not on the occasion of his possible return when he has achieved his majority.
6. Whilst it might be the case (this is not something I have to determine) that the judge would have reached the same conclusion if she had directed herself correctly, she did not direct herself correctly and the appeal has to be re-determined. I set aside the decision of the First-tier Tribunal and proceed immediately to make the decision on the basis of the facts that have been found and the submissions made. I remind myself that the appellant is a refugee if he proves that there is a real risk of his being persecuted for a convention reason in the event of his return to his country of nationality and that risk cannot be abated by reasonable internal relocation.
7. Importantly, it has been established her that the appellant has been a victim of trafficking and that he was made to work for a drug gang who enforced their authority by hitting him in the face and breaking his nose. One of the people involved in the gang was also working for the police.
8. As Mr Whitwell, rightly, pointed out it has also been established that the appellant has a supportive family. Close relatives helped him travel to the United Kingdom believing that was a place of safety for him; family members hid him for a short while before he left and the appellant’s father has some kind of construction based business. It is not suggested that the appellant is wealthy but he is someone whose family can be expected to support him wherever he might be and certainly in the event of his return to Albania.
9. I have already set out paragraph 116 of the Decision and Reasons, or much of it. The preceding paragraphs are also highly relevant. The judge directed himself, correctly, at paragraph 112 that following the decision in **MB (Internal relocation – burden of proof) Albania [2019] UKUT 00392 (IAC)** that the issue of reasonableness in internal relocation poses three questions, namely:
  - (1) What is the location to which it is proposed the person could move?
  - (2) Are there real risks of serious harm or persecution in this place?
  - (3) If not, is it reasonable or not unduly harsh to expect the person to relocate to this place?
10. The judge went on to say in paragraph 113 that he accepted evidence that Albania is a small country where a person cannot live anonymously and, because it appeared to be

accepted his family could not be expected to live with him, living in Tirana without pre-existing social contacts or a support network would make him conspicuous and attract attention. It must be remembered that the appellant is a young person who has been trafficked and would be living in a place where traffickers remain active. The judge said at paragraph 114 that the appellant would need support in the event of his immediate return and clearly found it, following authority, “entirely plausible” that he might be traced. But the judge also found that the appellant had some support from his family members, that he spoke the Albanian language and knew how to live in the city and he could relocate there. He could, the judge found, on return after he was 18 years old, avail himself of the help of, for example, and NGO, “Different and Equal” if his family could not help him.

11. I have to remake the decision and I do not accept that that is an appropriate finding at all for a boy not yet 18. The appellant would be on his own but also was someone who had been targeted in the past and who might be targeted again. Without some support the idea is entirely untenable.
12. I recognise the First-tier Tribunal Judge found that there would be support available from NGOs but this has to be measured against the expert evidence. The appellant has relied rather heavily on a report from Asylos and Arc Foundation 2019 and an abstract from that report prepared by Mr David Neal of Counsel to use as a training paper. I mean Mr Neal no disrespect when I say I put little weight on anything he has said, not because I regard it any way as inherently unsatisfactory but because the material on which he was basing his views has been made available to me and it is much more sensible to look there. Contrary to a very tentative indication that I gave in the hearing room I do not think that the report, rather than the abstract, was before the First-tier Tribunal.
13. The Asylos Report is not an expert report but is more analogous to a privately prepared Country of Origin Information report. It is a digest of published articles and opinions. There are limitations in this approach but it a helpful starting point for an informed overview. I accept that it has been prepared honestly.
14. There is a quotation there from an opinion of Dr Edlira Haxhiymeri in an interview in January 2019 when Dr Haxhiymeri said that there were no *effective* programmes from the government for reintegrating boys and young men. They did not exist. Dr Haxhiymeri was familiar with the work of Different and Equal and respectful of it but she said that she was unaware of Different and Equal “offering and service to men and boys” (page 210 in bundle). I am doubtful that there is no support at all because the Asylos Report (again, page 210) acknowledges a US Department of State report referring to NGOs supporting male victims, including boys. Dr Haxhiymeri has been criticised for allowing years of campaigning to colour her vision (not her integrity) and she may be overstating the case. It seems to me very likely that there is something that exists to justify the findings in the US Department of State report but, given Dr Haxhiymeri’s clear and recent ignorance of such support and I am not persuaded that there is something that is really available for this appellant. It just might be different if there were positive proposals connecting him directly with a supporting charity but there are none such in this case.

15. Mr Whitwell, helpfully and realistically, drew my attention to reports suggesting the situation is improving and that Albania is taking very seriously its responsibilities to provide better services. I accept that but this appeal is about a boy here who has already been trafficked and is highly vulnerable. I do not regard internal relocation as a viable option in part because I do not see how it can work. I am satisfied there is a real risk of his being directly subjected to further re-trafficking. Re-trafficking is a real issue. It is not always clear what the qualities are that identify someone as a potential victim but the appellant clearly has them because a victim is what he is. It has been established that he is not safe in his home area and the situation in Tirana I find is altogether too uncertain.
16. Given the appellant's history and the establish links between the traffickers and the police, I am not satisfied that state protection is available to him.
17. Whilst there is every reason to think that the appellant has a supportive family any finding that family members could give him the protection in Tirana that they could not provide in his home area would be pure speculation that is not supported by the evidence.
18. Mr Whitwell contended that the appellant has managed in the United Kingdom so surely he can manage in his own country. A fallacy of this argument is the implication that it was reasonable for the appellant to come to the United Kingdom. It was not. It was a very daring and probably rather rash thing to do. It seems to have worked for this appellant but that is not at all the same as saying that it is reasonable. Also in the United Kingdom the chances of re-trafficking are significantly less and there is a clearly established support network from which the appellant is benefiting to help him stay safe.
19. Protection claims are invariably about risk rather than certainty. I find the idea of returning a person not yet adult to his country of nationality and expecting him to establish himself in a big city where traffickers are rife and there would be no obvious support for him as almost self-evidently unacceptable. People not yet in adult life should not, normally, be establishing themselves on their own. The burden of proof is discharged by establishing a risk and there is a real risk to his safety. I also find that it is unreasonable to expect him to go to a position of such uncertainty even if, happily, it worked out for him.
20. Although I accept that improvements are being made by the Albanian authorities, I am not persuaded that there is effective protection available to this appellant. Effective protection would need two things in this case. It would need some support to help him live and I am not satisfied that it is there for him although it might be there for some people in some circumstances and I am not satisfied the police can be relied upon given his history and obvious interest to traffickers.
21. I have no hesitation in concluding on the information before me that the appellant is presently a refugee.
22. This is not to say he will always be a refugee. It might be but his return could be managed safely after he has achieved his majority and/or maturity on a guided

programme with obvious contact and obvious support and obvious place to go in the event of his return but that is not the case before me.

23. I set aside the decision of the First-tier Tribunal for error of law.
24. Having reminded myself of the low standard of proof and appropriate directions I find that internal relocation is not an option in this case. It may not work at all and even if it did it would be unreasonable because of the difficulties it would bring for the appellant. It follows that I allow the appeal on asylum grounds.

**Notice of Decision**

25. The appeal is allowed. The First-tier Tribunal erred. I set aside its decision and I substitute a decision allowing the appeal on asylum grounds.

*Jonathan Perkins*

Signed  
Jonathan Perkins  
Judge of the Upper Tribunal

Dated 14 January 2021