Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/07838/2014

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 26 May 2017	**On 22 June 2017**

Before

UPPER TRIBUNAL JUDGE O'CONNOR

Between

SM
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms A Smith, instructed by South West London Law Centre
For the Respondent: Mr T Melvin, Senior Presenting Officer

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 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.

DECISION AND REASONS

Introduction

1. The appellant is a citizen of Albania born in September 1998. It is not in dispute that he arrived in the United Kingdom on 28 May 2014 and claimed asylum the following day. This application was refused in a decision of 15 September 2014. On the same date the appellant was granted discretionary leave to remain until 28 March 2016.

2. The appellant appealed to the First-tier Tribunal pursuant to section 83(2) of the Nationality, Immigration and Asylum Act 2002[1] - the scope of the appeal being limited to an assessment of whether the Secretary of State for the Home Department's (SSHD's) decision breaches the United Kingdom's obligations under the Refugee Convention, and whether the appellant is entitled to entitled to a grant of humanitarian protection (see FA (Iraq) v Secretary of State for the Home Department [2010] EWCA Civ 696).

3. At the hearing before the Upper Tribunal Ms Smith conceded that the appellant could not establish the former of these two grounds – such concession being made on the basis that the appellant could not establish that there would be a convention reason for any persecutory treatment he may suffer in Albania. I am, therefore, limited to a consideration of whether the appellant is entitled to humanitarian protection.

Law

4. The appellant is entitled to a grant of humanitarian protection in the United Kingdom if he can meet the requirements of paragraph 339C of the Immigration Rules. In the instant case the substantive requirement that the appellant asserts that he meets is to be found in paragraph 339C(iii), which reads:

> "[it must be demonstrated that] substantial grounds have been shown for believing that the person concerned, if returned to the country of return, would face a real risk of suffering serious harm and is unable, or, owing to such risk, unwilling to avail themselves of the protection of that country ...".

Serious harm is defined thereafter as:

> "(iii) torture or inhuman or degrading treatment or punishment of a person in the country of return ...".

5. The aforementioned rule mirrors the substantive requirements of Article 15(b) of the Qualification Directive 2004/83EC. The CJEU considered the application of Article 15 in its decision in Elgafaji v Staatssecretaris van Justitie [2009] 1 WLR 2100. Although the Court were therein primarily considering the operation and effect of Article 15(c) of the Directive it also observed as follows in relation to Article 15(b), at [28]:

[1] Now repealed by section 15 of the Immigration Act 2014

> "In that regard, while the fundamental right guaranteed under Article 3 of the ECHR forms part of the general principles of community law, observance of which is ensured by the court, and while the case law of the European Court of Human Rights is taken into consideration in interpreting the scope of that right in the community legal order, it is, however, Article 15(b) of the Directive which corresponds, in essence, to Article 3 of the ECHR. By contrast, Article 15(c) of the Directive is a provision, the content of which is different from that of Article 3 of the ECHR, and the interpretation of which must, therefore, be carried out independently although with due regard to the fundamental rights, as they are guaranteed under the ECHR."

6. The burden of proof is on the appellant but the standard of proof is a low one – akin to the standard that applies in asylum appeals.

History of this appeal

7. The history of this appeal is lengthy. The appeal was initially dismissed before the First-tier Tribunal in a decision of 26 February 2015. Subsequently, the Upper Tribunal set aside the First-tier Tribunal's decision and remitted the appeal back to the First-tier Tribunal for consideration afresh. The appeal was heard for a second time before the First-tier Tribunal on 17 December 2015, this time being allowed in a decision promulgated on 21 January 2016. However, once again the Upper Tribunal set aside the First-tier Tribunal's decision and remitted the appeal back to the First-tier Tribunal to consider afresh.

8. The appeal was then heard for a third time by the First-tier Tribunal on 21 July 2016, First-tier Tribunal Judge Callow dismissing it in a decision promulgated on 2 September 2016. The matter then came before Deputy Upper Tribunal Judge Hill QC in the Upper Tribunal and in a decision of 25 January 2017 the First-tier Tribunal's decision was once again set aside. Whilst I need not set out the reasons behind Judge Hill's decision, it is prudent to identify the following observation found at paragraph 9 thereof:

> "It is unnecessary to preserve the findings of fact made in the First-tier Tribunal because the evidence of the appellant was unchallenged. What will need to be considered is the assessment of risk on return which will be informed by the evidence of the appellant and the country guidance already in existence."

