



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: DA/00633/2010

THE IMMIGRATION ACTS

Heard at Birmingham
on 14th to 18th September 2014

Determination Promulgated
On 5th March 2015

Before

UPPER TRIBUNAL JUDGE HANSON
DEPUTY UPPER TRIBUNAL JUDGE FRENCH

Between

NDRICIM KACI
(Anonymity order not in force)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Pretzell instructed by Duncan Lewis

For the Respondent: Mr Smart and Mr Mills – Senior Home Office Presenting Officers

DETERMINATION AND REASONS

1. On the 14th March 2011 Deputy Upper Tribunal Judge French set aside the determination of a panel of the First-tier Tribunal who dismissed the Appellant's appeal against the order for his deportation from the United Kingdom.
2. On the 21st December 2006 the Appellant was convicted after trial, with others, on what was said by HHJ Ensor in his sentencing remarks to be clear and

compelling evidence of trafficking within this country, in varying ways, of two young women for the purposes of sexual exploitation. The Judge also stated: “No one who has listened to the evidence given in this court over the five or six weeks, could fail to feel revulsion, when hearing the way these two young women, aged 18 years and 20 years, from rural backgrounds of Lithuania, were duped into coming onto this country, with promises of normal jobs. When they arrived here, there were trafficked by you, in different places, but all with the same intent, that they should be incited into prostitution”.

3. In relation to the Appellant the Judge, when passing sentence stated:

Ndricim Kaci. You were involved in the trafficking of [R], sorry [I], for sexual exploitation. Having regard to the telephone evidence, and your own evidence, I am sure you are heavily implicated in this case. In a car, used by you, there was found a list of telephone numbers of massage parlours in your area. In a notebook, found under the bed, in the main bedroom of the house you shared with [SH], there was a hand written list of prices for services, obtainable at massage parlours. [SH’s] credit card, was used to pay for [V] and her son’s flight back to Lithuania, a few days after [V] had been able to persuade [R] and [I] to work as prostitutes. You are a person of considerable intelligence, with a good command of English.

You became a valuable lieutenant to [VI]. He trusted you, to provide [I] with accommodation in Nuneaton, hastily obtained, for this purpose, and you detained her there. You used your unctuous charm to groom her, and prepare her for prostitution. Fortunately, she was able to escape, before she was put to work.

On Count 1, involving the trafficking of [I], back to your home, you will serve a sentence of 3 years. On Count 2, for inciting for prostitution, 3 years consecutive. On Count 5, a consecutive sentence of 3 years, for the false imprisonment, making a total of 9 years imprisonment.

4. As a result of his conviction the Appellant is excluded from the protection of the Refugee Convention pursuant to section 72 Nationality Immigration and Asylum Act 2002 but seeks to rely upon Articles 2, 3 and 8 ECHR. Articles 2 and 3 state:

ARTICLE 2

Right to life

1. Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

ARTICLE 3

Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

5. Notwithstanding the heinous nature of the crime committed by the Appellant, which seems to take little account of the rights and dignity of his victims and was in effect an attempt to ensnare the women involved into modern slavery, this Tribunal is bound to apply the law as it stands at the date of the hearing as per the will of Parliament to the issues when deciding the outcome of this case and to apply the lower standard ordinarily applicable to protections claims when assessing whether Mr Kaci has discharged the burden of proof in relation to those matters that rest upon him.
6. Although Article 8 is a provision which requires an assessment of the proportionality of the decision i.e. the balancing of the rights and claims of both parties to ascertain which carries more weight, there is an absolute prohibition on ill-treatment which cannot be the subject of a proportionality assessment. In A v The Netherlands (Application no. 4900/06) ECtHR (Third Section), 20 July 2010, several governments, including the UK, intervened in the proceedings and sought to challenge what they considered to be Strasbourg's rigid application of the absolute prohibition on ill-treatment. They argued that the Court's interpretation of Article 3 meant that risk of ill-treatment could not be weighed against the reasons for expulsion, even national security and that this approach prevented them in practice from enforcing expulsion measures. The States proposed that if evidence was presented that the individual posed a threat to national security, then that individual should have to prove that "it was more likely than not" that they would be subject to ill-treatment. It was held that the prohibition of torture or ill-treatment was absolute in nature. It was not possible to weigh the risk of ill-treatment against the reasons put forward for the expulsion in order to determine whether the responsibility of the State was engaged under Article 3.
7. Mr Kaci asserts he cannot be returned to Albania as he faces a real risk of death or harm arising from an alleged blood feud between the Burelli and Hoti clans and his family, the Kaci clan. If such a blood feud is found to exist but the 'blood debt' is with the Kaci family that will not assist the Appellant for in AMM and others (conflict; humanitarian crisis; returnees; FGM) Somalia CG [2011] UKUT 00445 (IAC) the Tribunal held that a person is not entitled to protection under the Refugee Convention, the Qualification Directive or Article 3 of the ECHR, on

the basis of a risk of harm to another person, if that harm would be willingly inflicted by the person seeking such protection.

The relevant chronology

Date	Event
13/07/1979	Appellant born in Albania.
17/11/1993	Teuta Kaci and Ritvan Burelli married.
17/11/1994	Daughter of Teuta Kaci was born.
29/04/1995	Teuta Kaci was killed.
06/07/2000	Appellant claimed asylum in the UK as a Kosovan.
18/06/2001	Appellant's son MH is born.
22/07/2001	Ritvan Burelli was killed.
27/12/2001	Lurjan Kaci found guilty of the murder in his absence.
20/09/2002	Appellants appeal dismissed by Professor J Ritson.
11/10/2002	Lurjan and Lindita Kaci arrested for murder of Ritvan Burelli.
03/11/2003	Appellant claims asylum as an Albanian.
01/04/2004	Appellant's asylum claim refused.
20/04/2004	Lufti Kaci entered the UK on visit visa.
28/07/2004	Appellant's appeal hearing before Immigration Judge C J Lloyd.
03/08/2004	Appellant's appeal dismissed by Judge Lloyd.
23/09/2004	Lufti Kaci re-enters the UK on visit visa.
11/10/2004	Lufti Kaci claims asylum with wife as dependant.
11/10/2004	Jetmira Kaci claims asylum having entered the UK on visit visas.
06/01/2005	Jetmira Kaci appeal dismissed.
08/03/2005	Appellant's permission to appeal to Upper Tribunal refused.
20/10/2005	Appellant's application for Judicial Review refused.

06/01/2006	Jetmira Kaci removed to Albania.
18/12/2006	Appellant applies for ILR.
21/12/2006	Appellant convicted and sentenced to 9 years imprisonment at Manchester Crown Court.
28/06/2007	Appeal of Lufti Kaci allowed by Immigration Judge Cox.
19/06/2009	Appellant issued with liability to deport letter.
20/07/2010	Appellant's deportation order issued.
18/11/2010	Appellant's deportation appeal dismissed by Immigration Judge Shammin and Mrs S.A Hussain.
29/11/2010	Death of appellants brother Pellumb Kaci.
14/03/2011	Finding of error of law in appellant's determination by Deputy Upper Tribunal Judge French.
25/04/2011	Nuri Kaci is killed.
05/06/2011	Jetmira Kaci re-enters the UK with Eduart Domi who both apply for asylum and are refused.
13/12/2011	Appeals of Jetmira Kaci and Eduart Domi allowed by Immigration Judge Andrew.

The evidence

Previous judicial findings- Devaseelan

8. The starting point for our deliberations is the earlier determination of the Appellant and those of other members of his family in the United Kingdom.
9. In Devaseelan [2002] UKIAT 00702 the Tribunal was concerned with a human rights appeal which followed an asylum appeal on the same issues. The Tribunal said that, in such circumstances, the first Tribunal's determination stands as an assessment of the claim the Appellant was making at the time of that first determination. It is not binding on the second Tribunal but, there again, the second Tribunal is not hearing an appeal against it. The Tribunal set out various principles: the first decision is always the starting point; facts since then can always be considered; facts before then but not relevant to the first decision can always be considered; the second Tribunal should treat with circumspection relevant facts that had not been brought to the first Tribunal's attention; if issues and evidence on the first and second appeals are materially the same, the second Tribunal should treat the issues as settled by the first decision rather than allowing the matter to be re-litigated. The Tribunal also

gave a caveat and said that there will be occasional cases where the circumstances surrounding the first appeal were such that it would be right for the second Tribunal to look at the matter as if the first determination had never been made. In Lkrim Djebbar [2004] EWCA Civ 804 the Court of Appeal effectively approved the guidance given in Devaseelan.

10. In relation to the determinations of family members, there appears to be a slightly different approach to the application of the Devaseelan guidelines in such cases, as accepted by Mr Pretzell in his closing submissions. In MJ (Iran) v SSHD [2008] EWCA Civ 564 the Adjudicator made reference to the case of the Appellant's brother, whose asylum claim had resulted in a finding that the Appellant was not a credible witness. The Court of Appeal commented that it was not unusual for siblings' asylum appeals to be heard separately. The introduction of evidence from a separate hearing in such cases to support either a positive or negative outcome was generally resisted on the ground that no factual *res judicata* or issue estoppel was created by one determination in relation to another. The principle was to be distinguished from the cross examination of an Appellant or other witness about any conflict between his or her testimony that had been given in another case; evidence of what a witness or party had said on an earlier occasion was generally admissible, subject to the well known inhibition on self corroboration and to the finality of answers going to credit alone. In this case the Court of Appeal said that the Adjudicator should not have been presented with or placed any reliance on evidence gathered in the case of the claimant's brother when making an assessment as to credibility.
11. Other cases have supported a limited application of Devaseelan. In AS and AA (Somalia) [2006] UKAIT 00052 the Tribunal said that a judicial determination stands as a determination of the issue between the parties but does not govern later litigation between other parties. Accordingly, a previous determination of an appeal of another claimant (i) has no evidential value as such; (ii) but its narrative content is to be taken as evidence of what was said and done leading up to that determination; (iii) the Tribunal determining the later case is required to make its own decision; (iv) the decision in the earlier case is not itself part of the evidence in the appeal of a later litigant; (v) the earlier decision should be treated as a starting point, if only because the principles of good administration require that decisions should not be needlessly divergent: but the Tribunal will not hesitate to depart from that starting point in every case in which the evidence requires it. On appeal in AA (Somalia) v SSHD and AH(Iran) v SSHD [2007] EWCA Civ 1040 the Court of Appeal said that the Devaseelan guidelines extended to cases where the earlier decision involved different parties and where there was "a material overlap of evidence" in the sense of matters arising out of the same factual matrix. The first Adjudicator's decision was not binding in the sense of issue estoppel but was the starting point and, in the interest of good administration, should be followed unless a good reason was advanced to the contrary. The Court of Appeal said that there must be a material overlap of evidence, rather than just an overlap; that the second Tribunal should have

regard to the factual conclusions of the first Tribunal; but that the second Tribunal still had to evaluate the evidence as it would in any other case and independently decide the second case on its own merits. However, the Court also said that in applying the guidelines to such cases involving different claimants, there could be a valid distinction depending on whether the previous decision was in favour of or against the Secretary of State for the Home Department. In the former case the Secretary of State would have been a direct party to the first decision whereas the litigant would not. It would be unfair to impose a restriction on re-litigating an issue on someone who, although involved in the previous case, perhaps as a witness, had not formally been a party.

