



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/01762/2020**

THE IMMIGRATION ACTS

**Heard at Field House
On 19 November 2021**

**Decision & Reasons Promulgated
On 16 December 2021**

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

**BM
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Gajjar, Counsel instructed by SMA Solicitors
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

DECISION AND REASONS

The appellant is a citizen of Albania born on 5 May 1992. On 27 April 2019 he claimed asylum. On 6 February 2020 his application was refused. He appealed to the First-tier Tribunal where his appeal came before Judge of the First-tier Tribunal Roots (“the judge”). In a decision promulgated on 4 August 2020 the judge dismissed the appeal. The appellant is now appealing against this decision.

The appellant’s claim

The appellant claims to be at risk in Albania because of a blood feud. He claims that:

In April 2014 his paternal cousin (whom I will refer to as EM), whilst in a Greek prison, killed a man (whom I will refer to as VA), who is the cousin of a notorious criminal (whom I will refer to as AR).

In September 2018 he received a threat on his mobile phone and saw a suspicious-looking car; and, fearing for his life, fled Albania, travelling to Belgium and then to the UK (arriving in the UK in April 2019).

AR and AR's family are behind the threat he received in September 2018, and have the influence and motivation to locate and kill him anywhere in Albania.

Decision of the First-tier Tribunal

The judge did not accept that there is, or has ever been, a blood feud involving the appellant. The reasons the judge gave for reaching this conclusion are the following:

The appellant lived openly in Tirana between 2014 and September 2018 without difficulties. This included being able to work and raise a young family. The judge stated that the appellant failed to explain why he was able to live openly and the expert report submitted by the appellant did not address this issue.

The appellant was evasive and inconsistent about male family members and was unable to explain why so many of them appear to be able to live unhindered in Albania. In this regard, the judge found that (i) the appellant gave inconsistent evidence about whether EM had brothers; (ii) failed to disclose until the hearing the extent of his family (including that he has eleven male cousins) and was evasive and inconsistent about this; (iii) the expert instructed by the appellant did not appear to be aware of the extent of his family; (iv) no explanation was given as to why other male members of the family had not been threatened; (v) he appeared to have no knowledge of and to not have made any enquiries about the whereabouts of his numerous cousins; (vi) no explanation was given as to why his father was able to live openly in Tirana; and (vii) no explanation was provided as to why his brother in the UK had not been targeted.

The timing of the appellant's visit to an Albanian lawyer to discuss the blood feud made no sense. The appellant submitted in support of his claim a letter from a lawyer in Tirana dated 5 October 2019 stating that on 10 August 2018 he met with the appellant and his father to provide advice about the blood feud. The judge found this letter damaging to the appellant's credibility because the appellant's account was that until he received an anonymous phone call in September 2018 he had not received any threats. The judge stated that the appellant did not give a credible explanation as to why he visited the lawyer prior to the threatening anonymous phone call.

It was not credible that the appellant would leave Albania after receiving a single phone call (and seeing a car that he thought looked suspicious) without first making an attempt to contact other male family members who would

equally be at risk because of the blood feud, given the context of having lived unhindered for four years in Tirana.

The appellant relied on an country expert report, where his claim to be at risk from a blood feud was considered. The judge stated that the expert failed to address key issues including that the appellant has a brother in the UK, there was a four year gap between the murder said to trigger the feud and the threat to the appellant, and that the appellant has numerous male family members at least some of whom are living in Albania. The judge stated:

“These findings and deficiencies in the expert’s report lead me to find that it is of very little weight in terms of establishing the appellant’s credibility, as for whatever reasons, the report fails to tackle some of the most important facts in this case.”

The judge concluded in paragraph 68 that he did not find the appellant credible and did not accept that “any blood feud has been declared as the appellant has claimed”.

Grounds of Appeal

There are six grounds of appeal.

Ground 1 submits that the judge erred by stating in paragraph 40 that the appellant had not provided evidence to show that AR would be able to threaten and harm him from prison. The grounds argue that the judge erred by failing to engage with evidence submitted by the appellant showing that (a) AR has previously escaped from prison on several occasions; and (b) AR commands a gang from within the prison who could be directed to attack the appellant.

Ground 2 argues that the judge failed to give adequate reasons for (a) not accepting AR and VA are related; and (b) not accepting that there was a blood feud.

Ground 3 submits that the judge failed to engage with evidence of two reconciliation attempts (which took place in 2014 and 2016) which explain why the appellant was able to live unharmed in Tirana between 2014 and 2018.

Ground 4 submits that the judge placed excessive weight on the late disclosure by the appellant that he has numerous male cousins. The grounds note that the evidence on this was provided at the hearing at the request of the judge. It is submitted that the provision of this information by the appellant demonstrates that he behaved in an open and frank way. It is also argued that it is misplaced to criticise the appellant for not providing this information sooner when he was not asked for it. In particular, it is noted in the grounds that during the asylum interview he was asked about relatives who fled, but not asked about the extent of his family.

Ground 5 argues that it was irrational for the judge to find that the appellant had been inconsistent about the whereabouts of EM, as there was in fact no inconsistency in the evidence provided.

Ground 6 submits that the judge erred in finding that the evidence in relation to the appellant's father was "vague" when no reasons were given to support this conclusion.

At the hearing, both Mr Gajjar and Mr Tufan gave clear and helpful submissions. I have not set these out separately, but the points they raised are incorporated into the analysis below.

Analysis

The judge gave four cogent reasons for not accepting that the appellant has been involved in a blood feud.

