



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM**  
**CHAMBER**

Case No: UI-2022-006031

First-tier Tribunal No:  
PA/01328/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 11 June 2023**

**Before**

**UPPER TRIBUNAL JUDGE RIMINGTON  
DEPUTY UPPER TRIBUNAL JUDGE L MURRAY**

**Between**

**LM  
(ANONYMITY ORDER MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms A Kogulathas instructed by Malik and Malik Solicitors

For the Respondent: Ms N Willocks-Briscoe, Senior Home Office Presenting Officer

**Heard at Field House on 2 May 2023**

**DECISION AND REASONS**

**Details of the Appellant and Nature of Appeal**

1. The Appellant is a national of Albania born on 30 November 1983. She appeals with permission against the decision of First-tier Tribunal Judge Dineen (FtTJ) who in a decision promulgated on 2 March 2022 dismissed her appeal against the Respondent's refusal of her claim for international protection.

2. The Appellant claimed to be at risk of persecution/serious harm as a result of a blood feud from a family whose son was murdered by her husband. She also claimed to fear her husband due to domestic violence she had suffered in the past.

### **The Grounds**

3. The grounds seeking permission to appeal state that the First-tier Tribunal Judge (FtTJ) erred in failing to consider evidence regarding potential risk for revenge/vendetta. It is asserted that in finding that there is no evidence of any inclination to exact revenge on the Appellant's husband and children and placing reliance on 'canun', the FtTJ failed to engage with the assertions in the expert report of Mirela Bogdani dated 23 December 2021. That evidence is that although the Kanun excludes women and children from blood feuds, several sources make references to children and women killed or threatened as a result of vendettas and that the "modern-day vendetta" is more ruthless and has broken the rules of the ancient Kanun by targeting even women and children. It is further argued that the FtTJ failed to give adequate reasons for rejecting the Appellant's account that explosives were placed under the family car. It is asserted that the expert confirmed that remote controlled fire bombings are on the rise and the FtTJ's decision failed to reference a BBC article which confirmed the murder sparked a feud.
4. The grounds also assert that the FtTJ's findings with regard to the expert evidence are not sustainable; the authority of the expert is not questioned and the FtTJ was incorrect to state that her observations are speculative ones which '*could be drawn by a non-expert*'.
5. It is further asserted that in concluding that there is no risk to the Appellant at the hands of her husband's enemies or at the hands of her husband the FtTJ failed to consider the oral evidence of the Appellant's brother in law confirming he had fears for her safety. It is further asserted that the FtTJ makes no findings regarding the Appellant's subjective concerns about being traced by her husband which limited the extent to which the Appellant would feel able to return to her own parents and family on return. It is also asserted that this would effect the extent to which she would face significant obstacles to her integration under paragraph 276 ADE (1) (vi).

### **Permission**

- 6.** Permission to appeal was granted on renewal to the Upper Tribunal on 7 February 2023 by Upper Tribunal Judge Owens who considered that it was arguable that the First-tier Tribunal Judge erred in his approach to the expert evidence, failed to take account of evidence that women and children can be victims of blood feuds, and failed to take into account the Appellant's objective fears and the difficulties for the Appellant outlined in the expert report when assessing whether there were very significant obstacles to integration.

### **The Hearing**

- 7.** At the hearing Ms Willocks-Briscoe confirmed that there was no Rule 24 Response.
- 8.** Ms Kogulathas asked us to conclude that the reference in the grant of permission to the Appellant's "objective fears" must have been a typographical error by Upper Tribunal Judge Owens as the grounds referred to "subjective fears".
- 9.** She expanded on the grounds of appeal and asserted that the FtTJ's findings were contradicted by the expert. The FtTJ did not dispute the credentials of the expert who had produced a detailed and nuanced report and commented on the plausibility and external consistency of the account. It was an informed opinion on risk and it was overlooked. The FtTJ's assessment of risk was deficient. There was an absence of reasons for finding that the explosives were not attached to the car and to engage with the expert evidence and BBC article. The domestic violence did occur and was accepted by the Respondent, and the Appellant's subjective fear of her husband was relevant to the way she behaved and whether she would be able to meaningfully participate in society and to integrate. There was no broad evaluative judgement.
- 10.** Ms Willocks-Briscoe submitted that the primary basis for the challenge was the alleged failure to properly consider the expert report. The FtTJ concluded that the conclusions of the expert were speculative observations that could have been drawn by a non-expert. The conclusions of the expert were that it was possible that the Appellant's account could happen and that she may face problems. The fact that the FtTJ did not find in her favour did not mean that the analysis contained a material error of law. However, although the Appellant said she would be at risk as a victim of a blood feud, despite being married, nothing had happened to her. She was not targeted whilst in Albania. She was living with the children and they came to no harm. It

