IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER **First-tier Tribunal No: PA/07236/2017**

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 04 September 2023

Before

UPPER TRIBUNAL JUDGE HANSON

Between

B
(ANONYMITY ORDER MADE)

Appellant

and

SECREATRY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms Chaudhury instructed by Oaks Solicitors.
For the Respondent: Mr Diwnycz, a Senior Home Office Presenting Officer.

Heard at Phoenix House (Bradford) on 14 July 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, [the appellant] (*and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified*) is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant (*and/or other person*). Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant, a citizen of Albania born on 8 October 1996, arrived in the UK illegally on 24th July 2014. He claimed asylum the following day which was refused by the Secretary of State but following judicial review proceedings, on 8 February 2017, it was agreed that the decision on the asylum application would be reconsidered.

2. On 13 July 2017 a further decision was made to refuse the asylum claim and directions given for the appellant's removal from the United Kingdom. The appellant appealed and in a determination promulgated on 22 September 2017 the First-tier Tribunal dismissed the appeal. The appellant's application to the Upper Tribunal challenging that decision succeeded on the basis of identified material legal error and the matter was remitted to the First-tier Tribunal.

3. The appeal came before First-tier Tribunal Judge Bircher sitting at North Shields on 4 January 2019 who, in a decision promulgated on 31 January 2019, allowed the appeal on asylum and Article 3 ECHR grounds.

4. An application by the Secretary of State for permission to appeal was granted and in a decision promulgated on 17 May 2019 Upper Tribunal Judge Plimmer found an error of law on the basis Judges Bircher's decision on internal relocation had not been adequately reasoned.

5. The appeal then came before Deputy Upper Tribunal Judge D E Taylor sitting at Bradford on 18 November 2019. In a decision promulgated on 25 November 2019 Judge Taylor substituted a decision dismissing the appeal.

6. The appellant sought permission to appeal to the Court of Appeal which was granted and the appeal allowed. The case was remitted to the Upper Tribunal to enable it to determine the appellant's appeal afresh on the remaining issues in dispute such as internal relocation with reference to the opinion of any expert evidence. The Court of Appeal's order also records the findings of facts that were made by Judge Bircher in her determination of 31 January 2019 are preserved for the purposes of the fresh appeal hearing. It is for that reason the matter comes before me today.

7. It was recorded by Judge Plimmer at [8 –9] of the error of law decision:

> 8. The SSHD does not dispute the FTT's conclusion that B gave a wholly truthful account. The FFT's positive findings of fact include the following:
>
> (i) B's family is involved in a feud with his paternal uncle;
> (ii) B's father sought the protection of local elders and the police but they refused to intervene;
> (iii) B's uncle set fire to his home and fired shots in an attempt to harm the family;
> (iv) B sought to avoid his uncle by hiding in a barn in the mountains, away from the family home;
> (v) B's uncle found them and fired shots at them;
> (vi) B is not in contact with his father and brother.
>
> 9. Mr Diwinycz properly conceded that these findings were sufficient to support the conclusion that B has a well-founded fear of serious harm in his home area, and the FTT was obliged to address internal relocation and give reasons for its conclusion on this. Mr Greer accepted that the FTT's reasoning is "somewhat thin", but invites me to find that the reasoning at [32] is adequate.

Discussion and analysis

8. The appellant's evidence was that the risk arises because his father and paternal uncle inherited land from their father which they would share. The appellant told the First-tier Tribunal the problems arose when his father tried to split the land which the uncle believed had not been divided equally. Conflict also arose over the irrigation system used to water the land. The appellant stated that the paternal grandfather would attempt to intervene and resolve issues between the brothers but when the paternal grandfather died it became impossible to resolve the conflicts, and that on occasions the paternal uncle start an argument without any reason and would physically fight with other people for no reason.

The appellant stated he believes this was because the paternal uncle suffered from mental health problems.

