



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

Appeal Number: AA/10353/2014

**THE IMMIGRATION ACTS**

**Heard at : IAC Manchester**

**On : 1 April 2016**

**Determination**

**Promulgated**

**On : 12 April 2016**

**Before**

**UPPER TRIBUNAL JUDGE KEBEDE**

**Between**

**[M L]**

**and**

Appellant

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr R O’Ryan instructed by Barnes Harrild & Dyer Solicitors  
For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant is a national of Albania considered by the respondent to have been born on 13 November 1994 but whose claimed date of birth was 13 November 1996. He arrived in the UK on 13 January 2014 and claimed asylum

the following day. His claim was refused on 13 November 2014 and a decision was made to remove him from the UK.

2. The appellant appealed against that decision and his appeal was heard before the First-tier Tribunal on 20 May 2015 and dismissed. Permission to appeal to the Upper Tribunal was granted on 25 June 2015.

### **The Appellant's Case**

3. The appellant claims to be at risk on return to Albania as a result of a blood feud involving his family and the [G] family, both of whom lived in the same village in Shkoder. He fears that the [G] family would kill him if he returned to Albania. He claims that in June 2008 his father's cousin, [NL], was stabbed and killed by [PG], as a result of which his father, [ZL], issued a blood feud against the [G] family. [PG] was jailed for 15 years. The [G] family went into self-confinement and so there was no opportunity to take revenge. They attempted reconciliation but it was refused. On 23 August 2012 the brother of [NL], [LL] took revenge and shot two brothers, [GG] and [XG]. [GG] died whilst [XG] was wounded. The appellant's cousin [LL] was arrested, convicted and sent to prison. The [G] family issued a blood feud and the appellant's family were forced to stay at home. Attempts at reconciliation were rejected. On 10 January 2014, after all hopes of reconciliation were lost, the appellant was transported in the boot of his cousin's car to Kosovo. He then left Kosovo by lorry and came to the UK, arriving on 13 January 2014.

4. The respondent, in refusing the appellant's claim, did not accept that he was the age claimed and noted the results of a Merton age assessment carried out by social workers on behalf of Hackney Children's Services which concluded that he was aged 19. The birth certificate he had produced was rejected. The respondent rejected the appellant's account of the blood feud as internally inconsistent and implausible. His account of his journey from Albania was considered to be inconsistent. Even if his account of the blood feud was true it was noted that the [G] family had taken no action to harm him or his family since the murder in August 2012. The respondent therefore considered that the appellant was at no risk on return to Albania. It was considered that there was a sufficiency of protection available to the appellant and, given that the blood feud was local, that he could relocate to another part of Albania such as Tirana.

5. The appellant appealed that decision to the First-tier Tribunal and his appeal was heard before First-tier Tribunal Judge Morris on 20 May 2015. Judge Morris accepted the age assessment conducted by Hackney Children's Services. She did not find the birth certificate relied upon by the appellant to be authentic and was not satisfied that the appellant was in fact [ML]. She considered that the appellant had failed to produce satisfactory evidence of the existence of an active blood feud and, having had regard to the guidance in EH (blood feuds) Albania CG [2012] UKUT 348, she was not satisfied that he was a potential victim of a blood feud. She had regard to a news report submitted for the appeal which named the parties in the claimed family conflict, but noted that such reports were often invented by the press. She found that there was a

sufficiency of protection available to the appellant and that he would be able to relocate to another part of the country. She dismissed the appeal on all grounds.

6. Permission to appeal was sought by the appellant on the grounds that the judge had given inadequate reasons for rejecting the appellant's account of his identity; that she had failed to make findings on the existence of a conflict as described in the news report; that she had erred in her findings about the appellant's cousin; and that she had erred by relying upon an FCO letter dated 12 June 2014 which had not in any event been put before the Tribunal.

7. Permission to appeal was granted on 25 June 2015, specifically on the ground that the judge had arguably proceeded unfairly by relying on a document without notice to the parties, although not rejecting the other grounds.

### **Hearing and submissions**

8. With respect to the basis upon which permission had been granted, I drew to Mr O'Ryan's attention to the fact that my copy of the FCO letter of 12 June 2014 had been marked at the top as having been handed in on 24 March 2015. I advised Mr O'Ryan that the Tribunal's records showed that the parties had attended a hearing on 24 March 2015, when the appeal was adjourned to await a psychiatric report for the appellant (which was later obtained but not relied upon). Mr O'Ryan proceeded on the other grounds.

9. He submitted that the judge's finding, that the appellant was not whom he claimed to be, was not properly reasoned and had not previously been raised by the respondent. The judge had failed to reach any conclusion on the reliability of the news report at page 27 of the appeal bundle. There was therefore a fundamental gap in the judge's findings. The judge's reliance on there being other male family members remaining in Albania with no problems, with particular reference to the cousin who had helped him leave the country, [LI], was misconceived, as [LI] was a maternal cousin and was therefore not part of the blood feud. Mr O'Ryan submitted that the judge had erred by placing significant weight upon the FCO letter of 12 June 2014 in relation to the question of sufficiency of protection, when it was inconsistent with the country guidance in EH and was not impartial.