12. In Ocampo v SSHD [2006] EWCA Civ 1276 a claimant sought asylum on the ground that he was targeted by the Revolutionary Armed Forces of Colombia. His daughter subsequently arrived in the UK saying that she had received death threats after he left Colombia because of her relationship to him. Her appeal, which relied heavily on evidence he gave, was allowed. He sought to rely on the positive findings of credibility made by the Adjudicator in his daughter's appeal. The Secretary of State sought to undermine his credibility by adducing a copy of a record of interview, which demonstrated material inconsistencies with the account the claimant had given in his daughter's appeal. On appeal the Court of Appeal said that it was doubtful whether the principles of res judicata or issue estoppel had any application to immigration appeals. However, the Court also said that the Devaseelan guidelines remained relevant to cases such as the claimant's, where parties involved were not the same, but there was a material overlap of evidence. For reasons of justice and fairness it was possible to adapt the guidelines to the nature of the new evidence and the circumstances in which it was given or not given in earlier proceedings, bearing in mind the need for firm immigration control. The Court said that the IAT was correct to take into account material inconsistencies in the claimant's two accounts, the second of which was not before the Adjudicator in his daughter's appeal. The evidence amounted to "new and compelling" evidence in the Devaseelan sense. Accordingly, if an Appellant was found to be credible when giving evidence in another appeal as a witness, it did not follow that the same evidence must be accepted as true in another appeal. The Respondent is not stopped from adducing fresh evidence tending to show that the Appellant is not to be believed, even if that evidence could have been adduced with reasonable diligence at the earlier appeal.
13. The first in time of the earlier determinations is that of Professor Ritson who in September 2002 dismissed the Appellants claim for asylum. It is not disputed before us that the Appellant made this claim using a false name, false nationality and false identity as a Kosovan. As a result of his non attendance at the hearing and lack of suitable evidence his appeal was dismissed.

14. On 4th February 2004 Professor Ritson also promulgated a determination in respect of the Appellant's sister Mimosa Bajrami (AKA Mimosa Kaci) who had claimed to be a citizen of Albania/Serbia Montenegro. In her interview on the 30th September 2003 that appellant claimed that the content of her Statement of Evidence form were untrue alleging she was an Albanian claiming to have left Albania due to imminent arrest for political activities. She admitted having provided a false asylum claim initially. Having considered the documentary and oral evidence Professor Ritson sets out a number of reasons for finding the appellant lacked credibility in paragraph 7 of the determination leading to the conclusion in paragraph 8 in the following terms:
8. In the circumstances I note that the appellant was quite unscrupulously prepared to lie to an immigration officer, to a medical practitioner, with the result that I did not consider that she would have any scruples about lying to me at the hearing of the appeal. I had not the slightest confidence in any of her evidence.
15. The Judge found that the appellant before him had not established she was entitled to international protection as a refugee or under the human rights convention and dismissed the appeal.
16. The claim to be at risk on return as a result of political activities based upon being a member of the Legality Movement Party which supported the King of Albania was not supported by any evidence of membership of that party or explanation as to why even if she was a member she would be at risk upon return. Professor Ritson also made the following observations in respect of an issue relevant to this appeal in paragraph 7:
- the appellant claims that she fears a return to Albania due to the existence of a blood feud. Her evidence in this regard is extremely confused. She states that this blood feud began in 1995 when her sister was killed by her husband. She then states that she does not know why her sister was killed by her husband. She alleges that there is no evidence to support this that her father's brother subsequently paid somebody to kill her dead sister's husband and that she and her children would now be targeted if returned to Albania as part of that blood feud. Her three brothers could not be targeted she says as one of them is in prison, the other one is in the United Kingdom and the third's whereabouts are not known. Since the appellant has no explanation for the initial killing has no evidence of her being targeted, has no explanation for her father who is still alive in Albania not being targeted, I did not believe the evidence in this regard. I could not exclude the possibility that she has introduced this evidence into her appeal for self serving reasons.
17. The next determination in time is that of Immigration Judge Cox, heard on 22nd June 2007 at Birmingham, of the Appellant's father, Lufti Kaci. Judge Cox records the evidence he received and was able to consider including a video recording of a television broadcast from Albanian news concerning the arrest and sentencing of Lufti's son and daughter Lurjan and Lindita Kaci. Judge Cox

records in paragraph 9 (g) – (r) the following elements of the claim made by Lufti Kaci:

- (g) You have also encountered problems in Albania due to your daughter being killed by her husband. Your daughter Teuta was married on 20th November 1993 and had a child on 17th November 1994. On 29th April 1995 your daughter was killed by her husband, Ritvan Burelli. She was shot in the neck by a weapon used for hunting.
- (h) Your daughter's murder was reported to the police and Ritvan was punished for six months. Ritvan was only punished six months because he carried a weapon illegally. He was not punished for the murder because "he just said he killed her accidentally."
- (i) On 22nd July 2001 Ritvan was killed. However you are unaware of who killed him. You have heard that Ritvan was killed with a Kalashnikov.
- (j) On 11th October 2002 two of your children were arrested, Lindita and Lurjan. Lindita was released after 30 days but Lurjan is still in prison as he has been accused of Ritvan's murder but without any evidence because "this is the Communists, they want money. They need 5 million for a year. This is justice from the Communist system."
- (k) It is possible that your brothers were responsible for Ritvan's death but not you or your children.
- (l) After the arrest of your children "they came to my house and shot at it. For two years I have been in my home only four times, no more than two hours each." The shooting occurred 5 to 6 months after the arrest of your children but you were not at home. You believe that the people who shot at your house were paid to do it by Ritvan's father, Fatmir Burelli.
- (m) The Burelli's have attempted to kill you on four or five occasions, however "the neighbours and people around us protected us because we are not guilty". You are unable to remember the dates of those attacks, however you know that they began after 11 October 2002.
- (n) On the 11 October 2002 " I was in town called Kamez, I was in a van used as a taxi there. I was speaking with the driver. Two people came from the coffee bar, the driver seen these two people, he started the car and drove off. I asked why he drove off and he said 'I think these people have a problem with you' however, you did not see the people.

- (o) Since the 11 October 2002 you have left your home and all of your children left the area due to problems with Ritvan's family.
 - (p) You have encountered further problems when walking in the street. "People I knew on the street saw these people on side streets and told me to go back so I changed direction. This happens all the time, finally I decided to leave." You have never seen the people waiting to attack you on the street. This happened on three to four occasions.
 - (q) You have reported three of these incidents to the police in Kamez police station, you did not go to the police station you only telephoned them. You spoke to the officer in charge but did not speak to the same police officer as "every six months the police change."
 - (r) The police never took any action.
18. Judge Cox also noted the claim Mr Lufti Kaci first left Albania on 20th April 2004 but returned hoping to "finish the problem" with a reconciliation although it did not solve the problems.
19. In his findings, at paragraphs 11 to 24, Judge Cox notes the complexity of the case in part as a result of various credibility issues that arose before him. He refers in paragraph 12 to certain core facts which he considered to have been established by the evidence before him as follows:
- (a) On 29 April 1995 the daughter of Lufti Kaci, Teuta, was killed by her husband Ritvan Burelli.
 - (b) On 22 July 2001 Ritvan Burelli was murdered.
 - (c) On 11 October 2002 Lurjan and Lindita were arrested in connection with the killing of Ritvan Burelli having previously been convicted and sentenced in their absence. Lurjan was sentenced to 25 years imprisonment, Lindita to 8 years. According to TV reports Lindita attacked Ritvan Burelli with a knife "causing heavy wounds". He was recovering in hospital when Lurjan "managed secretly to enter the hospital" and killed him. Both had been in hiding until they were found and arrested by the police some 18 months later.
 - (d) Attempts a resolution of the blood feud were made through a reconciliation committee in 2002 and 2004 without success, the Burelli family refusing to reach agreement. Their stance was that the Kaci family had no right to kill their son because he had killed Teuta unintentionally.

20. Thereafter Judge Cox examined the expert report provided by Dr Antonia Young and found the claim that a blood feud existed between the Kaci and Burelli family and circumstances giving rise to it derived significant support from the expert's report.
21. Judge Cox, however, also noted difficulties in terms of the credibility of the case for the reasons set out in paragraph 16 of the determination. In paragraph 17 the Judge found that the inconsistencies gave cause for concern although found the core factors had been established. In paragraphs 19 and 20 of the determination Judge Cox sets out his conclusions as follows
 19. I therefore take all of that into account. But, having considered the evidence as a whole and having heard and watched the Appellant give evidence, I draw an inference that the Appellant is in some form of denial. I am inclined to believe him when he says that he did not personally wish to make his daughter's death the pretext or cause for a blood feud with the Burelli's. However, a blood feud did arise and Ritvan Burelli was undoubtedly murdered. It looks from the media reports as though his daughter Lindita made the first attempt on Ritvan's life by stabbing him and, when that was unsuccessful, the job was later finished by his son. The sentences passed on each of them are consistent with that scenario and, as I have already commented, the Reconciliation Committee seems to have proceeded on the basis that Lurjan killed Ritvan. If that is right, then it follows that the two siblings took revenge on behalf of their deceased sister and, in all probability, against the wishes of their father, the Appellant. I am taken to the conclusion that these are unpalatable facts which the Appellant finds difficulty in acknowledging and, again if that is right, then it would go a long way towards explaining the inconsistencies in his evidence peripheral to the core facts. Furthermore, as to the inconsistency as to whether he had ever been "arrested", I think that that turned out to be a simple problem of semantics. When his response to Question 30 of his asylum interview (to the effect that he had not been arrested in Albania) was put to him in contrast to his oral testimony, he replied "Well, I did not stay in prison. They would take me for one night and then release me the next day. I have never been imprisoned." In other words, the Appellant construed, through interpretation, the word "arrest" as meaning "imprisonment". That is not implausible.
 20. Thus I find that the core account of the Appellant being the victim of a blood feud with the Burelli's is well established and that the peripheral inconsistencies, some real some apparent, do not detract from that core. I am satisfied that the Appellant has a genuine and well founded fear of being killed in Albania by the Burelli family and that he has exhausted the reconciliation process. As to state protection, it is the Appellant's evidence that he has been denied protection by the police and, more than that, he has been arrested and ill treated by them on many occasions, seemingly with a view to their getting him to confess that he was in some way instrumental in the killing of Ritvan Burelli. I think there was some exaggeration in his

evidence about the number of times he had tried to access police protection (“hundreds”, later revised to “more than a hundred” times) but again I think there is a core of truth in what he says. The expert report from which I have quoted speaks of a lack of protection from the police “who are very cautious to avoid the complications involved in blood feud cases” and there is also some suggestion that the police lack, or perceive themselves as lacking, a legal basis for doing so, the Albanian penal code not directly addressing blood feuds (see for example paragraph 24 Respondent’s refusal letter). The Albanian President has expressed himself as “totally committed” to reducing blood feuds and no doubt Albania's aspiration to join the EU will act as a spur. It is noted that, by his decree, a Serious Crime Unit was set up on 1 January 2006 with blood feuds falling within its remit. However, there is little to suggest that the President's initiative is yet bearing fruit. For example, at paragraph 1a of the US State Department Report 2006 (issued 6 March 2007) we find:

“In May 2005 the parliament approved a law establishing a co-ordination Council, chaired by the President, to develop a national strategy against blood feuds and to coordinate activities of government agencies. The Council was inactive during the year.” (emphasis supplied).

At paragraph 1d.

“The overall performance of law enforcement remained weak. Unprofessional behaviour and corruption remained major impediments to the development of an effective civilian police force. According to the Ministry of the Interior, only 40% of police officers received training beyond basic, despite assistance from foreign governments. Corruption remained a problem among police forces and low salaries and widespread corruption throughout society made to the problem difficult to combat. The Ministry of the Interior's Office of Internal Control engaged in the prevention, discovery, and documentation of corruption of other criminal activities committed by police.”