Factual Matrix

9. The appellant's case is accurately summarised in the following terms in the First-tier Tribunal's decision:

> "7. The appellant comes from Mehaj near the town of Koplik in the north west of Albania where he lived with his parents and attended the local school. His father was an alcoholic and a gambler. His mother worked as a cleaner. He has two married sisters. On 1 May 2014 when he was on his way to school he was approached by two males, one of whom grabbed his shoulder and the other who warned that he should tell his father that time was running out. That evening the appellant informed his parents about the incident. A few days before this he

> overheard his father telling his mother that he had been warned that the appellant would be kidnapped by those whom he owed money. The mother cautioned the father that she would not forgive him if this happened. A few days later on Sunday 4 May 2014 the mother informed the appellant that he would be going to England to save his life. The following morning he was collected by two men driving a Mercedes and taken out of Albania using his own passport to an unknown destination. The day after arrival in the UK he made his asylum claim. If returned to Albania the appellant fears persecution and/or ill-treatment from those who are owed money by his father. In order to avoid such conduct he would be forced to relocate whereupon he fears homelessness, destitution and being trafficked.
>
> 8. The appellant has lost contact with his mother. On one occasion, he spoke to her by mobile phone, but subsequent attempts have been unsuccessful for want of any answer. While his personal and family details have been passed to the British Embassy in Tirana to assist with family tracing, he does not wish to be in contact with his parents. He fears that the consequences of contact would jeopardise his safety and that of his parents. ... he has no knowledge of their whereabouts and in any event he cannot look to them for any assistance … ."

10. The following evidence given by the appellant is also of relevance:

    (a) In January 2014, he and his parents travelled to Greece. He believes this was because of problems his father had in Albania. The family returned to Albania after a week because they did not have a place to work or live in Greece;

    (b) He does not know why his parents did not travel with him to the UK;

    (c) As far he is aware his family did not report any of the incidents to the police;

    (d) He has two married sisters in Albania but they are not on speaking terms with the appellant's parents because his father owes their husbands money;

    (e) His uncles and aunts live about 20 minutes away from his parents, but they do not speak to his parents because his father owes them money;

    (f) He has managed to speak to his mother once (in around June 2014) since his arrival in the UK. He rang his father's phone on this occasion;

    (g) He does not know who paid for the agent that brought him to the UK

11. Despite it being apparent from Judge Hill's decision that it was proposed that the re-making be undertaken on the basis of the unchallenged evidence before the First-tier Tribunal, the Secretary of State, in her skeleton argument drawn for the purposes of the instant hearing, asserted that:

> "It is not accepted that [SM] has been unable to contact any of his family members, last contact claimed to be in the summer of 2014, in recent years that could assist in his internal relocation in the same way that they are financially assisted in sending him to the United Kingdom. It should be noted that only recently have his solicitors

approached the Red Cross. [SM] had previously stated that he did not want to contact his parents ...".

12. In response to such challenge Ms Smith did not seek argue that, in the light of Judge Hill's observations, the point was not open to the Secretary of State to take. Instead, she requested permission (which was granted) for the appellant to give oral evidence to deal with the issue raised.

13. In his evidence the appellant maintained that he is not in contact with his parents. He has only spoken to his mother once since his arrival in the UK, and has not spoken to his father at all. Whenever he comes across an Albanian in the UK he "carefully" tries to find out whether they are from his village. He has thus far not come across someone who is. He has recently contacted the British Red Cross in order to trace his family; however, after having had conversations with them he ultimately concluded that the procedure was not sufficiently confidential that he wished to engage in it. He told the British Red Cross that he would contact them at a later date and he was given a reference number.