10. Mr McVeety submitted that the judge was entitled to place weight on the FCO letter which was written by someone based in Tirana, as opposed to the expert report which had been written by someone who had not been in Tirana since 2011. The FCO letter reached the same conclusions as in EH and just brought EH up to date. It was open to the judge to find that the appellant, who had lied about his age, had also lied about his identity. It was open to her to find that he had adapted his identity to fit in with the news report. It was also open to the judge to place little weight on the news report.

11. Mr O'Ryan, in response, reiterated the points made previously.

## Consideration and findings.

12. As stated, permission to appeal had primarily been granted on the ground that the judge had relied upon a document, the FCO letter of 12 June 2014, which had not been before the parties at the Tribunal, but that ground was misconceived since the letter clearly had been before the parties, having been produced at an earlier hearing on 24 March 2015. Mr O’Ryan properly did not seek to pursue that particular ground.

13. Whilst the grant of permission did not exclude the appellant’s other grounds, it made clear that they were less persuasive. I agree with that comment. I find no merit in the other grounds.

14. I find no reason why the judge was not entitled to place the weight that she did upon the FCO letter. I do not agree that it is partial but concur with Mr McVeety’s submission that, contrary to the assertion made in the grounds, the section entitled “actions to mitigate false blood feud claims” does not demonstrate a motivation to reduce genuine asylum claims by Albanian nationals but rather is intended only to reduce false claims. The judge relied upon the FCO letter in concluding that there was a sufficiency of protection available to the appellant in Albania. I do not agree with Mr O’Ryan that that was inconsistent with the country guidance in EH which, at headnote 3, refers to problems remaining in areas such as northern Albania where Kanun law predominates. I find merit in Mr McVeety’s submission that the FCO letter supplements the decision in EH but consider also that the judge, at [34], plainly had in mind the various reports referring to the steps taken by the Albanian authorities to address the question of blood feuds. It is also clear from her findings at [45] that she had regard to the appellant’s own particular circumstances in considering the question of sufficiency of protection, in particular the fact that the police had already intervened in the matter and applied the law to arrest and convict the perpetrators in both families.

15. In any event, the judge did not find that there was a genuine blood feud or that the appellant was a potential victim of a blood feud. She gave detailed reasons for finding that the appellant’s account was not a credible one, identifying at [24] to [31] various inconsistencies and discrepancies in his evidence, including those relating to his age and identity. Contrary to Mr O’Ryan’s submission it seems to me that it was open to the judge to find that the appellant had not given a credible account of his identity. The appellant relied upon a birth certificate as evidence of his age and the judge gave cogent reasons at [24] to [29], based upon the age assessment report and the background information about the availability of forged official documents in Albania, and taking account of the expert evidence, for concluding that that document was not a reliable one. Since the document was also evidence of the appellant’s identity, the judge was therefore entitled to conclude that the appellant had also been untruthful in that regard.

16. The judge noted also that the appellant had given an inconsistent account about his journey from Albania to the UK and that his evidence about the identity of the cousin who had assisted him in leaving was far from clear. From [35] the judge went on to give further reasons for concluding that there was no genuine blood feud and noted that there was no evidence that other male members of his family had left the country. Mr O’Ryan submitted that the judge had erred in her reliance on the fact that the appellant’s cousin [LI] remained in Albania, since he was from the maternal side of the family and thus not part of the blood feud. However it is clear in any event from the judge’s findings at [35(iv)] that he was not the only male family member to which she was referring. Furthermore, whilst the judge did not make a specific finding at [37] that the new report at page 27 of the appeal bundle was unreliable, she gave clear reasons why it should be accorded little weight.

17. Having undertaken a careful and thorough assessment of the appellant’s evidence, the judge then considered his circumstances in the context of the principles and guidance in EH, addressing the various factors set out at paragraph 6 of the headnote to that case and giving cogent reasons for concluding that the appellant’s account of events did not meet the relevant criteria for establishing that an active blood feud existed. At [43] she concluded that the appellant had failed to demonstrate that he was a potential victim of a blood feud and it seems to me that that was a conclusion that was entirely open to her on the evidence before her.

18. Accordingly I find no merit in the grounds. The judge gave full and detailed reasons for making the adverse findings that she did and she was entitled to reach the conclusions that she did. I do not find that she made any errors of law in her decision. I uphold her decision.

## **DECISION**

19. The making of the decision of the First-tier Tribunal did not involve an error on a point of law requiring the decision to be set aside. I do not set aside the decision. The decision to dismiss the appeal stands.

Signed

Upper Tribunal Judge Kebede