22. Judge Cox therefore found that the Albanian authorities had been in part unable and in part unwilling to afford the appellant before him protection up to his final leaving in September 2004 and that there was nothing of substance in the evidence before him to suggest, in that in the appellants particular circumstances, he would fare any better today. The Judge also concluded that there was no reasonable alternative available to avoid the risk arising from the blood feud. The appeal was therefore allowed under the Refugee Convention and on Article 3 ECHR grounds.
23. The third determination involving a family member is that promulgated on 13 December 2011 by Immigration Judge Andrew who was considering the appeals of Mr Ndricim Kaci’s sister Jetmira Kaci and Mr Eduart Domi against the refusal

of the Secretary of State to recognise them as refugees or persons entitled to a grant of any other form of international protection.

24. Judge Andrew accepted that both appellants before her were citizens of Albania and noted that the first appellant, Jetmira Kaci, arrived in the United Kingdom in 2004 with a visit visa valid for a period of six months. She claimed asylum on 11 October 2004 which was refused on 25 October 2004. Her appeal against that decision was dismissed on 6 January 2005 and she was returned to Albania on 6 January 2006. An application for a further visit visa was refused on 16 December 2008. Jetmira Kaci is said to have left Albania again on 12 May 2011 and to have travelled through Rome, Belgium and France using her passport before gaining entry to the United Kingdom illegally on 5 June 2011 after which she claimed asylum on 15 August 2011. The second appellant, Eduart Domi arrived in the United Kingdom on 5 June 2011 by the same route and claimed asylum on 27 June 2011.
25. Judge Andrew records in paragraphs 26 and 27 of the determination late evidence being produced including a report from Mr Gjin Marku, an unsigned letter from the Kaci family and, during the course of submissions, a faxed letter from the appellants' representatives containing what was purported to be a death certificate of the first appellant's brother Pellumb Kaci which was not translated and which the Judge indicated she was not willing to place any weight upon. Oral evidence was provided to the tribunal by both Mr Marku and Antonia Young in addition to the named appellants.
26. The basis of the claim before Judge Andrew is that both appellants claimed to be at risk on return to Albania as a result of a blood feud between the Burelli and Hoti families. It was not submitted before the Judge by the Secretary of State's representative that blood feuds do not exist or it not accepted that there were continuing difficulties for the family in Albania. Nor was it accepted that the second appellant was related to Lufti Kaci who he claimed was his grandfather.
27. Judge Andrew refers at paragraph 36 of the determination to a previous determination of Judge Pirotta promulgated on 6 January 2005 in which findings were made that Jetmira Kaci was vague and inconsistent in her evidence in support of the claim that she and her family were involved in a blood feud.
28. Judge Andrew thereafter refers to the determination of Judge Cox, including the core findings he made recorded above and to be found in paragraph 12 of Judge Cox's determination.
29. In paragraph 45 of her determination Judge Andrew's records the following finding:
 45. I am satisfied, to the lower standard, that the blood feud continues. I say this for the following reasons:

- (a) The killing of the first Appellant's brother Pellumb Kaci on 29 November 2010.
 - (b) The killing of the first Appellant's nephew Nuri Kaci on 25 April 2011.
- 30. The Judge accepted the evidence of Antonia Young and Mr Marku that the blood feud is ongoing although in paragraph 49 of her determination the Judge stated: "In saying this I find that Ms Young in her oral evidence to me, did not show the impartiality which is required of an expert witness. She made remarks such as 'facing the dangers she has would be horrendous - she has already been through five years'. Further she comments upon the credibility of the Second Appellant in her report. This is not what I would expect an expert witness to do". The Judge noted this evidence was, however, accepted by Judge Cox and saw no reason why she could not accept Antonia Young's report as background evidence to confirm the continuation of the blood feud.
- 31. Judge Andrew accepted the oral evidence of Mr Marku although notes in paragraph 52 of her determination:
 - 52. I am satisfied that I am able to accept his written evidence. He did attend to give oral evidence however, he seemed to find great difficulty in actually answering the questions that have been put to him and in keeping to the specifics of these particular Appellants. However, I am satisfied that he is aware of the deaths of Pellumb Kaci and Nuri Kaci, both of which are as a result of the blood feud.
- 32. Judge Andrew accepted the feud had not been reconciled to date and that there was no viable internal relocation alternative for the First Appellant.
- 33. In relation to the second appellant before her the adverse credibility issues raised in the refusal letter were noted. The Judge found little weight could be placed upon evidence submitted to prove the alleged relationship although did accept to the lower standard for the reasons set out in the determination that the second appellant is the grandson of Lufti Kaci and would thus face a real risk on return due to the existing blood feud. The appeals were therefore allowed on asylum grounds and in relation to Article 3 ECHR grounds, but she found that the United Kingdom would not be in breach of any of its obligations under Articles 2 or 8 ECHR.
- 34. In relation to Ndririm Kaci, the appellant before us, there have been two previous determinations. The first being that of the 20 September 2002 promulgated by Professor Ritson who dismissed the claim made on a false premise. Mr Kaci failed to attend the hearing of his appeal on that occasion. The second determination was promulgated on the 3 August 2004 by Adjudicator Lloyd who was considering an appeal against the refusal by the Secretary of State to recognise Mr Kaci as a refugee or person entitled to any other form of

international protection, made in what he claimed to be his true identity which is that he uses before us today. The basis of the claim was an alleged real risk on return as a result of a blood feud with another named family and secondly the Appellant's membership of and activities for the Legality Party, a pro-monarchy party in Albania.

35. Having identified the evidence relied upon by both parties and applying the appropriate burden and standard of proof the Adjudicator sets out her findings in paragraph 32 of the determination which include, at paragraph 33, a finding that "It is quite clear that the Appellant is capable of deceit on a large scale - he now says that his first asylum application was entirely false."
36. Adjudicator Lloyd accepted that Mr Kaci spoke with some passion about the blood feud and accepted the account of his sister's death and her husband's subsequent death at the hands of his family members and his fear the feud would continue, but also noted that nobody else in the family had been killed in either Albania or in the United Kingdom. The Adjudicator also specifically noted that his brother Pellumb lived in Albania, his father who the Adjudicator found she was able to infer, if the claim was genuine, would also be at risk as a male family member had been in the United Kingdom but voluntarily returned to Albania. It was found he would not have done so if he felt genuine risk in that country.
37. Adjudicator Lloyd also found that the country information showed the government had taken steps to address the blood feud issue and the case law indicated that the UN Convention is not engaged. It was therefore concluded that (a) Ndrim Kaci had not established a Convention reason in respect of the blood feud aspect of his claim, (b) there was a commitment by the government to address this issue and protection was available, (c) there was no overlap proved between the blood feud and political aspects of the claim, (d) no real risk had been established with regard to membership of the Legality Party and accordingly (e) that the Appellant was not entitled to be recognised as a refugee on the basis of failing to prove a well founded fear of persecution for a Convention reason, or that he was able to succeed under Articles 2 and 3 ECHR. The appeal was therefore dismissed on all grounds.

Witness evidence

38. For the purposes of the hearing before us a considerable volume of evidence has been provided which appears to be far greater in number of documents and content than that available to any of the previous tribunals considering these matters. During the course of the hearing we heard evidence from the Appellant, Mr Coka described as a missionary for the National Reconciliation Committee in Shkoder, Mr G Marku, and James Korovilas. The evidence of three of the witnesses was given by electronic means, live video link from Rome

in the cases of Mr Coka and Mr Marku and via a Skype link from Bristol in relation to Mr Korovilas.

39. The Tribunal had earlier referred to the determination of Nare (evidence by electronic means) Zimbabwe [2011] UKUT 00043 in which the tribunal found that whether to allow evidence by electronic means involved a judicial decision requiring consideration of the need to do so, the arrangements at the distance site and the ability to access such evidence, by reference to the guidelines set out in the determination.
40. In this case it was necessary to receive such evidence by electronic means as an Entry Clearance Officer had refused entry clearance to the United Kingdom in relation to Mr Marku and Mr Coka although they were able to enter Italy as a result of separate arrangement between the Italian and Albanian authorities. Had such means of giving evidence not been employed no oral evidence could have been received from these individuals. The evidence of James Korovilas was given via Skype as he was absent from the United Kingdom for the first three days of the hearing only returning on the Wednesday evening. Other arrangements made it impossible for him to travel to Birmingham and therefore evidence was taken from what appeared to be a room within his house in Bristol. The Tribunal was satisfied with the quality of the electronic links such that the evidence received can be accepted. It was clear that communication both to the witness and from them to the hearing room was clear and without interference.

Mr Kaci

41. Mr Kaci has provided two witness statements the first dated 18 October 2010 and the second 6 June 2013. In his first witness statement he claims to have been born in a town in North Albania and to have three brothers and six sisters. He claims the family were persecuted in Albania during the Communist regime due to his grandfather, resulting in a need to move to different towns and cities.
42. Mr Kaci claims in paragraph 6 of his witness statement dated 18th October 2010 that on 29 July 1995 a man came to their house and informed him that his sister Teuta Kaci had been shot and killed by her husband Ritvan Burelli. We note the date of death in the chronology provided is 29th April 1995. Thereafter he claims his uncles arrived at the house demanding that his father revenge his sister's spilt blood although his father declined. Mr Kaci asserts that at the time a war began in the family with his uncles approaching him claiming he should avenge his sister as a matter of honour. He states he knew his father had refused to take revenge.
43. Mr Kaci also claims that he was placed under pressure by his uncles who told him they had already disavowed his family and that he should join their side. They tried to arrange a marriage for him as a way to get him to join them,

although he refused, resulting in his been given two options either to kill Ritvan Burelli or they would kill him. He claims it was for this reason he fled Albania arriving in the United Kingdom in June 2000.

44. Mr Kaci claims that in 2001 his uncles arranged for the murder of Ritvan Burelli although his younger brother was subsequently blamed for the killing and imprisoned. He also claims that following this killing many attempts were made on the lives of his father and other family members including their house being burned down, as a result of which the family living there went into hiding. Attempts by his father to resolve the situation failed as the Burelli family were not willing to discuss the issue as a result of which his father and two sisters left Albania and are now living in the United Kingdom. He claims that the remaining members of the family in Albania are always on the move for fear of losing their lives.
45. In relation to his conviction the Appellant states at paragraph 18 of his witness statement:
 18. A man called Vladimir stayed at my place for two days with his girlfriend. I understood there to have been some problems between them but did not understand anything because they were speaking in a different language. Vladimir and I were granted bail but Vladimir absconded. I was subsequently convicted but I feel that I did not express myself properly at the trial and explain my situation to the jury. I am due to be released on 15 December 2010 after serving half of my prison sentence.
46. Mr Kaci also claims that whilst on bail in 2006 he was approached by an uncle who had travelled to the United Kingdom who told him he wanted him to return to Albania to marry the woman he had previously arranged to marry and that more members of the Burelli family needed to be killed in order to restore the family honour. The Appellant claims his uncle had interpreted the Kanun Code of Honour (see later for further information) as meaning the Burelli family still owed them blood, although when he refused he claimed there was an argument at the end of which his uncle threatened to kill him. He also claims that if returned to Albania he will be killed as a result of his uncles and/or the ongoing blood feud.
47. The witness statement dated 6 June 2013 updates Mr Kaci's situation in relation to his domestic arrangements, repeats his claim if returned to Albania, although on this occasion only referring to a risk of killing as a result of the ongoing blood feud at paragraph 7.
48. The copy maps provided show that Mamurras, the town in which Mr Kaci claimed to have been born, is a small town of 7,600 people in Kurbin District of northwestern Albania. The town lies near the Mediterranean Sea and is also described as being in near Lac, Albania. It is 21.6 miles North West of Tirana and, as such, not in the far north of the country.