9. The appellant told the First-tier Tribunal that he was approximately two years old when the paternal grandfather died and the dispute over irrigation started. The appellant's told the First-tier Tribunal his own father gathered the village elders to resolve a dispute over the irrigation, who believe the paternal uncle was wrong to block water to his father's land, but the uncle would not listen to them. The appellant's father's attempted to obtain the support of the police over the irrigation problem but did not succeed as they said it was a domestic or family dispute.

10. The appellant's fear arises as he claimed the paternal uncle owned a double-barrelled gun and was in possession of a machine gun. On 19 July 2013 the appellant was home with his father and brother when they smell petrol, looked outside, and saw his uncle lighting something and throwing the lit object at their house. The appellant claims uncle was saying he was going to kill them. The appellant told the First-tier Tribunal that he, his father and brother, managed to escape through the back door and ran to the mountains and hid in a barn. The appellant claimed on 19 July 2014 he was guarding the barn when he saw a bright light approaching followed by machine gun fire, as a result of which the family fled the Barn and ran in different directions. The appellant claimed he ran, found a lorry, and hid underneath the canvas. He says the lorry was filled with produce which he ate on his journey and on 24 July 2014 he came out the lorry, found the police, and was directed to the Home Office where he claimed asylum.

11. The first thing to note is that although I am fixed by the preserved findings, there is no evidence of anybody actually having been killed as a result of the dispute. The appellant's fear is that if he is returned his paternal uncle, who suffers mental health problems, may harm him. It was accepted before Judge Plimmer the preserved findings were sufficient to establish a real risk of harm in his home area.

12. The appellant in his witness statement claimed his brother told him that his father had died. The appellant claimed it was in August 2019 when he learned his father had passed away. When asked in cross examination why he had not given that information to the tribunal in November 2019 he did not provide a satisfactory response, other than stating he could not recall.

13. The appellant was asked how he obtained the death certificate which he claimed was from a friend who went to Albania. When asked when this was the appellant claimed the same time he received compensation for being unlawfully detained by the Home Office when he was in London.

14. The appellant was asked why there was no statement from the friend who brought it and how he got the death certificate, to which the appellant claimed he did not think it was a problem but provided no further answer. When asked when he obtained a certificate he claimed he could not recall the exact date, that it could be in April, but agreed it was this year.

15. It was put to the appellant that the death certificate says the cause of death for his mother was "sickness" but did not provide any other details, with which the appellant agreed. The appellant was asked what sickness to which he claimed his mother had high blood pressure problems.

16. The appellant was asked what his father died of to which the appellant claimed it was multiple problems, with problems of the heart. He was asked whether what he was claiming that his father died on 28 April 2016 but his brother did not tell him about it until 2019 and that he only chose to tell the tribunal in June 2023, to which the appellant claimed not to know about that.

17. It was put to the appellant his evidence about the cause of death is vague and the death certificate was not a reliable document. It was put him that the death

certificates are not signed by any person. The appellant was asked to agree this fact but he only stated the certificates were issued by the local council.

18. In reply to questions put in re-examination the appellant claimed his friend went to the local council and said he was there to obtain the death certificate which he did, and brought in to the UK.

19. When asked about the hearing in November 2019 and why he did not mention at that hearing that his father had passed away the appellant claimed that he was stressed and he did not know what was happening.

20. The 18 November 2019 hearing was before DUTJ Taylor. It is reasonable to expect that if the appellant was aware of the death of his father before that time, as he claims, that he would have mentioned it in his evidence if that fact was genuine. At the hearing the appellant was represented by a very experienced barrister, Mr Greer of Kenworthy's Chambers in Manchester, who would have asked him about all his relevant evidence. Indeed in his submission to Judge Taylor Mr Diwnycz submitted there was no evidence to show that any of the appellants family had been harmed or killed.

21. It is correct that the death certificates are not signed. Although the appellant gave evidence as to how he had acquired them there was no evidence from the person he claimed went to the local council in Albania and obtain these documents.