was the expert evidence that everybody in Albania knew each other. That conclusion was destructive of her claim. If she was at risk from the family of the murdered man something would have happened to her before. The FtTJ looked at the claim in the alternative and found that there was no inclination to exact revenge on her children. The FtTJ did not say that women could never be targeted but the traditional principles were directed towards males. Also, there was a lack of action by the family of the murdered man against other members of the family. There was no feud. If, according to custom, the murdered man's family were still responsible for the debt to the Appellant's husband, it was unlikely they would pursue the person to whom they were answerable. The expert did not address this. It was the victim's family who would be pursued in the blood feud. The evidence did not bear out the assertion that the family were interested in her.

- 11.** She further submitted that the FtTJ looked at the case law and the availability of protection and found that there was adequate protection. The conclusion that she was not at risk from her husband was reasonable. He was in prison in Belgium and not even in Albania at the date of the FtTJ's decision. With regard to her subjective fear, the Appellant had been in the UK when her husband was here and his brother did not provide information about her whereabouts. She would be returning to her own family who could provide a level of protection and there was nothing to suggest she could not apply for an injunction. There was insufficient evidence to show that her subjective fears would prevent her from integrating.
- 12.** In reply, Ms Kogulathas replied that in relation to domestic violence, the Appellant's husband tried to force her into prostitution and came to the UK and intended to look for her. She had two of his children. Albania was a small country and there was a registration system. Her husband had murdered someone and it was reasonable to infer that she would be terrified. It was an error to reject the expert report on the basis that it was speculation. The blood feud reignited when he was released and the family were unable to pursue him until his release. The explosives were a demonstration that the feud was not about money.

### **Analysis**

- 13.** We deal firstly with the grounds in relation to the expert's report. The Appellant argues that the Judge's findings at

paragraph 49 are not sustainable and that there was a failure to deal with the comments of the expert in relation to threats to women and children from blood feuds and the fact that remote car bombings are on the rise.

**14.**The FtTJ stated at paragraph 49:

“I find I am not assisted by the expert report of Dr Bogdani, because while it is an interesting and informative survey of the general situation in Albania, it does not focus sufficiently on the particular circumstances of the appellant, and its conclusions are, as I find speculative observations which could be drawn by a non-expert. It amounts to little more than, as stated in the first sentence of the ‘conclusions’ section, the appellant might face problems, challenges and risk if she returns to Albania.”

**15.**We have carefully considered the expert’s report at page 14 of the Appellant’s bundle. The report is 40 pages long and the expert addresses the particular circumstances of Appellant’s case at paragraph 1.3 to 2.2 at pages 22 to 26 of the Appellant’s bundle and in the conclusion. The remainder of the report is devoted, as stated by the FtTJ, to an informative survey of the general situation in Albania covering blood feuds, domestic violence and the situation of women and insufficiency of protection. The parts of the report which deal with the general situation in Albania make no mention of the Appellant’s particular circumstances and a number of them have no relevance to the Appellant’s case at all.