14. Under cross-examination the appellant stated that the last time he had seen his sisters was when he was aged 8 or 9. He has not spoken to them since that time. He had made no attempt to contact his sisters since his arrival in the United Kingdom, nor has he made any attempt to trace where they live. He has not attempted to contact friends in Albania because if he did so this may lead to his whereabouts becoming known – the village he is from being small. He is afraid that if his whereabouts in the UK becomes known, something might happen to him here.

15. The appellant further stated he did not believe that his father would have paid the debt back. The appellant recalls his father drinking alcohol even when (the appellant) was a small boy. He could not recall his father ever having had employment and he did not think that his father would have obtained employment or stopped drinking since he (the appellant) had left the country.

16. The appellant finally confirmed that he currently lives in a shared house with two other males, one Albanian and one Afghan. He washes his own clothes and does not cook any food because the cooker in the premises is broken. He buys food from a local shop. He is currently studying at college to be an electrician.

Decision and Discussion

17. The only issue of primary fact within the appellant's personal knowledge which is in dispute is that surrounding his contact (or lack thereof) with his parents.

18. The appellant's claim is that he purchased a sim card and phone in the UK (with assistance) in June 2014, and thereafter contacted his mother *"after June 2014 and before September 2014"* (statement of 3 December 2014). He did so using his father's telephone number, because his mother did not have a telephone and neither was there a house phone.

19. The timing of this telephone call can be narrowed to a date prior to 2 July 2014 because it is referred to in a statement drawn by the appellant on that date. At paragraph 17 of that statement the appellant asserts that he *"could not contact [his mother] after that date as she does not have a mobile phone. I did not like to contact my father as he will be very angry with me as I left Albania without his knowledge and approval."*

20. Nevertheless, in his statement of 3 December 2014 the appellant asserts that he attempted to contact his mother in September 2014 using his father's mobile number, without success. He also made unsuccessful attempts to contact his mother on 20 November 2014, but there was a recorded message identifying that the number could not be contacted. The appellant has not disclosed details of any further attempts made to contact his mother by telephone after 20 November 2014.

21. Whilst I find it surprising that the appellant waited for around three months before he attempted to make further contact with his mother after June 2014, and a further 2 months after the unsuccessful attempt in September 2014, I bear in mind that the appellant was only 15/16 years old at that time and that he would have only relatively recently arrived in a foreign land having left Albania in circumstances which must have been traumatic for him. I also view this discrete credibility issue in the context of the acceptance of the truth of the other aspects of the appellant's evidence.

22. I observe that the appellant's evidence, both throughout the asylum determination process and the appeal process, has been laced with concerns (whether held on an objectively well founded basis or not) that the putative persecutors would be able to locate his whereabouts in the UK if they became aware he was here. This has most recently raised its head in the appellant's rejection of the offer from the British Red Cross to trace his parents. It is, also, of relevance that the appellant has reported feelings of unhappiness and anxiety triggered by the thought of being returned to Albania and that he is receiving counselling as a consequence (see letters of 19 July 2016 and 28 February 2017 from COMPASS).

23. Looking at the appellant's evidence in the round I am prepared to accept, to the lower standard, that he has not had contact with either his parents, any other members of his family or any friends in Albania, since he arrived in the UK, save for one conversation with his mother in June 2014. I further accept that the fears expressed by the appellant as to the consequences of his whereabouts in the UK becoming known to the persons whom he fears in Albania are genuinely held. In short, I find that the appellant has been honest with the Tribunal in every regard.

24. Mr Melvin submitted that even if the appellant's account is accepted this appeal should, nevertheless, fail for three reasons. First, that the appellant would not be at risk in his home area; second, there is in any event a sufficiency of state protection available to the appellant in Albania and, third, that there is a viable internal relocation alternative – the appellant can live in Tirana.

25. Taking these in turn. In relation to current risk upon return to the appellant's home area, Mr Melvin relied upon the fact that the appellant had not produced any

evidence supporting his belief that his father's circumstances have not changed since the time of his departure. It was observed, in particular, that no evidence had been produced to the effect that the appellant's father's debt remained outstanding.

26. I first ask myself whether the vacuum in the evidence identified by Mr Melvin was something that the appellant could be reasonably expected to have filled i.e. was there evidence that the appellant could have, but did not, take reasonable steps to obtain.