22. Procedure in Albania requires medical verification in order for the registration of a death to be valid. In the past Albania used the International Classification of Diseases (ICD-9) to record medical causes of deaths including the primary cause, external cause and secondary cause.

23. The standard procedure to be followed in Albania when issuing a death certificate commences when a person dies. A medical doctor will then certify the person's death and complete a schedule which defines the details of the person, place of death and cause of death, which is signed by a GP and stamped by the nearest Health Authority if the person dies at home. If a person dies in hospital – the schedule is signed by the medical doctor responsible for the particular ward of the hospital concerned. The schedule is then handed to a family member of the deceased person and by law the health centres and hospitals are obliged to notify the relevant Civil Registry of the area where the deceased person is legally registered as a resident of the death within five days.

24. The second step is that the family member, called the declarer or the informant, having received the death schedule is required to attend the Civil Registry declarer registered the death. The Registrar prepares or writes the death act.

25. The Registrar then issues the death certificate and provides the informant with an original copy signed and stamped.

26. I find merit in the submissions of Mr Diwncyz concerning the death certificate of the appellants father which, combined with there being no evidence from the person who it is claimed obtained this document, casts doubt upon the weight that can be placed upon the same.

27. They are, however, only one piece of the appellant's evidence. He has placed considerable reliance upon the expert reports of Sonya Landessman and Dr Enkilada Tahiraj. the full content of which has been considered and taken into account by me.

28. The appellant claims Albania is a traditional society to where he will be returned with no support from his family members. I do not find that claim is substantiated on the evidence. The appellant has brothers in Albania.

29. Dr Tahiraj refers to the requirements for Civil Registration and Relocation in Albania stating At [63] "*should someone be committed to locating a person in a feud in Albania … In the case of FB the likelihood of being found upon arrival … He is likely to know everything about FB …*"

30. It was submitted the appellant will have to register with the local authority, that connections will be made, and that his uncle could use the records to find out where he is.

31. The appellant also claimed it was unreasonable for him to relocate due to health issues and it was argued on the appellant's behalf that the country expert refers to sources that are more recent than the country guidance caselaw, and that greater weight should be put upon the appellant's evidence.

32. There has been a lot of discussion in the course of this appeal as to whether the conflict the appellant's fear relates to a blood feud. There is no evidence that blood has been spilt. The evidence appears to suggest a family feud between two brothers, one of which is the appellant's father. There is still no credible evidence of a blood feud. There is also the issue of whether there is a genuine dispute over land or drainage, or whether the appellant's evidence that his paternal uncle would start an argument without any reason and physically fight with other people, as recorded by Judge Bircher, is related to the suggestion of mental health issues suffered by the paternal uncle, which may be the reason why he behaves as he does. There is merit in a submission by Mr Diwnycz in the Secretary of State's statement of case, filed in response to the direction of Judge Plimmer, that the expert does not consider psychotic/mental health issues of the uncle as a potential drive of his actions, preferring to classify the matter as a Kanun-law blood feud.

33. It is recorded in the earlier determinations that the appellant was born in a village called Guri Bardge in the district of Mat in Albania where he lived with his father and brother prior to leaving. It was found by Judge Bircher at [20] the paternal uncle would not know if the appellant's father and brother had left Albania. There appears no proper consideration by the country experts of the fact the contact between the paternal uncle and the appellant and his family appears to be remote with the uncle not knowing whether family members had left Albania and would not be likely to know that they had returned, or to where. There is insufficient evidence to show the uncle is well-connected, influential, or a person who has to reach throughout the whole of Albania.

