



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

Appeal Number: PA/13880/2017
PA/02198/2020

THE IMMIGRATION ACTS

**Heard at Manchester
Via Teams
On 18 January 2022**

**Decision & Reasons Promulgated
On 23 February 2022**

Before

UPPER TRIBUNAL JUDGE LANE

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**FI and DI
(ANONYMITY DIRECTION MADE)**

Respondents

Representation:

For the Appellant: Ms Aboni, Senior Presenting Officer

For the Respondent: Ms Harris

DECISION AND REASONS

1. I shall refer to the appellant as the respondent and to the respondents as the appellants, as they appeared respectively before the First-tier Tribunal. The appellants are husband and wife, are citizens of Albania and were born respectively in 1979 and 1987. The first appellant appealed to the First-tier Tribunal against a decision of the Secretary of State dated 14 December 2017 refusing his claim for international protection and under Article 8 ECHR following the making of a decision to deport him. The second appellant appeals against a decision of the Secretary of State dated 23

February 2020 refusing her international protection. The First-tier Tribunal heard both appeals together on 19 February 2021 and, in a decision promulgated on 28 April 2021, allowed the appeals on asylum and human rights grounds. The Secretary of State now appeals, with permission, to the Upper Tribunal.

2. Whilst the respondent accepted that the appellants may have encountered 'corruption within the judiciary' in Albania, she did not accept that the appellants were, as claimed, at real risk for having exposed a corrupt judge, Z.
3. The respondent complains that the First-tier Tribunal wrongly went behind the sentencing remarks of the judge before whom the first appellant had been tried and convicted for the offence of possession of an identity document with improper intent (for which he had been imprisoned for 12 months). The respondent argues that the judge erred by finding that the appellant's conviction did not undermine his credibility as a truthful witness.
4. I find that this ground has no merit. It was open to the judge [38] to find that the appellant had used a false document because he had considered it necessary to use such a document in order to enter the United Kingdom to claim asylum. In that context, the judge was entitled to give weight to the fact that the first appellant had applied for asylum immediately on arrival, finding that the appellant had not sought to use the document as part of 'a cynical attempt to evade immigration control for any other reason' by which I assume he means illegal working. The judge's finding that the first appellant was not to be treated as incredible as to his asylum account solely because he had used a false document is supported by cogent reasons. The Secretary of State's challenge is no more than a disagreement with that finding.
5. The second challenge also lacks merit. The respondent asserts that the judge's finding that the appellants' fear of harm on return to Albania was not objectively well-founded. The fact that the appellants' parents in Albania had experienced 'no issues' was, according to the respondent, 'inconsistent with the claimed motivation power and reach of these rogue state agents' who the appellants claim are likely to harm them on return. Again, the challenge is no more than a disagreement with the judge's findings. The judge has produced a very detailed, even-handed and thorough analysis. He has addressed directly the weaknesses in the claim of the appellants and has reached findings which are not perverse but rather available on the evidence. The summary of those findings at [59] and [63], in particular the finding that the appellants are at risk because they have crossed an influential judge who has links not only with serious criminals and the police but also within the Albanian state at the very highest levels (see the reference at [63] to the office of the President), lead rationally to the conclusion that the appellants are at risk and cannot look to the state to offer them sufficient, effective protection.

6. Finally, the respondent complains that the judge fails to resolve a discrepancy in the first appellant's evidence which he identifies at [10]. The discrepancy concerns the date on which the first appellant first contacted the authorities about the corruption which he had discovered; the first appellant says that he did so on 13 July 2015 whilst the second appellant claims that her husband took this step in June 2015. It is accurate to say that the judge does not seek to resolve this discrepancy but I find that (i) it is clear from the analysis that the judge made no further reference to the discrepancy because he did not consider it to be so serious that, considered with the remainder of the evidence in the round, it should reverse his conclusion that the appellants' accounts were credible and (ii) the discrepancy itself is minor and does not go to the core of either appellant's account. It is not at all likely that, given his other findings in favour of the appellants, the discrepancy would, had he sought to make findings in respect of it, have caused the judge to reverse the outcome of the appeal.
7. For the reasons I have given, the Secretary of State's appeal is dismissed.

Notice of Decision

The Secretary of State's appeal is dismissed.

Signed

Date 2 February 2022

Upper Tribunal Judge Lane

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

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.