27. The appellant gave evidence as to why no attempt had been made to contact other family members in Albania in order to obtain up-to-date information about his parents' circumstances. He has no contact details for these family members, and has not had contact with them for a considerable period of time prior to his departure from Albania - ostensibly because his father owed monies to them. I find this to be a perfectly reasonable explanation as to why no contact has been made by the appellant. Mr Melvin also points to the British Red Cross as a potential source of information. Once again, however, I accept the appellant has provided a reasonable explanation, which I have set out above, for not pursuing this avenue.

28. Turning then to the evidence that is before me. The appellant's father has been an alcoholic and a gambler for as long as the appellant can recall. He is indebted to many people, including the appellant's sisters' husbands. His failure and/or inability to repay monies to these family members has led to a situation where the appellant's sisters no longer have contact with their parents, or the appellant. The appellant knows his father used to work, but since the appellant has been "grown up" he has not known his father have a regular job. The appellant's mother worked as a cleaner and the family was, also, receiving some state support.

29. As of the date of the appellant's departure it is clear that the appellant's mother perceived the appellant to be at risk of being harmed if he remained in Albania. Sending a child alone to a foreign land is a big step for any parent to take and I infer from the fact that the appellant's mother was prepared to take this option, that she believed that there was sufficient possibility that the warnings given to her husband and the appellant would be acted upon. It is inherent in the drawing of such inference that the appellant's mother did not believe that her husband would be able to repay the debt, at least in the immediate term.

30. The appellant's mother's actions give a particular insight into her beliefs about the nature of the person/organisation from whom/which the threats emanated. It is to be recalled that the appellant's father owed money to many people, yet it was only the events of May 2014 which led the appellant's mother to take such drastic steps as sending her minor child abroad, alone.

31. The appellant's mother's view as to the risk to the appellant in 2014 does not, of course, establish that such a risk was real, i.e. objectively well-founded. Such view plays only one part of the assessment of risk.

32. One must also look at the appellant's claim, and his mother's actions, in the context of the background situation in Albania at the relevant time. In this regard, I have reports before me from, *inter alia*, the US Department of State, the Council of Europe and UNICEF - each relating to the year that the events material to the instant case are said to occurred, i.e. 2014. In her skeleton argument Ms Smith points to increased incidents of societal killings, including blood feuds and revenge killings in Albania. This though is not a case where there is a blood feud case. The background evidence does disclose, however, that Albanian organised crime is one of the fastest expanding networks of criminal groups in the Balkans and Europe.

33. Looking at all the evidence in the round, and bearing in mind in particular: (i) that the appellant has been found to be a witness of truth; (ii) the appellant's mother's actions in sending her minor child abroad as a consequence of the threats received; and, (iii) the background evidence before me, I am prepared to accept to the lower standard that at the time of the appellant's departure there was a real risk of him suffering serious harm from persons who wished to either persuade his father to pay back an outstanding debt or to punish the father for failure to thus far pay back that debt, or indeed a combination of both.

34. Moving on, Ms Smith readily acknowledged the vacuum in the evidence before the Tribunal relating to the appellant's parents' current circumstances. It may be, as Mr Melvin submits, that the debt has been repaid and, consequently, that the risk to the appellant has dissipated. Alternatively, it may be that the person or organisation to whom the debt was owed by the appellant's father has written off the debt, or agreed to repayments in instalments or that the appellant's father could work off the debt. All of these possibilities would clearly reduce (or negate) the risk to the appellant from such persons or organisation.

35. The burden is on the appellant to demonstrate that he is still at risk upon return, but the standard of proof is a low one. The fact that there is a vacuum in the evidence and a number of potential scenarios in which the appellant would not be at risk upon return, does not preclude a finding that the appellant would be at risk.

36. On the available evidence before me, I conclude that there is a real risk that the appellant's father has not repaid the debt which led to the appellant being at risk 3 years ago. The description given by the appellant of his father's his long-term gambling habits and alcohol abuse – which continued even in the face of the family having lost contact with the appellant's sisters as a consequence - leads me to find that there is a real possibility that he has not changed his ways. Furthermore, on the accepted evidence, the appellant's father has not had regular employment for as long as the appellant can recall.