**16.**In the sections relating to the Appellant’s case at paragraphs 1.3 to 2.2, the expert sets out the basis of her claim, observes that the Appellant comes from an area which is known for its patriarchal and backward society and the rules of Kanun still prevail, and observes that revenge cases may last for decades and women and children may, as part of the “modern-day vendetta” be victims although Kanun excludes children and women from blood feuds. She further observes that abused women are usually reluctant to cooperate with the Albanian authorities due to low trust, that Albania is a small country and tight society where everybody knows each other and the identities of people are hard to hide. She states that certain aspects of the Appellant’s personal circumstances, such as being a lone women, with two children and no friends or family support make her even more vulnerable to being located. She sets out the obstacles in facing life in Albania including difficulties with accommodation and employment. She considers the position in relation to her home town, where she says she

could face stigma as she has left her husband, and states that her family is poor and cannot support her. She states that she cannot return to her in-laws as she left their son and if she relocates to a big city the main challenge would be finding a job and paying rent. She further states that it would be challenging for the children after living in a wealthy country like the UK.

- 17.**In her conclusion, as noted by the FtTJ, she states that “she might face problems, challenges and risks” if she returns and reiterates the source of her alleged fears, the violence against women in the Appellant’s area, her fear of revenge, the risk of being located by her ex-husband or rival family due the size of the country and her personal circumstances and the challenges of reintegration.
- 18.**It has not been argued on behalf of the Appellant that the Tribunal made an error in relation to the factual matrix of her case. The particular circumstances of her case therefore to which the FtTJ can be taken to have been referring to at paragraph 49 of the decision are those outlined by him at paragraphs 2 to 33 where he summarises the background and the Appellant’s case and paragraphs 34 to 44 where he summarises the Respondent’s case.
- 19.**Whilst we have taken account of the fact that the expert’s reports should not be rejected as ‘mere speculation’ (Karanakaran v Secretary of State for the Home Department) [2000] Imm AR 271, we note that the expert does not engage with the plausibility of the Appellant’s claim to be the victim of a blood feud in circumstances when she had never been targeted personally and did not experience any adverse attention in the six years she spent in Albania after her marriage. It is clear from the Respondent’s refusal letter dated 18 August 2020 that the Respondent concluded that there were inconsistencies between the Appellant’s account that following her husband’s release he did not take precautions to protect himself and his family and the background information (paragraph 43 RFRL) that families engaged in a blood feud will take precautions to avoid harm.
- 20.**We do not find that there is any error in the FtTJ’s finding that expert’s conclusion, taken at it’s highest, was that the Appellant *might* face problems, challenges and risks. We also conclude that the FtTJ did not misdirect himself, or irrationally conclude that the report did not focus sufficiently on the particular circumstances of the Appellant. The Respondent had clearly referenced issues which challenged the plausibility of the

Appellant's account when assessed against the background evidence which were not addressed by the expert.

- 21.**The grounds also assert that the FtTJ failed to engage with the expert's evidence in relation to the "modern-day vendetta". It is argued that the FtTJ erred in finding that children may not be targeted and affected by a vendetta against the father, or at the very least setting out his reasons for reaching conclusions which contradict the objective evidence.
- 22.**The FtTJ found, with regard to the alleged blood feud, that such feuds take place in the north east part of Albania but that he was not satisfied, to the lower standard of proof, that the Appellant was the victim of a blood feud. His reasons for this are set out at paragraph 50 to 60 and are that, on her own evidence, she knew nothing of the murder upon which the feud was based or of the identity of the family involved and did not experience and adverse attention in the six years she spent in Albania after her marriage. Further, the brother of her husband was able to visit Albania annually with his children and they had come to no harm.
- 23.**It was also the Appellant's evidence that she had no knowledge of who placed any explosives on the car and knew nothing of it until she was on her way to Belgium with her husband. Further, there was no evidence as to the nature of the explosives, the circumstances of the discovery and the matter was not reported to the police. The FtTJ reasoned that there was no evidence upon which it could be concluded that it was the family of the murdered man which was responsible for placing explosives in circumstances where the Appellant's husband had been involved in criminal activities which led to his imprisonment in Belgium and, even if they were responsible, their actions were directed towards the husband after his release and not towards any member of his family including the Appellant and her child whilst he was in custody. He found that this "was *consistent* with the traditional principles of the 'canun' that revenge was directed against adult males only". The reference to 'consistency' does not exclude the possibility that it could be directed against women and children, but simply, on the history of this appellant, it was not.
- 24.**The background evidence and the evidence of the expert in relation to the victims of blood feuds is that the original Kanun law did not allow the murdering of women and children, and, as the FtTJ concluded, were directed traditionally at adult males.