First: the appellant lived openly in Tirana between 2014 and September 2018, despite claiming that the blood feud began in 2014. The judge found that the appellant failed to give a credible explanation as to how, if there was a blood feud, he was able to live openly for four years.

The only explanation given by the appellant was that there were two reconciliation events during that period. I asked Mr Gajjar to identify the evidence relied upon by the appellant concerning the reconciliation events. Mr Gajjar first drew my attention to paragraph 20 of the appellant's witness statement. In this paragraph the appellant explains why there are no legal documents confirming the reconciliation attempts. However, this paragraph does not elaborate on the nature of the reconciliation attempts or whether or not they were successful.

Mr Gajjar also referred to the responses given by the appellant to questions 111 - 122 in his asylum interview. It is apparent from a review of these responses that the appellant claims that there were two unsuccessful attempts at reconciliation, the first in 2014 and the second in 2016. In response to question 115, for example, the appellant stated:

"They did not want to reconcile or did not even try to speak to the mediator. This implied the vendetta continued and nothing was forgiven".

The evidence relied on by Mr Gajjar concerning the attempted reconciliations indicates that they were unsuccessful. Accordingly, the reconciliation attempts cannot, on any legitimate view, explain why the appellant was able to live unharmed in Tirana between 2014 and 2018. The judge therefore did not err in stating that there was no credible explanation for the appellant being able to live without any threat to him or other family members for four years in Tirana.

Second: the appellant has numerous male family members on his father's side (in paragraph 50 the judge states that there are eleven cousins) but there was no evidence of any of them being targeted because of the blood feud even though there was no reason given as to why the appellant would be more of a target than other male family members. Mr Gajjar argued that the appellant cannot be criticised for not revealing the size of his family prior to the hearing because he was not asked. That may be the case, but it does not undermine the finding that it is inconsistent with the appellant's claim to be at risk from a

blood feud that so many male relatives (including his father) are able to live openly in Albania.

Third: the appellant relied on a letter from an Albanian lawyer which referred to a meeting to discuss the blood feud taking place in August 2018. However, the appellant's evidence was that neither he nor his father were subject to any threat prior to September 2018. The judge was plainly entitled to find it undermined the appellant's credibility that he was unable to explain why the visit to the lawyer took place before, rather than after, the threat.

Fourth: the judge found it implausible that, having lived unhindered for four years in Tirana, the appellant would flee because of a single anonymous telephone call, without first, at the very least, consulting with other male family members in a similar position to him (such as his multiple cousins in Albania). This, too, is a finding that was plainly open to the judge.

In my view, the four reasons set out above, when considered cumulatively, are more than sufficient to support the judge's rejection of the appellant's claim to have been involved in a blood feud. In the absence of a blood feud, the appellant has no viable protection claim irrespective of whether there is merit to any of the six grounds of appeal. I am therefore satisfied that the grounds of appeal do not identify an error of law that could be material to the outcome. However, for completeness I will address the specific points raised in the grounds.

- (1) Ground 1: I accept that being in prison would not necessarily prevent AR posing a risk to the appellant (through his associates or even as a consequence of escaping). However, this is immaterial if, as I have found, the evidence supports the conclusion that the appellant has not been involved in a blood feud.
- (2) Ground 2: The judge stated in paragraph 41 that he did not accept that AR and VA are related. The judge failed to explain why he did not accept this, and therefore there is merit to the argument that the judge erred by providing insufficient reasons in respect of this specific point. However, whether or not AR and VA are related is immaterial if AR and the appellant are not involved in a blood feud. The other contention in this ground, which is that the judge failed to give adequate reasons for finding there was not a blood feud, is plainly unmeritorious given that at least four cogent reasons were given (see paragraphs 15 - 21 above).
- (3) Ground 3: I do not accept that the judge erred by not engaging with the appellant's evidence concerning reconciliation events, as the evidence was that the (two) reconciliation attempts were unsuccessful. Therefore, the evidence concerning the attempted reconciliations could not, on any legitimate view, explain why the appellant was not targeted for four years.
- (4) Ground 4: The weight that the judge attached to the late disclosure about the appellant's cousins is immaterial. The relevant finding, which is sustainable, is that the appellant has multiple male family

members (including his father) who do not appear to have been harmed because of a blood feud and he was evasive about this.

- (5) Ground 5: I do not accept that it was irrational for the judge to find that the appellant was inconsistent about the whereabouts of his cousin EA. The judge stated in paragraph 59 of the decision that in his witness statement the appellant stated that EA remained in prison but in the family tree diagram he said that his whereabouts were unknown. This is an inconsistency and therefore the judge was entitled to describe it as such. In any event, this is immaterial given the sustainable finding that there was not a blood feud involving the appellant.
- (6) Ground 6: The judge, having the benefit of hearing the appellant give oral evidence, was entitled to form a view on whether or not he was vague on particular points. I do not accept that the judge erred in describing the appellant's evidence concerning his father in these terms. In any event, whether or not the judge was entitled to describe the evidence as vague does not undermine the finding that the appellant was unable to explain why his father has been able to continue living unhindered despite the blood feud.

As explained above, the judge was entitled, for the reasons he gave, to find that the appellant has not been involved in a blood feud. The grounds of appeal therefore do not identify a material error of law.

Notice of Decision

The decision of the First-tier Tribunal did not involve the making of a material error of law and stands.

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 his 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

D. Sheridan
Upper Tribunal Judge Sheridan

Dated: 9 December 2021