



IAC-AH-DP-V1

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

Appeal Number: AA/06245/2015,
AA/06246/2015,
AA/06247/2015,
AA/06248/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 23 February 2016**

**Decision & Reasons Promulgated
On 23 March 2016**

**Before
THE HONOURABLE LORD BURNS and
DEPUTY UPPER TRIBUNAL JUDGE G A BLACK**

Between

**[A D] + 3 DEPENDANTS
(~~ANONYMITY DIRECTION NOT MADE~~)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr G Davidson, (Counsel instructed by Karis Law)
For the Respondent: Mr T Wilding (Home Office Presenting Officer)

DECISION AND REASONS - resumed hearing

1. This matter comes before us as a resumed hearing following a decision promulgated on 6th February 2016 in which it was found that there was a material error of law by the First-tier Tribunal. A copy of that decision and reasons is attached and to which we refer for the background details. The

main issue to be determined by us was sufficiency of protection and internal relocation. We heard submissions from both representatives and in addition read the further material produced on behalf of the Appellant including an expert report from A. Young.

2. Mr Davidson relied on the expert report, the OGN and **EH** (cited above). He emphasised **EH** (headnote 5) that where an active blood feud had been identified in the northern area and which had led to self-confinement, an appellant would normally qualify for refugee status. The system of registration was key to the issue of relocation. For the family not to register would create problems in terms of accessing education, work and public services. The appellant would have to resort to self-confinement. There was no real sufficiency of protection available in this case. Mr Wilding focused his submissions on the localised nature of the blood feud and the lack of evidence to show that the family had connections and/or would be able to track down the appellant and his family outside of the home area. He relied on **EH** [56 & 69-70] where the potential “reach” of the rival clan was considered both geographically and politically. He submitted that there was a willingness by the authorities to provide protection. The CNR letter carried little weight.
3. We are guided by **EH (blood feuds) Albania CG [2012] UKUT 00348 (IAC)** and in particular [70] *“internal relocation will be effective to protect an appellant only where the risk does not extend beyond the appellant’s local area and he is unlikely to be traced in the rest of Albania by the aggressor clan. A crucial factor in establishing whether internal relocation is a real possibility is the geographical and political reach of the aggressor clan: where that clan has governmental connections, locally or more widely, the requirement to transfer civil registration to a new area would appear to obviate the possibility of “disappearing” in another part of the country, and would be likely to drive the male members of a victim clan into self-confinement in the home area as an alternative. Whether internal relocation is reasonable in any particular appeal will always be a question of fact for the fact-finding Tribunal.”* At [74] *“in areas of Albania less dependent on the Kanun may [our emphasis] provide sufficient protection, depending on the reach, influence and commitment to prosecution of the feud by the aggressor clan”*. Reference is also made to the October 2014 OGN at 2.3.9 *“it may be practical for applicants in some categories who may have a well-founded fear of persecution in one area to relocate to other parts of Albania where they would not have a well-founded fear, and taking into account their personal circumstances, it would not be unduly harsh to expect them to do so. Careful consideration must be given to the relevance and reasonableness of internal relocation on a case-by-case basis taking full account of the individual circumstances of the particular claimant”*.

4. We rely on the facts as established by the First-tier Tribunal and the conclusion that the appellants claim was credible and they had established a subjective fear of return. The evidence before the FTT clearly established firstly, a strong commitment on the part of the rival clan to pursuing the blood feud that remains active and has involved three deaths (the last was in 2009) , secondly that the feud has lasted for some nineteen years, thirdly there were recent threats extending to the appellant's wife and daughters which established a current and continuing commitment to pursuit of the appellant, and fourthly the appellant had been in self-confinement and finally there was evidence of past prosecution by the State authorities. We also take into account that the appellant's eldest son was granted refugee status by the First -tier Tribunal in 2012. We have concluded in this particular case that the appellant has shown that it would not be reasonable or viable for him to relocate to another area in Albania having regard to the risk presented by the blood feud and the lack of effective protection. It would be unduly harsh to expect this appellant to relocate. We have considered all the factors in determining the nature of risk on return and whilst accepting that the ability (geographically and politically) of the aggressor clan to locate the victim anywhere in Albania is a strong factor, it is not the only factor and we must consider all the relevant circumstances in this particular case.
5. We place weight on the expert report which was not challenged other than its limited reference to **EH**. We accept the arguments put forward on behalf of the appellant. We are satisfied that there is sufficient evidence to show "the reach, influence and commitment" of the rival clan is such that internal relocation would not be viable or reasonable for the appellant in particular where self confinement is likely. As to "reach" we place weight on the expert report which considers how in practice the family could be tracked down outside of the home area, significantly by word of mouth and thorough the registration system. We accept that there was no specific evidence of any political or geographical connections to establish how the rival family would be able to locate the appellant, however, given the level of commitment demonstrated in this particular feud we find that in reality it would not be difficult to trace the appellant and his family in the event of return to Albania through modern means of communication. We place little weight on the evidence that the appellant was able to travel outside of Albania in the context that the risk arises from the blood feud in Albania, a small country where the emphasis is on family or kinship networks. We accept the view of the expert that the appellant would be forced to remain in confinement or closed living (even if they relocated) given that the risk presented by this particular feud is long term, active and has already required the appellant to go into self-confinement. The CNR letter carries some weight in that it is additional material relied on and confirms that attempts at reconciliation have failed.

6. As to sufficiency of protection we rely on the recent OGN (at 2.5) in which it is accepted that whilst the authorities have taken steps to improve the situation, there remains an insufficiency of protection in particular in areas where the Kanun law predominates. In this case there has been a prosecution by the authorities but this has not prevented the feud from continuing and we find that this is a mark of the determination and commitment to pursuing this feud. We further rely on the expert's report (in section one) which considers the effectiveness of the police. The background material further emphasises corruption in the police and judiciary (at 2.5.5). There appears to be reluctance on the part the authorities to get involved, in part through fear of retaliation. The expert report (section 2) confirms this position and concludes that little progress has been made in practice given the degree to which those involved in feuds continue to rely on "traditional justice." We consider that in this case where prosecutions have been brought the fact that the feud has continued shows that "traditional justice" is adopted. Further the report emphasises the real difficulties that would be faced by the appellant and his family in seeking education and employment, which would make them more publically visible and thus more traceable given modern means of communication in a small country where "identities are hard to hide". Given that registration is a legal requirement (and is only possible by producing documentation from the last place of residence) and necessary in order to access local services (COIS August 2015 12.11), we are satisfied that this is another factor leading to the conclusion that it would be unreasonable to expect the family to relocate in another area of Albania, given the level of commitment to the feud.

Decision

We substitute a decision in this appeal and we allow the appeal on asylum and humanitarian protection grounds.

No anonymity direction is made.

Signed

Date 7.3.2016

GA Black
Deputy Upper Tribunal Judge G A Black

TO THE RESPONDENT **FEE AWARD**

No fee award made.

Appeal Number: AA/06245/2015,
AA/06246/2015,
AA/06247/2015,
AA/06248/2015

Signed

Date 7.3.2016

GA Black
Deputy Upper Tribunal Judge G A Black