34. Gur I Bardhe is a village in the municipally of Klos in Albania. It is located approximately hundred and 23 km north of the capital Tirana. He is recognised as an area in the north of the country where traditions remain. The geographical detail is also important when considering the credibility of the appellant's claim not to be able to return. In the Secretary of State's review Mr Diwnycz wrote:

> 4. The lack of reach of the uncle is further argued in the light of the ambiguity of Judge Bircher's findings on the 'shooting incident' of 2014. At paragraph 27 of her decision, Judge Bircher accepts the SofS's assertion (detailed at paragraph 26) that the appellant could not substantiate the identity of the person shooting at the barn. She accepts the uncle being identified as the arsonist responsible for attacking the appellant's home, from the recognition of the uncle by the appellant. She has found that the unknown shooter must have been the appellant's uncle "*by a process of elimination*". What Judge Bircher did not seem to eliminate was the possibility that this could have been another psychotic outburst of the uncles. The FTT decision is not detailed on the geographical facts surrounding the appellant's location in Albania at the time. The latest expert report does no more than a reference the area of origin in gross terms (paragraph 98 of the report). It would not seem unreasonable to expect that the expert, having led to studies in Diber and Durres, would give greater detail on the appellant's home area than just locating it on a country level. The facts as given by the appellant are that he and his father and brother lived in Rehi Matit, **Gur i Bardhe**, Albania. The appellant's other brother is claimed to have lived in **Dars**. The appellant claims to have gone to **Klos** frequently during his time living in the barn with his father and brother. The geographical locations of these three places is not even hinted at by the expert, but

in fact they are very close together in what appears to be a sparsely populated, hilly and mountainous rural area. The distance from Gur i Bardhe to Dars is approximately 3 km/2 miles as the crow flies, Dars being almost due north. The distance from Gur i Bardhe to Klos is approximately 12 km/10 miles as the crow flies, Klos being North by North East from it. Dars is approximately 2.5 km/2 miles from Klos, Klos being north-east of it. It is hardly surprising that in a rural and relatively isolated region such as this that it would not be difficult for anyone indigenous to the area to know or find anyone else within the immediate locality. What the expert report does not do in terms's address the relative proxy ability of Gur i Bardhe to Tirana, the capital of Albania. The straight line distance from Klos (the largest of the three locations mentioned by the appellant) is approximately 40 km/25 miles. There appears to be no direct road route between the two, road from Klos taking a particularly long and winding path before it eventually reaches Tirana, after approximately 116 km/72 miles of travel taking some two hours and 49 minutes, according to the AA route planner website. It is argued that this degree of separation, and the much larger population of Tirana mitigate in favour of the SofS's assertion that the appellant will be able to relocate safely there.

35. The appellant's country expert talks of the nature of Albania society, the limited size of the country, and claims it is very difficult for anybody to stay hidden for any length of time unless they hide themselves away. There was no challenge by way of counter evidence to the above content of the Secretary of State's position statement. What that establishes is that in an area in which it was accepted that individuals would know each other the appellant was able to hide with his uncle and father in a barn, not far from their home, and travel to other places within the same geographical location either without their presence being discovered and becoming known to the paternal uncle or, if the likelihood have been discovered was as high as that submitted by the expert, the uncle not being bothered about them or taking any action against them.

36. In relation to the country guidance in EH (blood feuds) Albania CG [2012] UKUT 00348 I do not accept the submission made on the appellant's behalf that because his country experts have provided a more recent report it was appropriate to depart from the country guidance.

37. I accept that if the evidence warrants, a Tribunal can depart from country guidance provided adequate reasons are given but I do not find that test is satisfied in this appeal.

38. I do not find in this appeal that it has been established that the only option for the appellant, on return, to avoid his paternal uncle, is going into self confinement. The issue in this case is the reasonableness of internal relocation.

39. As noted above there have been no killings giving rise to a blood feud. The last incidents of alleged hostility by the paternal uncle, which appears to be directed at the appellant's father who is now deceased (according to the appellant), occurred when the appellant fled the barn. The appellant's father and brothers remained in Albania and the death certificate provided by the appellant does not give an indication that other family members have been sought out and killed by his paternal uncle. There is no evidence that the degree of commitment by the paternal uncle will be such that he will be likely to want to harm the appellant.

