



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/05867/2018

THE IMMIGRATION ACTS

Heard at Field House
On 21st February 2019

Decision & Reasons Promulgated
On 5th March 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

EB
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms R Kotak of Counsel, instructed by Turpin & Miller LLP
(Oxford)
For the Respondent: Mr C Avery, Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of Judge Mill made following a hearing at Hatton Cross on 18th December 2018.

Background

2. The appellant is a citizen of Albania born on 10th October 1996. She claims to have arrived in the UK in March 2017 when she claimed asylum, on the basis of her

membership of a particular social group as the target of a blood feud initiated by an influential criminal gang in Albania who sought revenge for her father's role in a rival criminal gang. She said that her aunt had been killed in 2007 and her father was murdered in 1997.

3. The judge said that she had taken into account all of the evidence including an expert report from Sonia Landesmann. She did not find the appellant to be a credible witness. She recounted that she had lived openly in Albania throughout her childhood until she went to live in Italy at the age of 14. She did not accept that there was any danger to her on return to Albania, and on that basis dismissed the appeal.

The Grounds of Application

4. The appellant sought permission to appeal on the grounds that the judge had not properly weighed the evidence of the expert report, failing to note the expert's comprehensive referencing, her use of objective sources and her close association with Professor Littlewood, who has considerable expertise in Albania. Her reasons for discounting the expert's report were irrational. Moreover she had only factored in the report only after he had reached his conclusion.
5. Second, the judge had erred by finding matters to be inherently implausible without judging them by reference to background country information. No regard had been had to the corroboration of the appellant's claim, namely that the gangs she describes are referenced in Wikipedia. Moreover, she had not taken into account the fact that the appellant was a child at the time of critical events in Albania and her account was assessed on her recollection of those events. In rejecting the appellant's story, the judge had failed to take into account the fact that the appellant's knowledge was second-hand and happened eleven years ago.
6. Permission to appeal was granted by Designated First-tier Immigration Judge Macdonald on 25th January 2019 for the reasons set out in the grounds.

Submissions

7. Ms Kotak said that she wished to seek an extension of time to submit further documents pursuant to Rule 15(2A) of the Tribunal Procedure (Upper Tribunal) Rules 2008, which included further documents relating to the appellant's father. However, she accepted that the documents would only become relevant if an error in the decision was found. She did, however, seek to rely on an unreported decision of Judge Chamberlain which concerned the same expert as that criticised by this Immigration Judge. I did not see the relevance of this unreported decision since it did not demonstrate that the Tribunal regarded this expert to be reliable but was a decision in relation to a particular case and how the judge had dealt with the evidence.
8. Ms Kotak submitted that the judge was wrong not to place weight upon the report from Ms Landesmann. At paragraph 17 of the report she had set out her expertise, which included working with a professor of psychiatry and anthropology whose

specialist interest was Albania. She has a number of professional qualifications and over many years had written many reports including a large number on Albanian issues. In her submission, the judge had wrongfully rejected her report out of hand. Moreover, the judge was entirely mistaken to criticise the report because the expert had not interviewed the appellant.

9. She argued that the judge had not approached the assessment of the documentary evidence correctly. For example, at paragraph 28 the judge had said that she had reservations about all of the documentary evidence, including a newspaper article which had been provided from her uncle in Germany. The judge recorded that the appellant had said that it was not accessible online and it was only obtained by her uncle going and obtaining it from the printing company in Albania. There was nothing inherently implausible about the appellant's evidence. Similarly, the judge had criticised the copy death certificate for the appellant's father on the grounds that there was no indication as to the place of death nor cause of death without knowing whether such information would normally be contained in an Albanian death certificate. At paragraph 25 the judge had found that it was not believable that the appellant had not been told about her father's activities and the danger to her throughout her childhood either in Albania or even when she was in Italy, where she lived from the age of 15, but had not taken the appellants age into account when the events which she was recalling occurred, which was inconsistent with the Presidential Guidance Note of April 2004. She asked that the decision be set aside.
10. Mr Avery strongly defended the determination, submitting that the judge's findings were entirely open to her and the matters raised in the grounds simply amounted to a disagreement with the decision.

Findings and Conclusions

11. There is no material error of law in this decision.
12. The judge recorded that she had given careful consideration to all of the evidence put forward in the case, including the expert report. She did not say that she attached no weight to it but limited weight, and gave logical and coherent reasons. The experts specific experience on Albania was limited. Moreover, Ms Landesmann introduces herself as an intercultural psychoanalytic psychotherapist. It is quite clear that the thrust of her expertise lies in psychotherapy and whilst her specialist subjects cover trauma, torture, conflict, she has not visited Albania. Furthermore, the fact that she did not meet with the appellant restricted her ability to explore matters with her before writing her report. Finally, training with a professor one of whose areas of specialist interest was Albania and attending a seminar which he gave in 2000 on blood feuds there does not mean that her conclusions in this case should necessarily be relied upon.
13. So far as the other documents are concerned, it is unsurprising that the judge found it concerning that the evidence relied on in relation to the murder of the appellant's uncle was not an original document, was not accessible online and had been obtained by a relative obtaining it from a printing company in Albania. In relation to

the death certificate, it was plainly open to her to conclude that it was very strange that if the appellant's father had been murdered there was no indication as to the place of death or cause of death.

14. The appellant had lived openly in Albania throughout her childhood. After having gone to Italy she chose freely to return. She did not seek asylum in Italy and did not leave Italy due to any difficulties there. The judge was entitled to rely on relevant Section 8 matters. She produced no documentary evidence that the relatives who she said were seeking asylum in Germany had been granted, and was unable to provide evidence of confirmation of their grants of refugee status.
15. So far as the judge's consideration of the fact that the appellant was a child when these events took place is concerned, the judge said that her written witness statement was vague. Even if it is right that she could have tempered that observation with an acknowledgement that the events took place a long time ago when the appellant was a child this does not undermine her overall credibility conclusions.
16. At paragraph 39 the judge wrote as follows:

"I apply the country guidance set out in EH. In the event that I am wrong and the appellant is indeed the daughter of a notorious gang of Çole/Banda e Zani gang member and she has had other family members murdered I am not satisfied that there is any inclination or commitment on the part of the aggressor clan to continue to prosecute the feud. The last killing was in 2007 and was at the hands of the rival gang group. The appellant's family has deserted the feud. The appellant is not a target given her peaceable life in Albania (albeit as a child) and that of her paternal grandmother prior to her death. The appellant travelled to Albania on two occasions and did not encounter any difficulties. On the basis of her own admission she has received no threats of any nature whether in Albania, Italy or the UK. The appellant has never had any cause to seek protection in Albania or Italy from the authorities or to seek resolution of any issues there. The appellant does not face any real risks which require her to be provided with protection against."
17. The judge decided the appeal in the alternative, namely that even if true the appellant would not be at risk. There is no merit in the challenge to the judge's conclusions in respect of credibility but even if there were the finding that she would not be at risk on return is unchallenged.

Decision

The original judge did not err in law and his decision stands. The appellant's appeal is dismissed.

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

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her 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.

Deborah Taylor

Signed

Date 2 March 2019

Deputy Upper Tribunal Judge Taylor