49. In his oral evidence Mr Kaci confirmed he is from a close family. Both his parents and sisters are now in the United Kingdom. He claims not to have maintained contact with his parents before they entered the UK and to be unable to recall in detail when they arrived. Mr Kaci confirmed that he claimed to have come to this country due to a blood feud as stated in his 2000 witness statement and referred to the pressure from his father's side of the family to become involved in the blood feud. When asked in cross examination if this was the case why he claimed asylum on the basis of being from Kosovo he stated that those who brought him here advised him he stood a greater chance of succeeding than if he claimed as an Albanian.
50. Mr Kaci did eventually, in 2004, claim as an Albanian. When asked why he waited so long between 2000 and 2004 to make a claim in his true identity he claimed that he did not have the means to do otherwise which is a claim not substantiated.
51. In relation to the Committee of Nationwide Reconciliation (NRC) he claimed they had been involved with the blood feud between the families from the beginning. His father was the one involved although he was in Albania at that time too. Mr Kaci was asked why, when he claimed asylum in 2003 he had failed to mention the involvement of the NRC in the alleged blood feud. His response was to say that as far as he can recall he was not asked. He stated the reason there was no mention of this in his statement of 3 January 2004 was because he did not think it was important.
52. The family with whom the dispute is said to have existed in 2004 is the Hoti family with whom there has been a dispute for more generations than Mr Kaci claims to be able to remember. He confirmed this was a blood feud but when asked if that was the case why he failed to mention it, he claimed that he did not think it was relevant.
53. It was put to Mr Kaci that the first time the Hoti family had been mentioned in the evidence from members of his family was in the statement of Jetmira some years later, which he claimed was because it was at this time that the Hoti family became more involved against his family. Mr Kaci claimed not to have been sure when he discovered that his sister had been arrested and to have discovered this through his brother although he then claimed not to be able to remember how he was told or who told him. It was also put to Mr Kaci that there was no mention that his sister was with his brother in his 13th August 2010 evidence which he blamed on his brother although Mr Kaci had attended that hearing and gave oral evidence too.
54. Mr Kaci was asked where he lived at the date his appeal was heard on 28 July 2004 but claimed not to be able to recall but that he lived with his partner. When it was put to him that he had claimed to have two partners and clarification

sought, he claimed he was with Camilla. Mr Smart then referred Mr Kaci to a letter dated 5th April 2004 from the landlord of a property in Nuneaton addressed to 'Sophie' acknowledging notification by her that Mr Kaci had moved into that property with her. The response was to state that Sophie was his current partner and mother of his son and that at that time he was 'making to transaction of living with her'. This was challenged as the letter from Sophie states that he had recently moved in with her which he claimed not to be able to recall.

55. In July 2004 Mr Kaci had given evidence to what is now the First-tier Tribunal in which he claimed to have been living with Camilla. When it was put to him that both accounts could not be correct he claimed they were as he had problems to sort out with his partner and his son. Mr Kaci was asked when he started to see Sophie again which he claimed was at Christmas/New Year 2003 but definitely in 2004. This was also challenged by reference to a statement from Sophie in which she had stated the date was in October 2004. When the clear discrepancy between a claim in a letter that he moved in with Sophie in April 2004, his claim to have started the relationship at Christmas 2003 and her claim it was October 2004 was put to Mr Kaci he referred to their differing religious beliefs and to the fact he wanted to put everything in place and that it took along time. He stated that the statements and letters are correct but that 'the story is not as recorded'. When he was reminded that he told the tribunal in July 2004 that he lived with Camilla whereas he was really living with Sophie, he then claimed he lived with both.
56. In relation to his brother Pellumb, Mr Kaci claimed that he had not obtained the original death certificate and that he was unable to recall who had. It was sent by a person working at the relevant counter in Albania although he claimed not to have requested a copy. He named this person although claimed not to know him. Mr Kaci then stated that a member of the family had asked for the document although he then claimed not to know who although it was one of his sisters.
57. Mr Kaci agreed that the original certificate he received did not contain an entry for the cause of death. He claimed this was a normal practice by the Albanian authorities. When Mr Kaci was asked how he said Pellumb died he stated he was killed by a firearm in 2010. He also claimed to be unaware of the circumstances but then claimed to believe he was killed by the Burelli family in co-operation with the Hoti clan. Mr Kaci claimed to be unaware of the fact Pellumb was admitted to hospital or of the evidence now available that showed the cause of death was as a result of a heart attack.
58. In relation to Nuri Kaci, it was put to Mr Kaci that the evidence suggested he was killed as a result of a land dispute regarding trees on land which he rejected, claiming the trees were on the land and he was killed due to the blood feud. This connection was not mentioned in his written evidence which he

claimed was unnecessary for even though there may not have been any direct involvement there was influence from the Burelli clan.

59. When it was put to Mr Kaci that the death of Pellumb and Nuri were not connected to the Burelli clan he disagreed. When it was put to him that there was no ongoing blood feud he disagreed too. When it was put to him that the outcome of the court case involving the killing of his sisters ex-husband was that it was not as a result of a blood feud he claimed that if this was so the next person in-line to be killed is a member of his family and that if his brother's death did not avenge the killing, this will be him.
60. In the alternative Mr Kaci was asked if the killing of Nuri and Pellumb did avenge the debt it cannot be against him to which he replied by claiming that his father swore an oath in front of people not to avenge his sister's death but there was nothing to say he should not avenge the death. His father's side of the family arranged the killing and according to the code his father broke the oath so they owe the Burelli more blood debt which he claimed meant they must kill more members of his family although such a claim is not substantiated as a general rule of the Kanun in the evidence before us.
61. It was put to Mr Kaci that when his father made a statement he made no mention of breaking the code to which the response was to say that he also failed to mention it in his statement and his father did not either. Mr Kaci was asked if his father was aware of a blood feud regarding the Hoti clan, which Mr Kaci stated he was, following which Mr Smart referred to the fact there was no mention by his father of this either. Mr Kaci's response was to state this was an old feud.
62. Mr Kaci was also asked how the Hoti and Burelli clans would be aware of his return to Albania which he stated was because his house was ten minutes from their house and that a member of the Burelli clan works at the airport and Police Station Number 4, which is their local police station. He claimed not be able to enter Albania without detection as he would return by plane and even if he was able to get through the airport he would be found unless he hid to keep safe. When it was put to him that his sister Jetmira had returned and lived in Albania for five years, he claimed not to be aware of the details of this. It was put to him that she survived which he denied. Mr Kaci claimed the family home had been burned down although neither his father nor sister made the same claim just referring to it being burned.
63. In relation to the uncle Mr Kaci claimed he met in Greenwich in 2006, he claimed he did not know the name of the girl he was supposed to marry but that she was not a member of the Burelli clan. When it was drawn to his attention that in the statement by Lufi Kaci it is clearly stated that it was agreed that Ndririm would marry one of the daughters of the Burelli family but that he refused, Mr Kaci claimed this was another marriage that was mentioned and

that inter-clan marriages are used to reconcile blood feuds. When pressed on details such as when the marriage to a Burelli was proposed Mr Kaci claimed not to know. When he was referred to the fact it is stated he refused he claimed he refused when he was asked but when asked when this was he claimed not to be able to remember.

64. In re-examination Mr Kaci stated his father was involved in attempted mediation. He was unable to comment upon the terms of settlement as his father was in charge. Mr Kaci stated that before Burelli lost his life the clan never accepted he would be shot but that the situation was tense. The Burelli family situation regarding the killing of his sister was not reconciled although his father's position was that it was reconciled. His father did not change his position.
65. Mr Kaci was asked about his comment that the death of Nuri, as a result of trees and land, was one reason and to explain the others. He claimed these were the killing of his grandfather by the Hoti clan and the latest the marriage of Burelli to a daughter of the Hoti clan, although he claimed not to be able to provide names.
66. In relation to the Sophie/Camilla questions Mr Kaci stated that his relationship with Sophie re-started when he found out about his son which was at the beginning of 2004. It was very complicated from that time. Mr Kaci claimed to have had a personal relationship with Camilla but not with Sophie until he finished with Camilla which was in 2005 although he was unable to recall the date.
67. We did not find Mr Kaci to be a reliable witness on whose evidence we can place great weight. He is clearly an intelligent person but one willing to employ dishonesty and deception when he chooses to further his desired aims, be they economic as illustrated by the trafficking issues or to secure a right to remain in the United Kingdom. The inability to provide clear relies and denial of matters it was reasonable to expect him to recall suggests evasion if such events were true. It was also noted that in Mr Kaci's mind there was no other possible explanation for the events we were considering other than an existing blood feud. We also found claims made by Mr Kaci not to be substantiated when the evidence is considered as a whole and when due weight is placed upon the evidence we accept as being reliable as discussed below.
68. Specific concerns that arose from his evidence include the claim Pellumb was shot and that he had no details of his death when his sister was the complainant according to Pellumb's death certificate and the details must have been known to the family, the false evidence he gave to the First-tier Tribunal in relation to where he was residing with Sophie, the claim of existing blood feud between the Kaci and Hoti families when his own evidence at page 14 of the Source Bundle, in a document dated 31st December 1998 indicated any such feud was resolved,

his claim in his witness statement that the family home in Albania had been burned down and the family were in hiding which is not a claim supported or made by any other family member and which has been shown not to be true as illustrated below and his claim not to know who his uncle had suggested he should marry whereas in his written evidence he claims it was to one of the Burelli family indicating he must have known to whom, if this evidence was true.

Mr Coka

69. The next witness was Mr Coka. He was born on 1st April 1950 and is retired now working land he owns. In 1991 he started working as a missionary for the National Reconciliation Committee (NRC) in Shkoder, Albania. In 1992 he became the Deputy Chairman of the NRC. Between 1999 and 2001 he held the position of Interim Chairman of the Committee of Nationwide Reconciliation (CNR) at which point Mr Gjin Marku was elected who has remained Chairman since.
70. In his witness statement of 14 March 2014 he states that he first became aware of the Kaci blood feud towards the end of 1995 when he and other missionaries saw the report of the death of Teuta Burelli (nee Kaci) in the television news. Forty days later he received a telephone call from the Chairman of the NRC who asked him to mediate a blood feud between the Burelli and Kaci families. Meetings with the family occurred and Mr Coka recalls Mr Lufti Kaci being in favour of reconciliation whereas his brothers Man and Ali were not. The following day there was a meeting with the Burelli family at which Fadil Burelli was willing to negotiate reconciliation although Ritvan was arrogant and shouting and claiming he was going to kill each and every member of the Kaci clan if the Kaci family did not forgive him.
71. A number of further visits occurred over the intervening four years between 1996 and 1999 although Mr Coka claims they could not negotiate a settlement. Mr Coka also postulates that two further reasons for the failure of the negotiations were the arrest in 2001 of Lurjan Kaci for killing Ritvan Burelli and admitting to committing the offence and in 1998 Ritvan re-marrying a member of the Hoti clan. The NRC was not asked to assist further until 2002 at the request of the Kaci family which did not prove successful. Mr Coka made no attempt to reconcile this feud after 2002.
72. Mr Coka states he saw members of the Kaci family in Tirana as this was where they lived. He met Lulzime Domi in 2005 in Tirana when getting off a bus with his wife. He states he saw the end of a fight between two men and a woman. The men grabbed the woman and were attempting to force her into a waiting car although she managed to escape when other men who saw what was occurring intervened. He recalls she had scratches on her neck and was upset. Mr Coka stated he cannot remember anything else in particular but then that the

woman told him the men had tried to kidnap her. The woman stated she did not want to report the matter to the police. Mr Coka alleges the woman told him she was travelling to the officer of the NRC. He took her there and to the office of Gjin Marku. He then left the building with his wife to keep an appointment at the hospital.