37. Whilst the appellant's mother managed to obtain the necessary funds in order to pay for the appellant's journey to the United Kingdom, this is not indicative of her ability to fund the repayment of the debt – indeed, if anything, the fact that these monies were not used to repay the debt in 2014 may be indicative of the size of the debt that the appellant's father had accrued or his wife's belief that even if the monies were

used to repay the debt that her husband would not simply accrue further debt thereafter.

38. If the appellant returns to his home area, which is not a large city such a Tirana, there is a real risk that his presence will become known by the person/organisation who threatened his kidnap in 2014. Whatever the motivation was of such persons in 2014 i.e. as a warning to others not to fail to repay debt or whether to use the appellant as leverage in order to facilitate repayment by the appellant's father, there is, it seems to me, a real risk that such motivations will be retained. I concluded above that there was a real risk to the appellant at the point in time of his departure in 2014. In such circumstances, and the given my findings that the circumstances in relation to the debt and the motivations of the debtors have not changed since 2014, I also conclude that there is a real risk of the appellant suffering serious harm if returned.

39. Mr Melvin submits that, in any event, there would be sufficiency of protection for the appellant in Albania.

40. Article 7 of the Qualification Directive provides:

> 1. Protection can be provided by:
>
> (a) the State; or
>
> (b) parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State.
>
> 2. Protection is generally provided when the actors mentioned in paragraph 1 take reasonable steps to prevent the persecution or suffering of serious harm, *inter alia*, by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.
>
> 3. When assessing whether an international organisation controls a State or a substantial part of its territory and provides protection as described in paragraph 2, Member States shall take into account any guidance which may be provided in relevant Council acts.

41. These minimum standards reflect the approach taken in domestic jurisprudence. Sufficiency of state protection means a willingness and ability on the part of the receiving state to provide through its legal system a reasonable level of protection from ill-treatment. The effectiveness of the system provided is to be judged normally by its systemic ability to deter and/or to prevent the form of persecution of which there is a risk, not just punishment of it after the event. Notwithstanding systemic sufficiency of state protection in the receiving state, a claimant may still have a well-founded fear of persecution if it can be shown that its authorities know or ought to know of circumstances particular to the case, but are unlikely to provide the additional protection the particular circumstances reasonably require.: see Bagdanavicius v Secretary of State for the Home Department [2003] EWCA Civ 1605,

42. In support of his submission Mr Melvin draws attention to a series of Country Information and Guidance notes from 2016/17, each relating to a distinct social group within Albania which, it is said, have characteristics that are more likely to lead to persons within that group to be persecuted than this appellant's circumstances. In each of these policy notes there is a section relating to sufficiency of protection. The Secretary of State's position in each is that "*there is in general sufficiency of protection*" for persons in Albania falling with the social group in question.

43. I observe that at paragraph 2.1.2 of the most recent general Country Information bulletin relating to Albania (August 2015) the following is said:

> "There is a fully functioning police and judicial system. Civilian authorities generally maintain effective control over the police, Republican Guard, armed forces and SHISH, although periodically there are instances of corruption and of members of the security forces having committed abuses. Poor infrastructure, lack of equipment, inadequate supervision, contribute to continued corruption and unprofessional behaviour. Impunity remains a serious problem, although the government has made greater efforts to address this. The government has mechanisms to investigate and punish police abuse and corruption and reportedly carry out investigations and provide redress."

44. In her submissions Ms Smith draws attention to numerous documents within the appellant's bundle that identify the existence of corruption within the police force in Albania. I observe that this evidence is entirely consistent with that provided to the Tribunal in the country guidance decision relating to trafficked women from Albania i.e. TD and AD (Trafficked women) CG [2016] UKUT 00092 (IAC).

45. In TD the Tribunal observed that recent prosecution of police officers is a positive sign that the problem of corruption within the police force in Albania is being tackled by the authorities. It was nevertheless concluded that corruption remains a serious problem, "*not least in the minds of the Albanian public who after many decades of living with bribery as a way of life may find it difficult to see any change*" (at [94]. This evidence is also consistent with the appellant's explanation as to why his parents did not report the threats against the appellant to the police.

