



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/10581/2013**

THE IMMIGRATION ACTS

**Heard at Field House, London
On 5 November 2014**

**Determination Promulgated
On 6 November 2014**

Before

DEPUTY UPPER TRIBUNAL JUDGE GRIMES

Between

ERNEST XHEDIKU

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr S Sesay, Duncan Lewis Solicitors

For the respondent: Ms S Sreeraman, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant, a national of Albania, appealed to the First-tier Tribunal against a decision by the respondent dated 12 November 2013 to refuse his application for asylum and to remove him from the UK. Judge of the First-tier Tribunal Fletcher-Hill dismissed the appeal. The appellant now appeals with permission to this Tribunal.

2. The appellant claims that he is an Albanian national and that he was born on 5 February 1995 and was therefore 16 years old when he arrived in the UK on 25 November 2011. Upon claiming asylum then he was granted leave to remain until 5 August 2012. He applied for further leave to remain on asylum grounds. The refusal of that application is the subject of this appeal. In summary he claims that his family are involved in a blood feud in Albania and that he fears that he would be targeted upon his return to Albania. The Judge found that the appellant's account of events was not credible and dismissed the appeal.

3. The grounds of appeal to the Upper Tribunal contend that the First-tier Tribunal Judge erred in conducting post-hearing internet research. In the Rule 24 response and through Ms Sreeraman at the hearing the respondent accepts that the Judge should not have accessed the internet without putting the issues arising to the parties. However the respondent contends that the Judge's enquiries were not material and that the findings as to credibility are clear and reasoned and wholly independent of the internet inquiries.

4. The Judge set out the details of her post hearing internet research at paragraphs 83-86 of the determination. Paragraphs 83 and 84 state as follows;

"83. I find that I have been able to access a variety of information through the internet after the hearing, including details of the province where the appellant and his family lived (Diber) in North East Albania and details of their village and the capital of the district, Peshkopi.

84. I have also been able to find references to someone, in Pashkuqan, whose name is the same as the appellant's uncle on the internet."

5. I am satisfied that this research did influence the Judge because she found that there was no evidence to substantiate the appellant's claim. This was clearly a significant consideration for the Judge because it underlies all of her findings as to the appellant's credibility. She referred to a lack of corroboration or a failure to substantiate the claim at paragraphs 77, 78, 79, 80, 81 and 88. In fact at paragraph 88 the Judge said; 'In view of all of the above it is inexplicable that the appellant has not produced any evidence to corroborate any of the assertions that he made if they are true.' In finding that documentary corroboration could have been produced the Judge must have been influenced by the fact that she was able to '*access a variety of information through the internet*' [83] and find reference to someone with the same name as the appellant's uncle. The post hearing internet research was therefore material to the Judge's assessment of the appellant's credibility.

6. Paragraphs 85 and 86 deal with the Home Office Country Information and Guidance on blood feuds in Albania. Significantly the Judge relied on

updates from June 2014, after the date of the hearing on 11 March 2014. The appellant did not have an opportunity to address this new evidence.

7. The failure to give the appellant an opportunity to address the matters found in the Judge's post-hearing research resulted in procedural impropriety.

8. The second ground of appeal contends that the Judge failed to follow the country guidance set out in EH (Blood Feuds) Albania CG [2012] UKUT 00348 (IAC). However proper application of the country guidance case law is dependant on proper findings of fact and as I am satisfied that there was a procedural unfairness such as to undermine the findings of fact I make no finding on the contention that the Judge failed to apply the country guidance.

9. I am satisfied that the appellant has not therefore had his case properly considered by the First-tier Tribunal. The parties were in agreement with my view that the nature and extent of the judicial fact finding which is necessary in order for the decision to be remade is such that (having regard to the overriding objective in Rule 2 of the Upper Tribunal Procedure Rules 2008) it is appropriate to remit the case to the First-tier Tribunal.

Decision

The Judge made an error on a point of law and the determination of the First-tier Tribunal is set aside.

The appeal is remitted to the First-tier Tribunal to be remade.

Signed
November 2014

Date: 5

A Grimes
Deputy Upper Tribunal Judge