



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

Appeal Number: AA/06757/2015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 20 January 2016**

**Decision & Reasons Promulgated  
On 29 January 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE NORTON-TAYLOR**

**Between**

**V K  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr M Saleem, Solicitor from Malik and Malik Solicitors  
For the Respondent: Mr S Staunton, Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Introduction**

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Jones, QC (the judge), promulgated on 23 October 2015, in which he dismissed the Appellant's appeal. That appeal was against the Respondent's decision of 26 March 2015, to remove the Appellant from the United Kingdom as an illegal entrant.

### **Proceedings before the First-tier Tribunal**

2. The Appellant's claim was based upon the alleged existence of a blood feud in Albania. He asserted that there had been past killings, legal proceedings against his uncle, and that he was at risk from the opposing family if returned.
3. The judge rejected the claim in its entirety. He placed no weight on items of documentary evidence (paragraphs 23 and 25), held the delay in claiming asylum against the Appellant (paragraphs 29 and 33), and ultimately concluded that the Appellant was simply an economic migrant (paragraph 29). The judge went on and reached a conclusion on the claim at its highest. On this alternative scenario it was said that there was insufficient evidence to show that the opposing family had enough influence to harm the Appellant in another part of Albania (paragraph 34).

### **The grounds of appeal and grant of permission**

4. The grounds, which are admirably concise, contend that the judge erred in his consideration of court documents from Albania, and that the alternative conclusion at paragraph 34 is flawed.
5. Permission to appeal was granted by First-tier Tribunal Judge Grant-Hutchinson on 19 November 2015.

### **The hearing before me**

6. Mr Saleem relied on the grounds. He sought to introduce a new ground based upon the judge's approach to section 8 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004. There had been no prior application to do so and this was not an obvious point. I refused permission to amend the grounds.
7. In respect of ground 1, and having considered the relevant documents contained in the Appellant's bundle, Mr Staunton accepted that the judge probably erred in his consideration of the court evidence. However, he submitted that this was not material because the alternative conclusion at paragraph 34 was sustainable.
8. In reply, Mr Saleem emphasised the country information on corruption in Albania and the inability of the Appellant to know for sure what power the opposing family in fact wielded.

### **Decision on error of law**

9. There is a clear error of law in respect of the court documents produced by the Appellant.
10. The document in question was (or at least purported to be) a judgment of the Albanian Court of Appeal relating to the upholding of a twenty-year sentenced imposed upon the Appellant's uncle (the English translation is at 130-131 of the Appellant's bundle).
11. The only apparent consideration of this evidence by the judge is contained in paragraph 25 of his decision, in which he states:

“The appellant referred to the document at page 128 in support of the proposition that [DK] (the uncle) had been sentenced to 20 years imprisonment. It does not disclose when that sentence was imposed or for what crime.”

12. Contrary to the judge’s observations on the document, the Court judgment in fact expressly states the date of sentence, the basis of the crime in respect of the Albanian Criminal Code, and (importantly) that the offence was committed because of a blood feud. It is quite clear to me that the judge failed to consider the actual Court judgment adequately or at all. In reality, it seems highly likely that he instead had regard only to the Certificate from the Albanian Ministry of Justice at page 127 of the bundle which stated the length of sentence but no other details.
13. The failure to deal with such an important aspect of the evidence undermines the totality of the adverse credibility findings.
14. I note too in this regard that in paragraph 33 the judge acknowledged the existence of, “strands of independent evidence capable of lending support to the appellant’s core story” and the “significant amount of detail” provided by the Appellant. These comments only add to my view that the overall findings cannot stand.
15. Whether any of the above is material depends upon my view of ground 2. I take as a starting point that if an alternative ‘at its highest’ conclusion is to be provided in a protection claim, it is vital to deal with the matter in detail and with due regard to all relevant factor going to risk, protection, relocation and such like.
16. In paragraph 34 the judge considers the issue of internal relocation only and finds against the Appellant solely on the basis that the evidence of influence was said to be speculative.
17. In the context of this case, I am just persuaded that the judge’s consideration of the alternative scenario was materially inadequate. I say this for the following reasons.
18. First, whilst it appears correct that the Appellant was to an extent speculating about the possible reach of the opposing family, the judge failed to deal with the submission (and any evidence pertaining thereto) that a member of that family had received a lesser sentence in other proceedings, thus indicating a degree of influence.
19. Second, the judge has seemingly not dealt with the substance of the country information to which he was referred relating to corruption in Albania. This information potentially went to the issue of influence and reach.
20. Third, the reach of an opposing family is only one factor set out in the country guidance decision of EH (blood feuds) Albania CG [2012] UKUT 00348 (IAC) (see paragraphs 3 and 6 of the headnote). In my view it was incumbent upon the judge to deal with all matters to which the country guidance refers when assessing the alternative scenario.

21. In light of the above, there are material errors of law in the judge's decision and I therefore set it aside.

### **Disposal**

22. Having regard to paragraph 7 of the Practice Statement, it is appropriate that I remit this case back to the First-tier Tribunal. Credibility will need to be reconsidered afresh, and a carefully assessment of risk on return conducted.

### **Anonymity**

23. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings. This direction has been made in order to protect the Appellant from serious harm, having regard to the interests of justice and the principle of proportionality.

### **Decision**

**The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.**

**I set aside the decision of the First-tier Tribunal.**

**I remit the case to the First-tier Tribunal.**

### **Directions to the parties**

1. **The remitted appeal will be a complete rehearing, with no findings preserved from the decision of First-tier Tribunal Judge Jones;**
2. **The Appellant is, no later than 10 working days before the remitted hearing, to file and serve a skeleton argument dealing with all relevant issues and making specific reference to extracts of any country information relied upon;**
3. **The parties shall comply with any further directions issued by the First-tier Tribunal.**

### **Directions to Administration**

1. **This appeal is remitted to the First-tier Tribunal;**
2. **It shall be reheard at the Hatton Cross hearing centre, on a date to be fixed by that centre;**
3. **It shall not be reheard by First-tier Tribunal Judge G Jones QC;**
4. **An Albanian interpreter will be required for the remitted hearing;**
5. **There is a 3-hour time estimate for the remitted hearing.**

Signed

Date: 29 January 2016

H B Norton-Taylor  
Deputy Judge of the Upper Tribunal