



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2024-001491  
On appeal from: PA/50585/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 18<sup>th</sup> of July 2024**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JUSS**

**Between**

**XS**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms V Easty (Counsel)

For the Respondent: Mr S Walker (Senior Home Office Presenting Officer)

**Heard at Field House on 20<sup>th</sup> June 2024**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the Appellant, likely to lead members of the public to identify the Appellant. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

1. This is an appeal against the determination of First-tier Tribunal Judge Abdar, promulgated on 23<sup>rd</sup> February 2024, following a hearing at Taylor House on 20<sup>th</sup> November 2023. In the determination, the judge dismissed the appeal of the Appellant, whereupon the Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

### **The Appellant**

2. The Appellant is a male, a citizen of Albania, and is aged 19 years. He appeals against the refusal of leave to remain and grant of asylum pursuant to a decision against him made by the Respondent dated 13<sup>th</sup> January 2000.

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

3. The Appellant's claim is based upon his having been a victim of human trafficking. His application had been referred to the National Referral Mechanism ("NRM"), on the basis of which he had claimed asylum on 10<sup>th</sup> June 2020, and on 25<sup>th</sup> August 2021 the Appellant had been accepted as having been a victim of human trafficking. Yet the Respondent had refused the Appellant's protection and human rights claim. This was the reason for his appeal.

### **The Judge's Findings**

4. The judge refused the Appellant's claim essentially on the ground that there had been a change in the Appellant's account provided by him. His initial claim was that his uncle had arranged for the Appellant to flee Albania but that he had subsequently changed this to maintaining that it was his mother who had arranged for his exit from that country. Insofar as the Appellant had given an account of staying for a month in an agent's flat in Brussels, this was wholly untrue and "the SCA's Reasonable Grounds decision taken on 25<sup>th</sup> February 2020 was very clearly based on this untrue account" (paragraph 35).

### **Grounds of Application**

5. The Grounds of Appeal state that the judge failed to give proper weight to the opinion of the SCA in a Conclusive Grounds decision that the Appellant had in fact been trafficked to the UK. The grounds also contend that there was a procedural unfairness in the judge's decision insofar as it relied upon the fact that there were unanswered questions relating to the Appellant's account of his mother's exploitation when these concerns were not raised with the Appellant at the appeal.
6. Furthermore, the judge ignored evidence relating to ongoing risk from Dr Tahiraj, which was wrongly rejected because it was based on the Appellant not being a victim of trafficking, and this was contrary to the evidence that was before the Tribunal.
7. The Upper Tribunal in granting permission held that it was arguable that the evidence of Dr Tahiraj was rejected with insufficient reasoning given that it had been accepted that the Appellant was a victim of criminal trafficking gang, and there was country guidance in the case of **TD and AD (Trafficked women) CG**

**[2016] UKUT 00092**, which had not been heeded (especially with respect to paragraph 55 therein).

### **Submissions**

8. At the hearing before me on 20<sup>th</sup> June 2024, Ms Easty submitted that the decision of the judge was irrational because the basis upon which the judge had taken exception to the Appellant's account was the very basis that had already been taken into account by the Single Competent Authority ("SCA") with the decision then granted that the Appellant had indeed been a victim of human trafficking. She explained that the Appellant had arrived clandestinely in the UK on 20<sup>th</sup> February 2020. He made his way to Worthing Police Station who referred him to the West Sussex Social Services. The Appellant was then referred to the NRM on 21<sup>st</sup> February 2020 and on 25<sup>th</sup> February 2020. In the meantime he applied for asylum. He was issued with an unaccompanied asylum seeking children's Statement of Evidence Form. The Appellant completed and returned this, together with his SEF statement, dated 25<sup>th</sup> August 2020. It was then, as the judge himself clearly points out (at paragraph 13), that the Appellant was contacted by the SCA on 7<sup>th</sup> July 2021 in relation to information that they had received from Albania. The Appellant responded by amending his SEF statement on 5<sup>th</sup> August 2021. The Appellant then had an asylum interview on 11<sup>th</sup> August 2021 whilst he was still a minor. All of this is properly explained by the judge (at paragraph 13).
9. At his asylum interview, the Appellant relied on the witness statements of 25<sup>th</sup> August 2020 and 21<sup>st</sup> August 2021. The Appellant then explained that he had made corrections to his SEF statement "as a result of the Appellant's mother giving a statement in Albania" (paragraph 14). The judge observes that "the SCA were provided with the amended statement and a copy of the AI transcript" (paragraph 14). It was only after all this that the SCA on 25<sup>th</sup> August 2021 had "decided that there are Conclusive Grounds to accept" that the Appellant is "a victim of modern slavery" and that he had been "exploited in Albania from September 2019 to 10 January 2020 for the purposes of forced criminality and sexual exploitation" (at page 97) and this was fully set out by the judge at paragraph 15.
10. In the circumstances, submitted Ms Easty, it was simply not open to the judge to disagree with the findings of the SCA just because the Appellant had amended his account on the basis of his mother's testimony in Albania because all of this had been taken into account by the SCA in coming to the decision that it did. It would have been otherwise if the Appellant had amended his account after being interviewed or after the SCA had made its decision. However, everything was above board as far as the Appellant was concerned. It was not open to the judge to disagree with the findings of the SCA without proper reason.
11. Second, the judge's dissatisfaction with the Appellant's revised account, which is given in detail (at paragraph 35), is unfounded and difficult to understand in terms of the reasons given (at paragraph 37) because the judge does not explain what it is that he accepts and what he does not.
12. For his part, Mr Walker, appearing on behalf of the Respondent, submitted that he would have to agree that the judge had adopted an approach that was not fair to the Appellant given the findings of the SCA that the Appellant had been a victim of human trafficking, because this was a finding made after the Appellant had been interviewed, and after his changed account had been fully considered

by the SCA. To simply disagree with the SCA without providing proper reasons for this was irrational. Both Mr Walker and Ms Easty agreed that the matter had to go back to the First-tier Tribunal with standard directions issued as to the submission of any further evidence that was relevant, so that this may be considered by the Tribunal upon reconsideration.

### **Error of Law**

13. I am satisfied that the making of the decision by the judge involved the making of an error on a point of law. This is a case where the judge has provided reasons that are difficult to follow (compare paragraph 37 with paragraph 35) in circumstances where the Appellant has already been found to be a victim of human trafficking by the SCA, such that the judge fails to show grounds for why that decision is unwarranted.

### **Notice of Decision**

14. The decision of the First-tier Tribunal involved the making of an error on a point of law such that it falls to be set aside. I set aside the decision of the original judge. This appeal is remitted back to the First-tier Tribunal to be determined by a judge other than Judge Abdar pursuant to Practice Statement 7.2(b) because the nature or extent of any judicial fact-finding which is necessary in order for the decision in the appeal to be re-made is such that, having regard to the overriding objective in Rule 2, it is appropriate to remit the case to the First-tier Tribunal.

**Satvinder S. Juss**

Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**12<sup>th</sup> July 2024**