73. The following day he returned to the NRC offices and met the woman again who he claims told him she was Lulzime Domi the daughter of Lufti Kaci. Mr Coka states that he did not recall seeing anyone else at Mr Marku's office and he has never met Lulzima's sister Jetmira Kaci. He specifically states that he has never seen Jetmira being abducted and has never met her. Mr Coka also states that Mr Marku asked him to re-visit the Burelli family as Lulzime had identified those attempting to abduct her as being from this family. At the visit he states Fadil Burelli told him he does not care what the Kanun states and that he will do whatever it takes to men, women and children.
74. In relation to Pellumb Kaci, Mr Coka states he met this person on two occasions and became aware of the date of the funeral in 2010. He claims to have overheard talk at the funeral that Pellumb had been beaten by an iron rod. On looking into the coffin the face appeared to be bruised and marked. Others were heard to say that Pellumb had been killed by the Burelli family and that they were going to kill the father of Burelli. Four to five days later Mr Coka attended the Kaci family and was asked to visit the Burelli family to see if they would answer truthfully whether they killed Pellumb and if the answer was no to swear to the same. During that visit Fadil Burelli refused to swear he had not killed Pellumb and said nothing further.
75. Mr Coka states that in his opinion there is a blood feud between the Kaci clan and the Hoti and Burelli clans
76. In response to supplementary questioning Mr Coka stated that as he had not sworn he would have lied if he had done the crime.
77. In reply to questions put in cross examination Mr Coka stated that Ritvan and his father did not listen to each other and that this was problematic family.
78. Mr Coka was asked about the documents provided and stated he only wrote one of them which was a statement for the NRC.
79. After an adjournment had been granted to allow Mr Coka to return to his hotel to collect the bundle of documents he failed to bring with him on the morning, he stated the meeting with the Burelli family was at the end of 1995 beginning of 1996. Mr Coka has stated that visit occurred 40 days after Teuta's death whereas the document being referred to was dated 30 December 1995. Mr Coka suggested the date was wrong as they went in early 1996.

80. Mr Coka confirmed that when there is a meeting as a missionary no record of the meeting is created. He does not keep a personal record although at the end of the month reports to the Chairman.
81. When asked to explain the feud between the Kaci and Hoti families in 1998 Mr Coka corrected Mr Smart and stated it was 1928.
82. Mr Coka had no knowledge of documents relating to 1998 which mention the Cena family and was unaware of any dispute between the Cena-Hoti-Burelli families. There was no meeting with a member of the Hoti family.
83. It was put to Mr Coka that it was right to say that in 1928 the Hoti-Kaci dispute was no longer active. He stated this was not directly but it has not continued but indirectly, yes. They have not asked if it is over but there is suspicion due to the passage of time.
84. Mr Coka confirmed the attitude of Ali Kaci did not change during reconciliation. He was asked how he learned of the arrest of Lurjan Kaci as he claimed in his witness statement that Lujan was arrested in 2001 whereas he was not arrested until 2002. Mr Coka stated he could have been in the mountains at that time that is all he knows – this is what was said to them that he had done the killing.
85. It was suggested to Mr Coka that the information they get from the families may not be accurate and that they try to deal with a matter on the basis of such information. His reply was that the information they received is based upon an oath and based upon that incident. The police are only involved in minor incidents such as stabbings.
86. When asked for the month of the incident in Tirana in 2003 Mr Coka could not recall. He was adamant he only saw one woman who approached him. He was aware the description of the incident provided by Mr Marku differed from his but maintained that his recollection is what he saw. Mr Coka claimed to have made a note of the incident although it was not available at the hearing and he then stated he had no knowledge in relation to that. He stated he left a note of the incident with Mr Marku as he tends to forget. The incident recorded by Mr Marku at page 481 was not as Mr Coka recalls.
87. When pressed on the fact there were conflicting accounts Mr Coka became less precise and somewhat evasive. He was asked whether he saw one or two women being attacked. He in his statement and earlier evidence was adamant there was only one although his reply on this occasion was “yes”. When asked again whether there was one or two he then claimed there was a van full of people, he did not know how many, the woman he saw was one before it stopped. One woman separated and came before him – maybe her sister was some distance away.

88. Mr Coka denied telling Mr Marku both women were fighting with the criminal gang.
89. Mr Coka stated that apart from this incident he has heard no information indicating the Burelli family intended to traffic female members of the Kaci family.
90. A further contradiction in his evidence was raised with Mr Coka. In his statement at page 544 he stated that the woman escaped following the intervention of other men whereas in his oral evidence he claimed fifteen people intervened. When asked how many people had intervened he claimed that even if he saw the incident yesterday he would not remember let alone ten years ago. He eventually stated there were twelve to fifteen people – a lot of people there.
91. In relation to the death of Pellumb, Mr Coka stated that on the television it was reported as an accident, cause unknown. It was at the funeral he heard people whispering that it was “done by Burelli”. The head of the Burelli family did not admit to the killing. The media reported there had been an accident but also that the accident was being disputed. The reports stated there had been an accident and the police were pursuing it. He was asked, therefore, about his statement at paragraph 16 to a news report claiming Pellumb had been ‘massacred’ by people in Kamez to which he was asked what the difference was between being massacred and being involved in an accident. He could see no difference between the two and claimed in addition that some say he had an accident and some that he was thrown out of a building.
92. Mr Coka was also asked about a reference in a document in the Appellants bundle to BENA Association but claimed not to know what this was although he then stated that they get involved with the reconciliation process and that he knows the Association and its Chairman. Mr Coka’s name appears on a document they have prepared in which it is reported that they were told that the ‘firearm will not stop shooting’. Mr Coka denied claiming that Pellumb was killed by a firearm. He also accepted that if Pellumb had died of a heart attack and fallen this may explain the marks on his head which he accepted could be the case.
93. It was put to Mr Coka that he had, in fact, assumed that the Burelli family were responsible for Pellumb’s death without even knowing how he died, which he accepted was true. He confirmed he had not asked the police who were investigating the matter. The Burelli family did not swear they had not killed him and were not prepared to do so. When asked to give a straight yes or no answer to the question whether Burelli told him he or his family were responsible for the death of Pellumb, he replied ‘no’.

94. Mr Coka was also asked whether during the reconciliation process he had asked Mr Kaci to marry one of the Burelli clan although the Burelli clan did not offer the hand of one of them for marriage.
95. In relation to the death of Nuri Kaci, Mr Coka stated they had not 'gone to the death'.
96. In re-examination Mr Coka confirmed the information relating to the arrest of Lurjan came from the family and that they do not involve the police as it could cause more harm as their work is based upon trust.
97. In relation to the incident at the bus station in Tirana, he stated there were a lot of people and that a woman aged about 40 managed to separate and come towards them at which point he and his wife left.
98. We found Mr Coka to be a helpful witness who has been involved in the reconciliation process for some time. He was honest in admitting selective memory as his memory is poor but those issues he could recall he was very clear about. This was demonstrated in relation to the issue of the incident at the bus stop where he was adamant one woman had been present and approached him for help and that he and his wife had taken her to the offices of Mr Marku and he had left a note to this effect, and the later documentary evidence of Mr Marku claiming there were two women present, which Mr Coka denied.
99. Mr Coka also assisted in our understanding of the methodology of the missionaries who adopt an informal undocumented approach to the cases they are asked to investigate. It is a system based upon trust and word of mouth and the Kanun Code. It is clear that in the absence of sworn statements a large part of the picture is based upon supposition possibly backed by experience. Reports are given to the Chairman, Mr Marku, but not maintained locally and the police are not involved.

Mr Marku

100. Mr Marku has provided a statement and a number of additional documents. He confirmed that the content of his statements is true. In the most recent statement, dated 14 March 2014 Mr Marku states that the Committee of National Reconciliation was founded in 1990 and his involvement with the organisation commenced in 1991 as a coordinator. He also worked as a journalist for a newspaper and his work with the CNR was voluntary and unpaid. Mr Marku describes his motive for joining the organisation being of the fact he grew up in the northern part of Albania where blood feuds are known to occur. He grew up with the law of the Kanun which he studied in his spare time. His paternal grandfather together with his great uncle used to adjudicate over blood feuds. Reconciliation did not take place in Albania during the communist regime, between 1967 and 1990.

101. It is said that in his capacity as a coordinator there was an average 10 to 20 blood feuds a year although there was no system of registration and control in the sense they did not have a membership card system or database. The organisation was based on tradition and reputation and did not function in the same way as, for example, political parties did.
102. In 1992 the Ministry of Information asked Mr Marku to become the Director of the Albanian Analyst of the Intelligence Secret Service. He served as a Director of the Albanian Secret Service from 19 September 1992 to 25 March 1995 at the same time remaining a coordinator for the nationwide CNR. Families involved in blood feuds usually contact the missionaries and following the traditions of Albania one individual who is part of the body of village elders or from a respected clan is nominated to be a missionary by his community. There are normally three people in a community who come together to resolve blood feuds, which was adopted by the CNR as its own model in July 2001.
103. The CNR is contacted if the families or 'Committee of Three' cannot resolve a blood feud. No records are kept by the 'Committee of Three' in over 3000 villages across Albania, such incidents being committed to memory by the group and remaining part of their knowledge. It is said this is because the committees do not have offices and so it is unlikely that they would keep records. It is also based upon tradition because keeping records by the missionaries may create suspicion in the minds of the families as to why the records are being kept.
104. Albania has a great oral tradition and blood feuds can be hundreds of years old with details of the feud being passed down from generation to generation.
105. In 2000 the CNR was restructured with a centralised office in Tirana and two offices one in the north and the other in the south of the country. Mr Marku receives expenses for costs incurred. The office of the CNR is located in a property owned by his family. The organisation is self-supporting relying on donations with no external funding or funding from central government.
106. In relation to the record-keeping of the CNR at a national level it is said that records are kept in the three large offices throughout Albania relating to the larger conflicts/blood feuds although there is no centralised list of missionaries in Albania as they are not employees of the CNR. The missionaries as part of their role within the Committee of Three keep their own records of major disputes which are not maintained centrally although they are likely to get sent records of cases that cannot be solved. Those records normally include (a) hand written letters, (b) stamped letters from the commune or other groups, (c) notes from the local committee (d) ID cards, (e) death certificates (f) newspaper cuttings, all depending upon the individual case. It is said the CNR has kept notes of all blood feud killings happening in Albania since 1991 which are held

in a card index in their offices in Tirana. The index is not complete as unless the families acknowledge there is a blood feud they cannot record the killing as such. Work has commenced to store details from the files on a computer but not all such data is stored electronically.

