



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

Appeal Number: PA/06614/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 6 December 2017**

**Decision & Reasons
Promulgated
On 15 January 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE HUTCHINSON

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MR A S
(ANONYMITY DIRECTION MADE)**

Respondent

Representation:

For the Appellant: Ms A Holmes, Senior Home Office Presenting Officer
For the Respondent: Ms P Solanki of Counsel instructed by Barnes Harrild & Dyer Solicitors

DECISION AND REASONS

Background

1. In this decision the appellant is the Secretary of State and the respondent is Mr S. However for the purposes of this decision I refer to the parties as they were before the First-tier Tribunal, where the appellant was Mr S. Mr S is a citizen of Albania, born on 22 April 1999. He appealed to the First-tier Tribunal against the decision of the respondent, dated 29 June 2017 to refuse the appellant asylum/humanitarian protection. In a decision and

reasons promulgated on 24 August 2017, Judge of the First-tier Tribunal Miles allowed the appellant's appeal on protection grounds. The appellant in this case is the Secretary of State and the respondent is Ms S. However I refer to the parties as they were before the First-tier Tribunal where the appellant was Mr S.

2. The Secretary of State applied for permission to appeal to the Upper Tribunal on the basis that the First-tier Tribunal had failed to have regard to the country guidance case of **EH (blood feuds) Albania CG [2012] UKUT 00349 (IAC)** and in particular at head note 3 of **EH**. It states:

"The Albanian state has taken steps to improve state protection, but in areas where Kanun law predominates (particularly in northern Albania) those steps do not yet provide sufficiency of protection from Kanun-related blood-taking if an active feud exists and affects the individual claimant. Internal relocation to an area of Albania less dependent on the Kanun may provide sufficient protection, depending on the reach, influence, and commitment to prosecution of the feud by the aggressor clan."

3. It was further submitted that at [10.15] of the First-tier Tribunal determination the judge considered internal relocation but failed to consider the position of the P clan and that there was nothing in the determination to suggest that they had sufficient reach, influence, or commitment to the feud to pursue the appellant into an area less dependent on the Kanun.

Error of Law - Discussion

4. It was Ms Holmes' submission that there was an error on the part of the judge to not consider the country guidance but specifically, as already highlighted, that there was nothing in the determination about the reach and influence of the P clan. Ms Holmes relied on paragraph 70 of **EH** which confirmed that:

"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 government connections, locally or more widely, the requirement to transfer civil registration to any area, as set out at 2.4.4 above, would appear to obviate the possibility of 'disappearing' in another part of the country. 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 government connections, locally or more widely, the requirement to transfer civil registration to a new area, as set out at 2.4.4 above, 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 to 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.”

5. This was a case where the respondent had not accepted that the appellant was credible in relation to the blood feud. However, in a careful decision, Judge of the First-tier Tribunal Miles gave cogent reasons why he found the appellant credible taking into account all of the evidence including an expert report. Those findings of fact, including the reliance on the expert report, are not challenged.
6. It is of note that the judge took into account and accepted the appellant’s account of events including that the blood feud started in 2010 when the appellant was 11 and the appellant’s cousin in April 2010 wounded and paralysed a member of the P family. It was accepted that the appellant’s brother was shot at and that his cousin’s family moved to Belgium as did the appellant and his mother and the appellant’s siblings. This appellant and his family claimed asylum in Belgium. However they returned to Albania when that application was refused. The appellant indicates that he lost contact with his uncle and his family. When they returned to Albania the appellant and his sister went back to school and understood that they were safe under Kanun law as the appellant was underage and his sister and mother were safe as females. The appellant said that his brother did not return to school and remained in semi-confinement at home and it was then that he was shot at after they came back from Belgium. The appellant indicates that his sister also disappeared about one year after they returned to Albania and it was believed that she was kidnapped but the police could not find anything. The appellant does not know who was responsible for her disappearance. The appellant then left Albania in 2015 because he said that he was in fear of the blood feud and also because of violence by his father and life had become extremely difficult for him. The appellant maintained both that his father would take revenge against him and kill him, as the appellant had offended his honour by leaving Albania, but also the appellant feared the P family, particularly as he was now over 18 and potentially a target for their revenge.
7. I am satisfied that the First-tier Tribunal Judge gave cogent reasons both for the positive credibility findings, which are not challenged, and for his findings in relation to risk on return. Although I accept that the judge did not specifically refer by name to the country guidance case of **EH** (above) it was not disputed that that case was before the First-tier Tribunal including in the appellant’s bundle and that it was addressed at length in the skeleton argument of the appellant’s representative. The First-tier Tribunal, at [6] referred to the documents before the Tribunal in the bundles and in addition at [8] referring to the closing submissions which included, I accept and Ms Holmes did not dispute, references by Counsel to the country guidance (and Counsel provided her verbatim note from the hearing).
8. Whilst failure to apply country guidance case law is an error of law, it is not the case that such guidance must be cited in each and every instance

(EA v Secretary of State for the Home Department [2017] EWCA Civ 10 applied).