46. Looking at all the evidence before me in the round I conclude that the level of corruption in the police force is such that in cases such as the instant one, where there is the possibility of corruption becoming material to the actions of the police, that there is not a sufficiency of protection offered by the Albanian police, or indeed any other arm of the Albanian state, to persons in the appellant's position.

47. I finally move on to consider the issue of internal relocation.

48. Article 8 of the Qualification Directive reads:

> 1. As part of the assessment of the application for international protection, Member States may determine that an applicant is not in need of international protection if in a part of the country of origin there is no well-founded fear of being persecuted

> or no real risk of suffering serious harm and the applicant can reasonably be expected to stay in that part of the country.
>
> 2. In examining whether a part of the country of origin is in accordance with paragraph 1, Member States shall at the time of taking the decision on the application have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant.
>
> 3. Paragraph 1 may apply notwithstanding technical obstacles to return to the country of origin.

49. In Secretary of State for the Home Department v AH (Sudan) [2007] UKHL 49 Lord Bingham referred [at 5] to the guidance in Januzi v Secretary of State for the Home Department [2006] UKHL 5:

> "In paragraph 21 of my opinion in Januzi I summarised the correct approach to the problem of internal relocation in terms with which all my noble and learned friends agreed:
>
> > 'The decision-maker, taking account of all relevant circumstances pertaining to the claimant and his country of origin, must decide whether it is reasonable to expect the claimant to relocate or whether it would be unduly harsh to expect him to do so…There is, as Simon Brown LJ aptly observed in Svazas v Secretary of State for the Home Department, [2002] 1 WLR 1891, para 55, a spectrum of cases. The decision-maker must do his best to decide, on such material as is available, where on the spectrum the particular case falls… All must depend on a fair assessment of the relevant facts'.
>
> Although specifically directed to a secondary issue in the case, these observations are plainly of general application. It is not easy to see how the rule could be more simply or clearly expressed. It is, or should be, evidence that the enquiry must be directed to the situation of the particular applicant, whose age, gender, experience, health, skills and family ties may all be very relevant. There is no warrant for excluding, or giving priority to, consideration of the applicant's way of life in the place of persecution. There is no warrant for excluding, or giving priority to consideration of conditions generally prevailing in the home country. I do not underestimate the difficulty of making decisions in some cases. But the difficulty lies in applying the test, not in expressing it. …"

50. Mr Melvin assets that there is a viable internal relocation alternative open to the appellant in Tirana. It is said that: (i) the appellant would not be at risk in Tirana because there is no evidence that the persons who wish to persecute him in his home area would be aware, or could become aware, that he was living there; (ii) the appellant would receive support from his family (it not being accepted that the appellant has lost contact with them); (iii) the appellant has transferable skills such that he could obtain employment in Tirana; and, (iv) the appellant would be entitled to apply for funds through the VAR scheme.

51. Ms Smith submits that it would be unduly harsh for the appellant to relocate to Tirana because: (i) there is a real risk in Tirana from those to whom his father owes a debt (i.e. the same person/organisation form the whom the appellant is at risk in his home area) and/or (ii) there is a real risk that the appellant would become street

homeless and destitute in Tirana and he would therefore be vulnerable to exploitation and forced labour.

52. In support of the second of these submissions, Ms Smith draws attention to the fact that the appellant would have to register in Tirana if he wished to reside there. It was asserted that he would be unable to register because of the lack of means and property ownership. He would therefore not have access to essential services.

53. The appellant is now 18 years old and living in shared accommodation in the United Kingdom. He is, though, still a 'Looked After' person receiving some local authority assistance. He has, nevertheless, demonstrated an ability to function independently, and has learnt transferable skills from his college courses that would assist in the him obtaining income from employment in Tirana.