107. The statement refers to the Kanun which is discussed in more detail below.
108. The statement also refers to an earlier letter dated 18 September 2010 addressed to Sophie House defining features of blood feuds. It is said there are two categories of blood feud cases those that are ongoing and those that are concluded. It is said that those concluded are no longer referred to as a blood feud.
109. In paragraph 23 Mr Marku acknowledges that if he was given a document such as a stamped letter from one of the villages or communes purporting to be evidence of the existence of a blood feud he would not necessarily know whether it is genuine without undertaking further checks to verify the source. He knows the missionaries and representatives in each district whom he can contact if required. He claims to have come across documents and letters that have not been genuine mainly produced for Albanians who are abroad claiming asylum and who are trying to put forward a claim to be involved in blood feuds and documents involving families who are genuinely involved in blood feuds that have obtained letters that are not genuine. He claims he is unaware of any representative taking money in exchange for fake documents although some representatives abuse the system and an unnamed group is under investigation for abusing their position which is a matter that has been passed on to the prosecution services. Mr Marku denies taking money for providing letters of support and states he would never issue a document that was not genuine.
110. A letter on headed paper from the Committee of Nationwide Reconciliation has been provided dated 20 of September 2013 addressed to the Appellant's solicitors, Duncan Lewis. This letter asserts that the National Committee of Reconciliation was aware of the ongoing blood feud involving the family of Lufti Kaci since 30 December 1995. It is said the three named representatives 'dealt with full respect concerning the blood feud family Kaci who accepted reconciliation with the Burelli family in 2002 and in November 2004 but that part of the Kaci clan did not agree and put pressure on the other family members to take blood'. It is said these are the uncles of Teuta Kaci, Man Kaci and Ali Kaci. It is that these individuals felt shamed due to Lufti Kaci's determination to pursue peace and refusal to revenge the blood of his daughter despite the Kanun obligating him to take revenge for his daughter's death.
111. It is said the situation has led the Burelli family to think they will further shame the Kaci family and clan. Knowing there could be revenge feelings the Burelli family wanted to intimidate the Kaci family so they would not take revenge. It is said that Ritvan Burelli has challenged the representatives about the Kaci

families 'might', claiming "I killed you once and I will kill you again". It is also said that threats have been made when relatives or acquaintances of the Kaci family had passed by to intimidate them and that on this basis Ritvan Burelli found support from the Hoti clan who are said to have been enemies of the Kaci clan for generations. Mr Marku states that Mr Coka had heard from Arif Hoti one week after the killing of Pellumb during the meeting with the missionaries that they have old enmities with the Kaci clan and that the families of the Burelli and Hoti are becoming lifelong friends. It is also said the alliance between these two families was strengthened when Ritvan chose to take a wife from the Hoti clan in 1998.

112. It is said the Kaci family suffered depression and stress not only as a result of the killing of their daughter Teuta Kaci but also because of the challenges that the Burelli family showed by the marriage after the killing and the selection of a member of the Hoti clan for the marriage. Mr Marku states the killing of Ritvan Burelli came as a result of this situation as the Kaci family, already troubled and humiliated in public by the challenging and humiliating behaviour of the Burelli clan, did not have any other choice in front of these challenges and provocation to the honour of the Kaci family for the killing of a female, even after other conflicts.
113. It is Mr Marku's opinion that the killings came from the Kaci clan to pass the blame to the family of Lufti Kaci. Mr Marku states that the killing was undertaken by a representative the family who did not accept the reconciliation but was attributed to Lurjan Kaci who, according to the Kanun, should have undertaken the killing to take the blood of his sister. Mr Marku states that Lurjan Kaci who is imprisoned for the killing of Ritvan Burelli was forced to take the blame because if he did not he would be killed by his own clan members.
114. Mr Marku asserts that on 9th of February 2001 the National Reconciliation Committee was contacted by Lindita Kaci who indicated that the blood feud situation was very dangerous due to the remarriage of Ritvan Burelli to a member of the Hoti clan. He states that he tried to verify the information with other missionaries and was informed that the two clans have become powerful by the marriage.
115. It is stated that in general the police are reluctant to involve themselves in case of blood feuds and that on this occasion the police were intimidated by the Hoti and Burelli clans and did not follow the investigation. He stated that members of the Hoti and Burelli clans threatened members of Lufti Kaci's family regardless of gender including an alleged attempt to violate female members of the family such as Jetmira Kaci who was violated and 'attempted to be robbed by trafficking'.

116. The letter refers to June 2003 when the National Reconciliation Committee was contacted by Lulzime Domi who was frightened and upset. It is said that she had a pale face and dry lips with signs of violence on her neck which was considered during a meeting with her at their offices where Mr Coka and his wife were also present having arrived an hour earlier than Lulzime Domi and having told them they had seen how Lulzime Domi and Jetmira Kaci were caught by gangs although they were unable to push them into a car. The last contact with Lulzime Domi was in December 2012 when it is said she and her family were in hiding in northern Albania to avoid revenge been taken upon them.
117. In relation to Pellumb Kaci the letter states that on 29 November 2010 he was killed in unknown circumstances although at a later stage it was clarified through missionaries that his killing was undertaken by the Burelli and Hoti clans. The missionaries were called to a meeting by the relatives of Ritvan Burelli who openly claimed that they had done the killing and that they were not over. It is also said that police did not intervene to clarify the circumstances of the killing.
118. On 25 April 2011 Nuri Kaci, first cousin of the children of Lufti Kaci, was killed by the Hoti clan in cooperation with the Burelli clan in the Forest of the village of Lures. The letter concludes by stating that Jetmira Kaci the daughter of Lufti Kaci and Eduard Domi the son of Lulzime Domi (Kaci) are in grave danger as a direct result of the blood feud that exists between the families indicating that the letter was written for earlier proceedings before the First-tier Tribunal and perhaps in connection with those asylum claims to which we have referred above.
119. In his oral evidence Mr Marku confirmed that the contents of his statement were true and that there was no need to make any changes although in cross-examination he accepted a date appearing in the letter as 2013 should have been 2003.
120. Mr Marku was asked about a considerable number of documents that he had provided appearing in the 150 page bundle marked as the "Source Bundle". He stated these were documents from people such as letters put under the door or from the Committee. The remainder were his notes that he had written over the years. He was specifically referred to a document of 30 December 1995 and asked where that document had been for the last 19 years to which he claimed there were many folders with notes in them that were kept in his office as a coordinator. Mr Marku was referred to the criticism of his note keeping in the country guidance case of EH (discussed in more detail below) specifically at paragraph 44 which recorded his evidence to the Upper Tribunal hearing that country guidance case that his filing system was chaotic with no official record or paper keeping within the organisation. He was asked, if this was the case, how he could produce very significant numbers of documents for this case the

first of which is over 20 years old. Mr Marku's reply was to deny the criticism of his record keeping, to refer to the fact there are files with hundreds of notes that they follow up with many documents and that many pages exist. This filing system is not the same as in other offices as all records are kept on a file and filed in due time.

121. Mr Marku was also asked about what appears to be contradictory evidence in his witness statement in which he refers to the fact that the missionaries of the committees do not have offices and are unlikely to keep records as this may lead to suspicion in the minds of families which appears to be contrary to his claim that records are kept by the Committee of National Reconciliation at the offices in Albania. This was confirmed to be correct by the witness. It was also put to him that in paragraph 16 of his witness statement he claims that they kept their own records and the missionaries kept their records with them. Mr Marku claimed that both accounts were correct and that is how they were keeping notes or not keeping notes or records which were the method of their own voluntary work and that it was the decision of the missionaries to keep mental or written notes.
122. At this stage an issue arose during the evidence as there appeared to be an additional note attached to a document in Mr Marku's possession which had not been seen by the Tribunal or the advocates. When this was raised with Mr Pretzell he indicated that the difficulty the Tribunal's faced is that copies of the documents had been made by Mr Marku and sent to Duncan Lewis and included in the bundle as he was not willing to allow originals to leave Albania.
123. A question was then raised by Mr Smart regarding a document dated 9 September 1998 and how it related to these proceedings although as there was no translation it was not admissible. When pressed on the relevance of the record of a conversation in this document and its relevance to the proceedings the only response elicited was that it was about a conversation about the situation and how to proceed although when it was indicated the note only referred to the Hoti and Burelli families and not the Kaci family. His response was to claim that it was the Burelli family regarding the Kaci family.
124. In relation to the death of Pellumb, Mr Marku was asked whether there was any evidence the Kaci clan are a prominent clan. He claimed he had no great knowledge of their economics but what happened was in the newspapers. The witness was referred to the fact that press coverage had been provided of the killing of Ritvan Burelli and he was asked why he had therefore not provided press reports relating to Pellumb's death in 2010. The response referred to there being many killings and many people who died being reported as victims and that families do not report them to the media because they try to cover it up. Many killings are not reported and not recorded by the police which, to our mind, did not answer the question.

125. Mr Marku was asked when he was aware of Pellumb's death to which he stated he could not recall the date but that he was concerned about it earlier on. When it was put to him that if he was aware shortly after the death the newspapers would be aware, he responded by stating it might have been in the press as that's what one of the missionaries told him. He thought he recalled "something like that".
126. Mr Marku was asked how Pellumb was killed to which he stated the information he had was that he had been kicked and his face had been damaged. He was assaulted. He was then referred by Mr Smart to an e-mail that he had sent to the appellant's solicitors on 14 November 2013, which he claimed to be unsure of, in which he told representatives that Pellumb had been killed by a gun. He claimed this is what he believed when he wrote the e-mail.
127. Mr Marku was then asked about the document from BENA which he claimed to be aware of and the reference in that to 'the firearm never stops shooting'. He claimed this to be a figure of speech according to the Albanian version. He also claimed that the word "gun" in Albanian has different meanings and that it was more a metaphorical rather than a literal meaning.
128. Mr Marku was referred to the evidence of Mr Coka regarding his understanding of the cause of death of Pellumb and the claim to have seen press reports that he was massacred or involved in an accident to which he claimed that he had seen no reports from the press even if there had been some and that his understanding was that he had been killed or injured by a blow to the face.
129. Mr Marku was asked who obtained the death certificate for Pellumb that had been disclosed by the appellant to which he claimed he had no knowledge but that it would normally be obtained from the Register Office; but in any event that would record cause of death and not the killers. It was put to him that Pellumb died on 29th October yet within a few days a copy of his death certificate was faxed to the United Kingdom. He was asked whether he had obtained the certificate and faxed it through but he claimed not to be able to remember.
130. Mr Marku was referred to the fact he sent a number of reports to the United Kingdom regarding the Kaci family and in particular a report regarding Lufti Kaci for the purposes of his hearing in 2007. It was put to him that at the hearing there was no mention of the feud with the Hoti family and the only concern was surrounding the Burelli family. When asked for an explanation his response was to state that he would have given the information they had at that time and which was remembered. He could not recall details of the case. It was put to him his report must have reflected what they had in their paperwork concerning each case to which his response was to state "of course I cannot explain why it was left out and forgotten."

