



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

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Case Summary

Country of Decision/Jurisdiction	United Kingdom
Case Name/Title	AM and BM (Trafficked women) Albania CG
Court Name <i>(Both in English and in the original language)</i>	Upper Tribunal (Immigration and Asylum Chamber)
Neutral Citation Number	[2010] UKUT 80 (IAC)
Other Citation Number	
Date Decision Delivered	18 February 2010
Country of Applicant/Claimant	Albania
Keywords	Persecution
Head Note (Summary of Summary)	Trafficked women from Albania may well be members of a particular social group on that account alone. Whether they are at risk of persecution on account of such membership and whether they will be able to access sufficiency of protection from the authorities will depend upon their individual circumstances.
Case Summary (150-500)	<p>The appellants were young Albanian women. Each applied for asylum, her claim being based on the fact that she was a victim of trafficking, having been raped and forced into prostitution. Each has a young child.</p> <p>AM's evidence was that she was frightened of returning, that her family would never accept her daughter and that on return, if she were allowed to remain in the family home she would be separated from her daughter and would be kept out of sight of others in the village until such time as her father could arrange a marriage for her. The only men willing to marry her were likely to be old or disabled and men whom she would not ever herself wish to marry. Her evidence also contained the statement that she could not take her daughter back to Albania and would do anything she could to ensure her daughter did not return. Psychological evidence showed her to be traumatised, and a suicide risk.</p> <p>BM feared that she would again become a target of the traffickers because they would be afraid that she would be able to identify them. She had never before been away from her home town, and knew nowhere in Albania to which she could safely take internal flight. As a trafficked woman who had escaped she would be marked out. The gangs had a lot of power and influence and the police were powerless to help. BM also had medical evidence of her trauma.</p>
<i>Facts</i>	Both appellants were refused asylum. Their accounts were accepted, but it was found that there was no real risk that they would be re-trafficked, that protection was available and, if necessary, internal relocation.



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	<p>Reconsideration was granted on various grounds, and the appeals were reheard.</p> <p>The Tribunal considered expert country evidence on trafficking in Albania, the risk of re-trafficking, the treatment the appellants may face from their families and communities on return to Albania, and the support and protection that would be available to them.</p>
<p><i>Decision & Reasoning</i></p>	<p>The Upper Tribunal found that victims of trafficking were at risk of facing treatment amounting to persecution from their families, ranging from being killed, to being forced into marriage, and being separated from her child. The general level of societal discrimination directed towards victims of trafficking was found not to reach the level of persecution.</p> <p>171. <i>In certain circumstances the family of the victim of trafficking may take action against the victim which amounts to persecution, a factor which might well mean that she would not be able to return to her home area. If the victim comes from a rural area, particularly in the north of the country, she is more likely to face persecution from her family – in very extreme and rare cases that could lead, because of the family’s adherence to the Kanun of Leke Dukagjinit and the code of “honour” therein, to the victim of trafficking being killed or forced to commit suicide. In most cases, however, it appears that the societal discrimination that the victim of trafficking is likely to suffer would mean that she would not be able to live a “normal life” even by the standards of the lives of women in those rural areas. That is, she would not be allowed out of the house and there is a real risk that her father or brothers would find a husband for her who is not one whom she herself would choose or would consider desirable in any way. Being forced into marriage is certainly capable of amounting to persecution. Additionally, where the victim of trafficking has a child, if it is considered that the family’s sense of “honour” meant that a daughter could not live in the family home with an illegitimate child, that could lead to the family separating the child from the victim of trafficking. That too would amount to persecution.</i></p> <p>172. <i>We have considered the issue of the general societal discrimination because the appellant was “kurva”¹. We do not consider that that in itself would amount to persecution. There was considerable evidence that there is discrimination in the employment market and that women on their own would be pestered – we note that Dr Schwandner-Sievers stated that, she herself, had to “invent” a family who would protect her to avoid undue attentions from young men in Tirana. 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.</i></p>

¹ „which Ms Schwandner-Sievers translated as meaning “a whore”, which effectively referred not only to someone who had committed adultery or was a prostitute but also someone who had been raped or was considered to be of loose morals”AM and BM [59].



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<i>Outcome</i>	The appeals were allowed on asylum, and Article 3 and 8 grounds.
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