54. There is, though, a requirement for civil registration in Tirana. This was referred to by the Tribunal in the country guidance decision in EH (blood feuds) Albania CG [2012] UKUT 00348 (IAC) in which the following observations, made in the May 2012 Home Office Operational Guidance Note, were identified, without demur:

> *"2.4.4. Internal migrants must transfer their civil registration to their new community of residence to receive government services and must prove they are legally domiciled through property ownership, a property rental agreement, or utility bills. Many persons could not provide this proof and therefore lacked access to essential services."*

55. The only evidence before me expanding on this registration process is contained in a document authored jointly by Save the Children and Terre Des Hommes published in November 2014 *("Children on the Move in Albania")*, in which the following is said at [39]:

> "Often, the consequence of movement is related to problems of civil registration in the new area the family has moved to. The transfer of civil registry from the local administration of the place of origin to the location of destination is long, non-coherent administrative procedure that…exclude the possibility of some…individuals or families being eligible since the criteria for registration is to submit a documentation the property of the house (and/or contract of rent); document certifying employment and a certificate of incomes. The lack of civil registration results in limited access to health and educational services, social protection programs, cash assistance scheme etc, but also difficulties in accessing other public institutions."

56. Mr Melvin does not submit that the appellant currently has any of the documentation necessary to undertake a civil registration in Tirana, nor does he identify how it is said that the appellant would obtain such documentation prior to obtaining employment and rental accommodation.

57. On the evidence before me I find that the appellant would not be able to register in Tirana in the immediate aftermath of his return because he would not have the relevant documentation to do so. He would not have access to 'essential services' of the type identified in paragraph 55 above, until he registers.

58. Mr Melvin submits that this would not cause the appellant difficulties in the immediate aftermath of his return because he could apply for an Assisted Voluntary Return package prior to leaving the UK. I observe firstly that this program is only available for those who "voluntarily return". The appellant does not wish to return to Albania, and all the evidence before me points towards him not agreeing to voluntarily return because of his subjective fear of doing so. As such, the scheme would not apply to the appellant.

59. In any event, although I take judicial notice of the fact that such return packages are available to those who have unsuccessfully claimed asylum, and that "up to £2000" can be provided, there is no evidence before me as to the level of the funds that it is said this appellant is likely to receive, nor do I have evidence identifying the mechanism by which successful applicants are chosen or how the level of funds that they will be allocated is calculated. In all these circumstances, I conclude that the availability of assisted return packages for those who voluntarily return is of little assistance to me in my consideration of whether there is a viable internal relocation alternative for the appellant in Tirana.

60. The appellant will be forcibly returned, as an 18-year-old, to a country in which he has a genuine subject fear of suffering serious harm (which is objectively well-founded in his home area), such fear manifesting itself in anxiety at such a level that he is undertaking counselling. He will have no familial support upon return and he cannot obtain assistance from the state until he undertakes a civil registration. The appellant cannot undertake such registration until he finds accommodation and employment. He would have no funds to obtain accommodation or other essential needs until he finds employment. Furthermore, I have not been directed to any evidence suggesting that there are shelters or other assisted accommodation types available in Tirana for persons presenting with the appellant's circumstances.

61. In these circumstances, I concur with Ms Smith's submissions that the appellant is likely to find himself living on the streets upon arrival, and at least until he can find employment. It is simply not realistic, on the evidence before me and even given the appellant's particular skill set, to conclude that he will be able to find employment immediately upon return. There will inevitably be a period of delay, something which I have no doubt will also be impacted upon by the appellant's subjective fears. In all the circumstances, I find that it would not reasonable to expect the appellant to internally relocate to Tirana – and that such internal relocation would be unduly harsh.

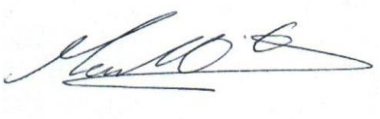
62. For all the reasons given above, I find that returning the appellant to Albania would not be in accordance with paragraph 339C of the Immigration Rules and would breach Article 15(b) of the Qualification Directive. The appellant is entitled to a grant of humanitarian protection and his appeal is, accordingly, allowed.

Notice of Decision

For the reasons given by Deputy Upper Tribunal Judge Hill QC, the decision of the First-tier Tribunal is set aside.

Having re-made the decision, I allow the appellant's appeal.

Signed:



Upper Tribunal Judge O'Connor Date 22/6/2017