131. Mr Marku was then referred to a document at page 12 of the Source Bundle dated the 31 December 1998 concerning the relationship between Teuta and Ritvan Burelli and regarding the Hoti family involvement in the dispute. He was asked why such information was not included in the 2007 report. The response was that he could not recall why it was not included and it could be due to the wording and the author concentrating on information regarding the Burelli-Kaci dispute. Mr Marku was also referred to concerns regarding the involvement of the Hoti clan at page 320 of the Respondent's bundle which was said to relate the death of Nuri Kaci due to a disagreement over woodland. Mr Marku was asked whether he linked this to the feud between the Kaci and Burelli families. In response to which he said although referring to the seriousness of the killing, "that continuation of blood feuds with a reconciliation are always being killing - a reference to hate between the two families and the fact that killings occur over ownership and that such killings could start a feud and that this was a case involving disputed ownership of the land in the forest". When asked to clarify his answer and whether he was saying this is simply an issue of ownership of the land he confirmed it was not.
132. Mr Marku was asked about the account relating to the incident in which he describes Luzime Domi as being in shock with a pale face and dry lips referred to above. It was put to him that Mr Coka in his evidence stated he had not seen Jetmira and an explanation was sought. Mr Marku's response was that this is his report and he believes his report is correct which he had compiled from his best memories and beliefs when checking the paperwork and what he recalled from the meeting with Lulzime. When it was put to him again that Mr Coka was clear he only saw Lulzime and not Jetmira Mr Marku claimed he was convinced that both those individuals were there together. He was unable to explain Mr Coka's recollection and could not say if he saw one or more people. When asked what evidence he had that Jetmira was present at that incident his response was to state that that was from what he remembers looking at the paperwork and that that was the conclusion he reached from other records not just a meeting with Lulzime. It was put to him that although that might be what others had said his own missionary who had seen the event only saw one woman and when asked why he did not accept his word over others, the response from Mr Marku was that he cannot insist that what he says is the truth but this is what he believes anyway.
133. Mr Marku was asked where the notes were of the reports in the file relating to the incident to which he claimed to have a note relating to 25 June 2003 appearing pages 62 and 66 and 73 of the Source Bundle. When asked how he supported the claim in the note that people were trying to traffic the women and that there were many times, he claimed to know this from Mr Coka and the conversation in the office and his note taking. Mr Marku was asked again where his evidence was to support the claim the women had been the subject of attempted abductions to which he again referred to a conversation with Lulzime and Jetmira about their being the targets of traffickers and that was his

understanding from the meetings and what he remembers. It was specifically put to Mr Marku that this was an example of him attempting to exaggerate the situation which he denied, claiming it was his wish and desire to help the court.

134. Mr Marku was also asked about the content of another note at page 482, paragraph 7, where he claimed that Jetmira had been violated between 2006 2011. He claimed that from the missionaries he was pretty certain she left and went to the North and that that is what happened. When asked when she went to North Mr Marku claimed not to have the notes in front of him but it was 2006 to 2011. When asked whether somebody tried to abduct her when she was in the North he stated he believed if she was found she would have been abducted. Mr Smart indicated all he was trying to establish was why Mr Marku said she was saved many times from being grabbed. He referred to a visit to his office in 2001 in which he was told that all the Kaci sisters are at risk which is a common occurrence in the many reports from missionaries regarding the case.
135. Mr Marku was then referred to a further document described as report or letter regarding the death of Pellumb Kaci which referred to him being killed in unknown circumstances and the comment referred to above, of it being claimed that the Burelli family had admitted being responsible for the killing. It was put to Mr Marku that Mr Coka's evidence was that there had been no such admission, which he countered by claiming there had been no open admission. It was put to him that in his statement he had claimed that they had openly admitted to being responsible for the killing. The response from Mr Marku was that he had read the information somewhere that they admitted they had done the killing of them and that there would be continued killings, this is what happened when some families tried to imitate others not to take revenge in many cases. It was then put to Mr Marku that the information available suggested that Pellumb in fact died from heart attack and that although the death certificate relied upon by the appellant did not show cause of death a complete certificate has now been obtained signed by a doctor confirming this fact. Mr Marku was asked whether he disputed that the named doctor existed, especially in light of the fact information had been provided showing she does exist and did provide the death certificate. Mr Marku's response was to claim that he could not remember. He stated that he heard the report and remembered going to the hospital to seek the information and asking whether the doctor was there and being told she was not. He claims in many cases reports are signed by the doctors justifying death with causes in other people's interests which he claim to be common practice in the Albanian Health Service.
136. Mr Smart then asked whether there had been news reports that the Belgium and Albanian authorities were considering prosecuting him regarding letters emanating in such cases which he confirmed was the case. Mr Marku stated that he had never been at the beginning of any prosecution for such purpose but when asked whether he was interviewed by prosecutors he stated that the prosecutors would not continue as they realised that all was within the law. He

was again asked whether he was interviewed by the police and prosecutors to which he stated that everything had he sent to the prosecution office informing them that the media allegations were false and in his opinion the information in the media was produced to damage the reputation of his organisation. Mr Marku then produced documents indicating that he was not the subject of any ongoing prosecution, the most recent of which is dated the 31st February 2014, but also claiming that he has other related documents.

137. In relation to the law in Albania and documents indicating there had been a number of prosecutions including lawmakers sentencing individuals to 25 years to life if a person is killed for blood feud which is a marked change in practice, Mr Marku confirmed it was a change that had been made in 2013. At the moment the minimum sentence killers will get is at least 25 years and his organisation submitted proposals to change the law to increase the sentence for blood feud killings. He was asked to confirm whether his position was that there should be a specific finding if it is a blood feud killing which he confirmed was the case. When asked whether he and his Committee were prepared to assist the court and police to obtain a just result he confirmed that they would be willing to help and still are.
138. Mr Marku was then asked about a court document which we refer to in further detail below in which the District Court has found that the killing of Ritvan was not as a result of a blood feud. The Court considered the verdict in 2002-2003 at which time Mr Marku was claiming his organisation had a lot of information that he claims would show there was a blood feud. He was asked why that evidence had not been made available to the prosecutor to which he claimed that they could not notify the court or make them aware but that he was happy to say it was blood feud related. He asserted the statement by Lufti Kaci to the court was made to mitigate the circumstances of his son. When asked whether he was aware what Lindita Kaci received eight years imprisonment for her part in the killing of Ritvan Burelli he claimed he did not have that information which was out of his memory.
139. At the commencement of the fourth day Mr Marku resumed cross-examination. He was asked whether he was aware of a meeting between his missionaries and the Hoti family which he claimed took place in 1998-2000. He was referred to the documents appearing to refer to a meeting between Mr Coka and a member of the Hoti family whereas Mr Coka's evidence had been that no such meeting occurred. Having examined the documents Mr Marku claimed that the person with whom the meeting had taken place was not a member of the Hoti clan that had a dispute with the Kaci clan as it was a different Hoti Clan. Mr Marku says that individuals can have the same name but this does not mean they are related.
140. In his letter of 20th September 2013 Mr Marku had referred to the killing of Nuri Kaci in the forest and included the statement that he had been killed by the Hoti

Clan in cooperation with the Burelli Clan. He was asked how he knew the Burelli Clan were involved in the killing to which he claimed it was from a conversation with the missionaries and that all was from contact with the missionaries. He claims he was told this by the missionaries that it was just conversation although when he was advised it is in the document before the court he claimed not to know. When the further wording of that part of the letter referring to the cooperation between the two families involved in the enterprise in the forest it was put to him and he was asked how that was known to him, Mr Marku claimed there was a company with the names of the two families in Tirana trading in timber and that his note is based upon the logic of that and some conversations with missionaries.

141. It was put to Mr Marku that much of his statement was an assumption of what may be the case rather than being a factual record. He accepted that it is based upon evidence but at the same time upon his professional knowledge. Issue was raised regarding the comment in the statement that is not recorded anywhere within the source bundle to which Mr Marku sought to assure Mr Smart that there are thousands of conversations that are not recorded as it depends on the place they are discussed.
142. Mr Marku was then asked about whether he received notification of further action against him, an issue that had been raised the previous day, as he provided evidence to the Upper Tribunal claiming he had been arrested in 2013 due to allegations that he provided documents for money that had been used to secure asylum in a European countries. Mr Marku denied the allegation and claimed he had never been arrested and that he found the line of questioning insulting. It was put to him that this was an issue in a document before the Tribunal stating he had been arrested. His response was to state that did not mean he was arrested. When asked whether he had been invited to go to the official building of the prosecutors to assist with the investigations he claimed that he had been there at times to the police not to the prosecutor's office and that the last time he went to the police was two months ago when he sent documents to them and they thanked him for his cooperation. He never thought that he was going to be the subject of a prosecution although he was then asked why he therefore obtained a certificate from the prosecutor to show there were no proceedings against him. He stated this was for an immigration tribunal that he believed was for a Canadian tribunal.
143. Mr Marku was then referred to a document at page 111 of the source bundle written by the humanitarian organisation BESA 03 and dated 23 December 2010 and addressed to him personally. That letter contains the following statement "this month, after the murder of Pellumb Kaci the family has been crushed and humiliated. And because it is the Kaci family turn to "take blood" the Kaci family feels even more in a risky situation after this Mafia murder." Mr Marku was asked whether he agrees with that sentiment that it is in fact the Kaci family turn to take blood to which he stated, in effect, that as head of the Committee he

could not tell the Kaci family what they had to do. When it was put to him that under the terms of Kanun law that is a true statement Mr Marku responded by claiming that “Kanun was not successfully used to justify terrorist acts during this period of transition”.

144. In response to questions asked in re-examination Mr Marku was referred to page 99 of the source bundle translation page 101 which is a note dated 25th March 2005 containing the phrase "current preferences for the traffickers, which are the same as two years ago, are to kidnap Jetmira Kaci. Jetmira has escaped several times from being kidnapped." Mr Marku confirmed that this is correct and although he could not recall everything, that it was correct.
145. In relation to a document on page 109 of the court bundle, a letter 30 November 2010 from BENA, purportedly written from this organisation indicating the acquisition of knowledge the previous day that Pellumb Kaci was killed, Mr Marku stated as far as he was concerned the phrase that ‘firearms would never stop shooting from now on’ meant the blood feud was continuing.
146. In relation to the evidence regarding the difference between an open admission and an admission Mr Marku stated an open admission in his opinion occurred if the parties were correct with one another or public admission such as could occur in court. Admission will be something that occurred in private between them with evidence remaining between them. The Burelli family were aware of the missionaries confidentiality.
147. A reference to documents appearing at pages 40, 42 and 46 of the court bundle, the latter being a note purportedly from Maharen Taloshi dated 21 January 2002 indicating the situation between the Kaci and Hoti/Burelli families had worsened and that the daughters of Lufti Kaci still worried about the situation, was made. Mr Marku confirmed this recorded that the situation had been aggravated as the Hoti Clan continued their aggression to shed blood and cause violence.
148. In relation to the judgment of the Albanian District Court, Mr Marku stated that the testimony of the witness Lufti Kaci was recorded and that the court did not accept the nature of the blood feud. When asked for his view as to why a family member would tell the court his son was not involved in a blood feud he claims that it was testament to cover up the existence of the blood feud. This was said because it excluded the motive of blood feud from the killing.
149. We note that during the course of the cross examination there was reference to the country guidance case of EH (blood feuds) Albania CG [2012] UKUT 348. Mr Marku appeared as a witness for the appellant before that Tribunal and their impression of him as a witness is recorded at paragraphs 43 to 47 in the following terms:

43. Mr Marku's evidence, and that of the CNR, underpins all the international press reports and many of the national reports too. Mr Marku's position was that the blood feud problem was widespread and serious. He stated that blood feuds were a continuing and growing problem, with very many deaths and thousands of self-confined problems; that the Kanun system had broken down, with murders taking place on non-Kanun grounds treated as blood feuds, and the CNR was the only NGO to provide blood feud attestation letters.
44. Mr Marku's evidence was unimpressive, as a reading of Appendix C makes plain. We heard a lengthy description of his network of contacts in every village (which Dr Schwander-Sievers acknowledged to be the case), but he told us that his filing was chaotic with files only created for some blood feuds and most reconciliations being carried out informally over cigarettes, coffees, and long periods. That was inconsistent with what Mr Marku told the Canadian IRB about the CNR's filing system and methods; the international sources record his stating that the SNR had a detailed filing system, with a file for every feud.
45. In his oral evidence it became clear that the figures he used were arrived at by adding up any records of violent deaths in newspapers, land disputes (based on information from the local Land Registries), and even the killing of unfaithful wives by their husbands. The definition of a blood feud used by Mr Marku was excessively wide and the resultant statistics dubious. At the end of Mr Marku's oral evidence in September 2011, we had formed the view that he was not a truthful or reliable witness and the rumours of attestation letters being available for payment to the CRN were likely to be correct. We were not disposed to place any weight on the attestation letters in this appeal.
46. We bore in mind that the CNR attestations were all personally signed by Mr Marku: the credibility of his account of their preparations and the basis on which they were issued was therefore very important in assigning weight to any individual letter from the CNR. A CIRB Research Response dated 1 February 2012 recorded Mr Marku as stating he was aware of at least some occasions when his signature on attestation letters was forged. We also note the existence a well-publicised hidden camera recording of Mr Marku offering to sell an attestation letter and coaching the family on the account to be given of their difficulties, without any investigation of the claimed feud at all.
47. The subsequent arrest and investigation of Mr Marku and the CNR by the Albanian authorities on charges of selling genuine CNR attestation letters for use abroad to support false asylum claims are compatible with our concerns about his credibility after hearing and seeing him give evidence; but we emphasise that we had already independently formed an adverse view of his general credibility and the ultimate outcome of criminal charges is, therefore, not a matter that requires the finalisation of this determination to be further delayed.

