



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/08818/2014**

THE IMMIGRATION ACTS

**Heard at Field House
On 24 November 2015**

**Decision & Reasons Promulgated
On 2 December 2015**

Before

Deputy Upper Tribunal Judge MANUELL

Between

**MR MARIGLEN XHIKA
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr I Palmer, Counsel (instructed by Barnes Harrild & Dyer)
For the Respondent: Mr S Kandola, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The Appellant appealed with permission granted by Deputy Upper Tribunal Judge Bruce on 10 August 2015 against the decision of First-tier Tribunal Judge IA Ross promulgated on 11 May 2015, dismissing the Appellant's asylum, humanitarian protection and human rights appeals.

2. The Appellant is a national of Albania, born on 3 November 1996, and thus 18 years of age at the date of the First-tier Tribunal hearing. The Appellant had claimed that he was at real risk if returned to Albania as a potential victim of a blood feud involving his family. As Judge Ross noted at [6] of his decision, the Respondent accepted that the Appellant had given a credible account of the two blood feuds declared by two different families against his family. The Respondent also did not dispute the Appellant's account of being abducted and attacked in June 2013. However, notwithstanding the acceptance of his account, the Respondent decided that the Appellant did not qualify for asylum or humanitarian protection because he could avail himself of the protection of the state in Albania and could internally relocate.
3. At [11] of his decision, Judge Ross reflected the Respondent's concessions in his findings of fact, but went on at [14] and [15] to find that the Appellant's lately added new evidence in which he had claimed that his uncle's shop had been burned down was untrue and was designed to exaggerate the claimed risk. The judge found that the Appellant was not a credible witness and could return safely to Albania. Judge Ross followed EH (Blood feuds) Albania CG [2012] UKUT 00348 as to the availability of state protection, in preference to the views of the Appellant's expert.
4. Permission to appeal had been refused in the First-tier Tribunal but Deputy Upper Tribunal Judge Bruce considered that it was arguable that Judge Ross had failed to apply paragraph 339K of the Immigration Rules, had given an unduly restrictive reading to the country guidance and had erred in his treatment of the Appellant's expert evidence.
5. Standard directions had been made by the tribunal and the appeal had been listed for adjudication of whether or not there was a material error of law. The Respondent filed notice under rule 24 dated 1 September 2015 indicating that the onwards appeal was opposed.

Submissions

6. Mr Palmer for the Appellant relied on the grounds of onwards appeal earlier submitted and the grant of permission to appeal by the Deputy Upper Tribunal Judge. He contended that the judge's assessment of the case had been based on inconsistent findings and a misunderstanding of EH (Albania) (above). The Respondent had accepted the substance of the Appellant's claims. The judge had given inadequate reasons for giving no real weight to the Appellant's expert's report. The decision and reasons should be set aside and the appeal reheard before a differently constituted First-tier Tribunal.
7. Mr Kandola for the Respondent submitted that there was no error of law. The judge had given sufficient reasons for not accepting the

Appellant's expert's report. The expert had not been ignored and the judge had not been obliged to agree with the expert's conclusions. The judge's findings were consistent with the country guidance in EH (Albania).

8. In reply, Mr Palmer submitted that the judge had fallen into the trap of reading EH (Albania) as saying that there was a sufficiency of protection. The country guidance was that the state may provide a sufficiency of protection in places but that there was persecution outside those areas. The judge had not addressed that.
9. The tribunal indicated at the conclusion of submissions that its determination as to error of law was reserved. That determination now follows.

No material error of law

10. The tribunal finds that there was no material error of law in the decision and reasons. In the tribunal's view, the permission to appeal application was correctly refused in the First-tier Tribunal. The permission to appeal application quite rightly made no attempt to challenge the judge's careful findings of fact. The judge was bound to accept the Secretary of State's concessions, as noted above, but he was free to find that the Appellant was a dishonest witness on the basis he explained with clear and proper reasons. The reality was that there was little left in the Appellant's appeal, if at all, after those adverse findings which addressed future risk in accordance with EH (Albania).
11. The background evidence concerning the evil of blood feuds in Albania was not in dispute and informed the judge's approach to the case. The experienced judge correctly applied the guidance summarised in the official headnote of EH (Albania), and set out at [21] of the decision a commendably full and careful analysis of the relevant factors there identified based on his findings of fact. Prior to that analysis, the judge gave detailed and sustainable reasons for differing from the Appellant's expert and for giving that report little weight. In particular, and critically, the judge found that the Appellant's village was in central Albania, not in northern Albania where Kanun law predominates: see [18] of the decision. Again that finding of fact was not challenged. As the judge explained, the concessions made by the Secretary of State (which it can now be said appear to have been generous) by no means showed that the Appellant faced a real risk of persecution on return.
12. Thus the tribunal finds that there was no error of law in the determination. There is no basis for interfering with the judge's decision to dismiss the Appellant's appeal, which dismissal must stand.

DECISION

The tribunal finds that there is no error of law in the original decision, which stands unchanged

Signed

Dated

Deputy Upper Tribunal Judge Manuell