9. The country guidance required the First-tier Tribunal to consider whether an active blood feud that exists affects the appellant and that involves considering the history of the alleged feud, including the notoriety of the original killings, the numbers killed and the degree of commitment by the aggressor clan to the blood feud. At paragraphs [10.5] to [10.8] and [10.10] to [10.12] the First-tier Tribunal considered the history of the feud in some considerable detail and considered the evidence before the Tribunal, including of the appellant's profile as a target given the history of difficulties that his family experienced and given his approaching the age of 18. The judge also considered and made findings in relation to the shooting and that his brother went into hiding. The judge considered the length of time since the last difficulties with the feud at [10.8], [10.12] and [10.16], then going on to consider the ability of the aggressor clan to locate the appellant in the judge's consideration at [10.17] and [10.19].
10. The latter issue was the key issue before me; it is evident the judge had the relevant jurisprudence in mind and applied the country guidance rationale, in his careful consideration of the issues. The central issue that remains therefore, is whether the judge made sufficient findings as to the reach, influence and commitment to persecution by the aggressor clan.
11. I have considered that the First-tier Tribunal gave significant weight to the expert report of Antonio Younger dated 24 July 2017. This runs to 72 pages and the judge specifically notes, at [10.17] that he has attached weight to Ms Young's expert evidence in relation to relocation in particular:

"In terms of relocation within Albania Ms Young states that the appellant has reason to be fearful of returning anywhere in Albania which is a small country with a population of less than one third of that of London. In Albania both the rural and urban populations are based on networks of kin and neighbours, in which literally everyone knows everyone. Because of a high reliance on personal family networks of support, any Albanian person would be generally highly visible if dislocated from the home place. Not only is it difficult to integrate and settle somewhere not going that previous existing positive personal contacts ties, but the whereabouts of anyone is always easily identified [sic]. People are socially positioned through enquiries and identities are hard to hide. Furthermore, the law requires that people moving into an area register at civil registry office. Such registration is only possible when producing relevant documentation from the last place of residence. The 2013 OGN noted that many persons could not provide this proof and thus lacked access to essential services. However, without being able to make this registration it would be impossible for the appellant to access any kind of social benefits or financial support. Information that a former resident is registering elsewhere is easily transmitted by word-of-

mouth, thus easing locating [sic] of a blood feud target. On relocating to any of area of Albania, there is the legal requirement that an individual registers their last municipality of last habitation. Additionally, lone males with no supportive family are considered highly suspicious.”

12. The First-tier Tribunal went on at 10.18 to state that given the assessment of Ms Young the Tribunal was not satisfied that the appellant would be safe in another part of Albania for the reasons she has set out. Ms Young considered internal relocation at some considerable length and, in summary, at page 48 of her report believed that:

“The ability of the P family members to locate Ardi were he to be returned to Albania is considerable, maybe not immediately but in the long-term. Both families come from an area of Albania where the Kanun has strong tradition, where forgiveness of blood is seen as a weakness rather than as strength of human character.”

13. Ms Young went on at pages 51-54 of her report to provide further detail in relation to internal relocation including in her view that the appellant had reason to be fearful of returning anywhere and reiterated that the risk of discovery of the appellant by the P family is considerable. Ms Young was of the opinion that the P family could maintain the upper hand and prolong the agony by biding their time. She concluded that relocation could not assure protection. In reaching this opinion the expert took into account that although there has been no death, E P was seriously wounded; although a prison terms has been served this gave no assurance that the blood feud was over and it was the appellant’s account which the First-tier Tribunal accepted that there had been continued threats. The expert at page 47 of her report took into consideration that although G A had been tried and imprisoned for his crime such penalty would not be considered sufficient and that the only way forward is a retaliatory attack or death or alternatively negotiated forgiveness and since none of these had happened the threat remained for the male members of the Arifi family and that it was common for low-level contact between two families to last for decades before escalation to further murder (and the expert relied on examples of such situations).
14. In reaching her opinion the expert also took into consideration the difficulties in relocating including the requirement for registration which made it impossible to “disappear” and that this would likely drive family members to-self confinement in the home area.
15. In adopting Ms Young’s findings (which have not been challenged by the Secretary of State) and in the First-tier Tribunal’s careful consideration of the issues including internal relocation, there is no material error either in the lack of a specific case citation of **EH**, which I find the Tribunal addressed in substance, or in the Tribunal not using the term “reach, influence and commitment to prosecution of the feud”. It is evident that the judge was satisfied that the P clan did have such reach, influence and

commitment given the past history, the expert opinion and the background information including the Home Office OGN for Albania which the judge referenced in his findings.

16. I also take account of the final sentence at [10.18] of the decision and reasons, where the First-tier Tribunal found, in the alternative, that relocation would be “unreasonable” in any event given the appellant’s age, lack of support and difficulties he would have in registering in the area. Although the judge did not specifically make a finding of undue harshness, that is implicit in the findings at [10.18] and again this was not challenged by the Secretary of State.

Notice of Decision

17. The decision of the First-tier Tribunal does not disclose an error of law such that it should be set aside and shall stand. The appeal by the Secretary of State is dismissed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

As the First-tier Tribunal made an anonymity direction I continue that order:

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date: 8 January 2018

Deputy Upper Tribunal Judge Hutchinson

TO THE RESPONDENT **FEE AWARD**

No fee was paid or payable so no fee award is made.

Signed

Date: 8 January 2018

Deputy Upper Tribunal Judge Hutchinson