We find that there is no error in the finding that, on the evidence before him, the Appellant's husband and not the Appellant, was the target. The Judge did not find, as asserted in the grounds, that women and children may not be the victims of vendettas or revenge killings. He found that the evidence in the case did not show that any action had been taken against the Appellant and her child in circumstances where they had been living openly and without precautions. It was entirely open to him to find on the facts of the case that she was not at risk and that finding was not contradicted or on those terms engaged with by the expert evidence.

- 25.** Further, the findings at paragraph 55 and 56 of the decision have to be read in context and when done so, can be seen not to have been made in contradiction to the objective evidence. The FtTJ concluded that the Appellant's husband appeared to have been involved in criminal activity which led to his imprisonment in Belgium and it could be this, rather than the murder that would result in having "enemies with deadly intent towards him". He found that the fact that the alleged placing of the explosives on the car only occurred after he was released and was directed towards the Appellant's husband, was consistent with the principle that revenge is directed against adult males only. It was entirely open to him to find there was an absence of evidence that the Appellant and her child were victims and that this was consistent with the background evidence.
- 26.** The grounds further assert a failure of reasons for the finding that the alleged car bomb did not occur when the FtTJ did not find that the Appellant's account lacked credibility. It is also argued that the FtTJ failed to have regard to confirmation in the expert's report the remote car bombings are on the rise and the evidence in a BBC article confirming that the murder for which the Appellant's husband was convicted sparked a feud.
- 27.** We find that the FtTJ's conclusion, at paragraph 54 of the decision, that the incident with the explosives did not occur did not lack reasons. It was made in the context of findings with regard to the absence of evidence set out in the preceding paragraphs. Whilst the grounds assert that the BBC article of 28 October 2004 was unreferenced in the decision, this is not correct. The FtTJ referred to the article at paragraph 20 of the decision and notes there that it was suggested in a BBC report that the murder was in the nature of a blood feud on account of the loss of the sum of £13,000. The FtTJ was clearly aware of it



and made findings on the basis of the evidence before him with regard to the existence of the alleged feud at the date of the hearing.

- 28.**With regard to car bombings, there is a brief reference in a 40 page expert report at page 33 to car bombings being on the rise in recent years (page 33 Appellant's bundle). The FtTJ did not find that such bombings did not occur, there was no requirement for him to set out each and every piece of evidence, and his findings were not in contradiction to the expert evidence.
- 29.**Further, the FtTJ made findings in the alternative, that even if the incident occurred, there was no evidence that the family of the murdered man were responsible for it. We find that adequate reasons were given for this conclusion. The FtTJ's finding that a blood feud did not exist properly made with reference to the relevant factors in EH (blood feuds) Albania CG [2012] UK and we find that adequate reasons, grounded in the subjective evidence and with reference to the background evidence, were given.
- 30.**The final ground is that the FtTJ failed to consider the Appellant's subjective fear of her husband both in relation to the risk on return and in relation to her ability to reintegrate. It is asserted that the FtTJ failed to consider the evidence of the Appellant's brother in law, who feared for her safety. However, the FtTJ referred to his evidence at paragraph 27 of the decision, expressly noting that he refused to tell the Appellant's husband where the Appellant was living as he feared a repeat of domestic abuse. It was open to the Judge to find that she could re-join her family in Albania and that there was a sufficiency of protection in relation to domestic violence. The FtTJ properly directed himself on the country guidance case law DM (Sufficiency of protection, PSG, Women, Domestic violence) [2004] UKIAT 59, and it was open to him to find that protection was adequate in all the circumstances of the Appellant's case. It follows that his conclusion was that any fear of lack of sufficiency of protection for domestic violence was not well-founded, and his conclusions that there were no very significant obstacles to reintegration which followed from these findings were also adequate reasoned and took account of all relevant evidence.

### **Notice of decision**

**31.** There was no material error of law. The decision of the First-tier Tribunal shall stand.

Signed

A handwritten signature in black ink, appearing to be 'L Murray', enclosed in a thin black rectangular box.

L Murray  
Deputy Judge of the Upper Tribunal  
2023

Dated 20 May