40. If the appellant is threatened by the uncle and has to relocate the evidence does not indicate it will be as a result of a blood feud. The country information shows, possibly connected to Albania's desire to join the EU, improvements in the actions of the state authorities if threats are made.

41. The appellant will be returned to Tirana, and it was not made out the paternal uncle is intent on locating the appellant or has the ability to do so. I do not find the appellant has established his profile is as a potential target. I do not find on the evidence that the appellant has established a real risk his paternal uncle has any interest in relocating him in Tirana or elsewhere.

42. In relation to the reasonableness of internal relocation, so far as medical issues are concerned, is not made out before me that the appellant would not be able to access any treatment required for any physical or mental health needs he has. It is not made out any medication is not available or accessible. The cost of services such as mental health services or psychotropic medicines at the point of the service is ordinarily free of charge. Albania has a compulsory health insurance fund but it was not made out that the primary health care offered for free, whether or not a person has insurance, and the referral system allowing access to secondary health care free of charge, would not be available to the appellant if he was not insured.

43. There is a freedom of movement within Albania and so nothing indicating the appellant will not be able to relocate to Tirana or other areas away from his home area.

44. Even though the appellant claims his parents had died there is evidence he has brothers in Albania. He claims it was one of them who informed him of his father's death. I am not satisfied sufficient evidence has been provided to show that the appellant will not be able to establish contact with a member of his immediate family who can provide him with support and assistance.

45. The Upper Tribunal in MB (internal relocation – burden of proof) Albania [2019] UKUT 00392(IAC) found:

> *The burden of proof remains on the appellant, where the respondent has identified the location to which it is asserted they could relocate, to prove why that location would be unduly harsh, in line with AMM and others (conflict; humanitarian crisis; returnees; FGM) Somalia CG [2011] UKUT 445 (IAC), but within that burden, the evaluation exercise should be holistic. An holistic approach to such an assessment is consistent with the balance-sheet approach endorsed later in SSHD v SC (Jamaica) [2017] EWCA Civ 2112, at paragraphs [40] and [41]. MM v Minister for Justice, Equality and Law Reform, Ireland (Common European Asylum System – Directive 2004/83/EC) Case C-277/11 does not impose a burden on the respondent or result in a formal sharing of the burden of proof, but merely confirms a duty of cooperation at the stage of assessment, for example the production of the country information reports.*

46. I find the appellant has not discharged the burden upon him to show that relocation would be unduly harsh or unreasonable. The appellant's own country expert does not rule out that the appellant will be to secure some form of employment and there is nothing to show that he could not. It is not made out with an income obtained from employment the appellant would not be able to secure accommodation which he can use as a base to rebuild his life in Albania.

47. The appellant is in possession of an identity card and speaks the language. Although the expert refers to the prevalence of youth unemployment in Albania, and it is noted there is substantial migration from Albania of the person seeking a better life elsewhere, it is no made out even with a limited education and work experience the appellant would be unable to find employment.

48. It is not made out the appellant will suffer destitution and even though he may find it difficult, the appellant had provided insufficient evidence to show internal relocation will be unreasonable on the facts. It is not made out the practical reality of having to relocate and settle elsewhere will be such as to make it unreasonable. The appellant has not provided sufficient evidence to prove otherwise.

49. Having sat back and review the material available in this appeal, especially in light of the extended history, I find the appellant has not established he is entitled to (i) the protection of the Refugee Convention, as he is not a refugee and has proved no credible real risk of harm, (ii) Humanitarian protection or (iii) pursuant to ECHR, as he has not established there is no area in Albania to which he can

return where he will face no real risk of harm, that it is reasonable to expect him to avail himself of, or that he will face other issues that would enable him to discharge the necessary burden.

Notice of Decision

50. I dismiss the appeal.

C J Hanson

Judge of the Upper Tribunal
Immigration and Asylum Chamber
29 August 2023