150. We have had sight of a letter from the CNR postdating the determination stating that no further action was being taken against Mr Marku, although the statement in EH is that the adverse credibility findings stand irrespective of the outcome of the criminal investigation.
151. A police certificate dated 17th April 2012 certifying no penal proceedings were being issued against Gjin Marku has been found to be genuine. Mr Marku was clearly very sensitive to the suggestion he had been arrested and was the subject of prosecution. He denied being so but the Appellants own evidence, additional bundle filed in response to the Respondents County Guidance: Albania Blood Feuds 2014 report, raised the issue further where it states at page 49:

“Also note that Operazione Colomba reports that Gjin Marku was arrested for a second time in 2013. However, corroborating information for the incident could not be found amongst the sources consulted, and note it was not reported by the Immigration and Refugee Board of Canada in their February 2014 research memo cited above.

Operazione Colomba, Operation Dove Report: January 2013, 10 April 2013

[...] Albania

Current situation

[...] Gjin Marku, President of the National Association of Bajraktar, was arrested for the second time because he was accused of signing false documents, certifying that some families are in revenge, for money. These documents are used to obtain the right of asylum in European countries. [...]

152. We note the responses from Mr Marku in particular and his practice of not accepting evidence that suggests the claimed feud is wrong. For example his reasoning for the evidence given to the Albanian Court regarding the existence of a blood feud was stated to be a desire by the witness to mitigate his son’s position and in relation to the death certificate, no acceptance it was correct but an assertion that false information is provided in such circumstances within the Albanian Health Services. We also have concerns about the reliability of the information particularly that in direct conflict to that of Mr Coka, his own missionary, and that identified by Mr Smart in his submissions. We note in particular Mr Coka’s evidence that no admission had been made by the Burelli family for the death of Pellumb Kaci even though Mr Marku attempted to claim he did. We also note the contradictory evidence regarding Jetmira’s claimed abduction which we have referred to above.
153. The final witness was the expert Mr Korovilas whose evidence we shall refer to in more detail when discussing the death certificate below.

The Documentary evidence

154. As stated above, there has been a considerable volume of documentary evidence all of which has been considered in detail even if not specifically referred to in the body of this determination. These included in the Source Bundle copies of the notes cited by Mr Marku purporting to originate from the records of the Committee for National Reconciliation, the majority of which are hand written.
155. The method of record keeping has been the subject of criticisms in the past and the evidence we have received supports the concerns the Tribunal recorded in paragraph 44 of EH. Although Mr Marku denied in his oral evidence having stated that his record system was chaotic we note a common theme in relation to the way in which the CNR operates which is on the basis of informal contacts and discussions. Mr Marku clearly administers the system but is not personally involved in all blood feuds. Although there is no evidence he has been charged with a criminal offence there is reference above to the recording regarding the production of false testimony. There is no evidence that records are maintained in an orderly manner. The claim is that documents are created in varying forms, including on scraps of paper, from various sources, in relation to cases in which the missionaries have become involved. No local records are kept setting out in detail the activities and issues on a contemporaneous basis and or, it appears, a detailed system of reporting to Mr Marku in terms of timing and content. He may therefore not be told all relevant information or only be told what a missionary is able to recall. It is therefore a system that has an inherent problem of the reliability of the information being compromised.
156. The source of information is also relevant. It appears this is gathered from various sources including gossip, what persons may have said and overheard being said privately or in meetings with the missionaries, the missionaries' perception of the issues and events, or even just potential intelligence, rather than independently verified facts.
157. The documents are said to be stored at the CNR offices, the central one of which is a building owned by Mr Marku's family. There is no evidence they have been sorted to a defined file or the full extent of the available documents. It was noted in cross examination that Mr Marku was asked why a document he had produced for this hearing was not made available or referred to in an earlier appeal where the issue would have been just as relevant. His response was not persuasive and if such a document had existed at that time or could be located one would have expected it to have been presented in evidence.
158. Another issue of concern related to the fact that Mr Marku claimed the original documents could not be sent from Albania where there appears to be no legal justification for such a statement. As a result no advocate in the case has been permitted to inspect the original documents and Mr Marku is the only person responsible for the selection and disclosure of such evidence.

159. Mr Marku's evidence also contains inaccuracies as illustrated by the conflict between Mr Marku and Mr Coka in relation to the presence of Jetmira at the alleged attempted abduction. It is also alleged at page 481 that Jetmira has been a victim since 2003 and had been 'saved many times' but Jetmira entered the UK in 2004 and so she could not have been involved in events in Albania after this time. This is relevant for Mr Marku also refers to an event in 2005 involving Jetmira in Albania which is clearly incorrect as she was in the UK until 2006.
160. The evidence in the bundle is in the majority therefore hearsay but still admissible. In R (Ullah) v SSHD (CIS 4/12/03) the Court of Appeal said that the Secretary of State could not be precluded from advancing his case on the basis of an interview note between an immigration officer and a witness simply because the witness was not called and there was no witness statement. It was evidence, albeit hearsay in form, to which the judge was entitled to have regard. The weight to be attached to it was, however, a different matter.
161. There is also reference above to two very important documents being the verdict of the Albanian District Court and the death certificate of Pellumb Kaci.
162. In relation to the death certificate; the Appellant provided in his original bundle a document purporting to be a copy of the original death certificate of Pellumb Kaci. A copy together with the translation appears pages at 581 - 582 of the first bundle. The certificate contains the name and surname of the deceased, family details, date of birth, gender, civil state, nationality, citizenship, and date of death, place of death, cause of death. The certificate is dated 20 January 2011. The date of death is stated to be 29 November 2010 although the reference to the National Civil Register Number and year has not been completed and both the place and cause of death has been left blank. The document is also said to contain an illegible signature in the space provided for the Civil Registry Clerk to sign the document. At page 585, with an English translation on page 586, is a permit for burial referring to Pellumb Kaci who died on 29th November 2010 with permission for the burial to take place after 14:00 hours on 30 November 2010.
163. The omission from the certificate of the cause of death was raised at an earlier case management hearing and directions given to enable further evidence to be obtained in relation to this specific matter. The Secretary of State was able to make further enquiries through the British Embassy in Tirana who undertook enquiries with the General Directorate of Civil Registry (GDCR) at the Ministry of Interior of Albania officially requesting verification of the death certificate that had been disclosed. The response is recorded in the Document Verification Report at page 444 of the Respondent's bundle in the following terms

The GDCR has confirmed through a copy of the death act that Mr Pellumb Kaci has died on 29/11/2010 and 11:45 at a medical institution due to a heart arrest/attack. The statement of his death has been declared by his sister, Jetmira Kaci and has been confirmed by the GP Stela Taci.

The cause of death is missing from the death certificate which is submitted for verification. Referring to the sample death certificate that is made available from the GDCR/MOI (Ministry of the Interior) the cause of death element should be completed by the Registrar. Therefore while the subject's death has been registered no explanation has been provided as to why the cause of death was omitted.

164. In addition to the Document Verification Report we have been provided with a blank death certificate together with a properly completed death certificate confirming information provided to the Embassy by the Albanian authorities.
165. Following disclosure of this document a further issue was raised by the Appellant and the Tribunal advised that issue was being taken regarding the existence of Stela Taci. Mr Marku was specifically asked about this in his evidence and indicated that he had visited the hospital and asked to speak to this individual and been told she was not there, which appears to be beyond the scope of expectation of a neutral country expert and rather of a person who had placed himself in the position of an investigator working on behalf of Mr Kaci.
166. In relation to the other key issue that arises from the certificate, namely that the complainant is recorded as being Mr Kaci's sister Jetmira, in the two statements she has provided to the Upper Tribunal dated 18 September 2013 and 18 November 2013 there is no mention of such activity. Indeed she claims that having been returned to Albania in 2006 she was required to protect her life by going into hiding moving from village to village, receiving help from her father's friend, with no contact from family, living in fear, and moving as the Burelli family kept locating her whereabouts. She claims to have lived life for five years as a prisoner but also records in paragraph 11 of the first statement the following:
12. My brother , Pellumb Kaci was killed on 29 November 2010 as a result of the blood feud with the Burelli family.
167. In the second statement dated the 18 November 2013 Jetmira refers to the documents provided by the Home Office referencing the death of her brother and the statement that she was an informant to the death. She claims the document shows a signature but that her name is simply her name typed which confirms the document is not genuine as she claims not to have signed or declared anything by reference to her brother's death. She states that her brother did not die of a heart attack but that he was killed as a result of the blood feud with the Burelli family. Although she was in Albania when her brother was killed and a friend of the family informed her of his death she was not at hospital or an informant of any such event.
168. If the certificate provided by the Secretary of State is genuine this casts doubt upon the truth of the evidence of Jetmira to effectively have been in hiding since

she returned in 2006 in fear of her life and in the protection of a named individual as well as the claim that her brother was killed as a result of a blood feud, when she must have known that he died as a result of a heart attack.

169. Following the Appellant's position being known, further checks were undertaken with the Albanian Ministry of the Interior in relation to which there is a further letter from the British Embassy in Tirana dated 31 January 2014. The author of that letter refers to an excerpt from the official letter from the Immigration Directorate of the Albanian State Police citing the results of the verification checks which is in the following terms:

In response to your request dated 22.01.2014, through which you request confirmation of the death certificate of the Albanian national Pellumb Kaci, issued by the Civil Registry Office of Kamez, Tirane, we inform you that:

The document issued by the civil registry office Kamez, Tirane is identical with the document sent by you.

Also, the death act issued by the "Mother Theresa" Hospital Centre Tirana confirms the cause of death of this national.

I attach the relevant documentation.

I avail myself of the opportunity to express my considerations.

170. The Embassy letter continues stating they can attest of veracity of the enclosed results as the verification checks are conducted between named individuals from the Albanian Ministry of the Interior and the British Embassy Tirana, as stipulated in the data sharing agreement, and were carried out in a manner consistent with each country's immigration and data protection laws, regulations and policies.

171. The Embassy also concludes that due to the accuracy of report and the account received from the Migration Directorate that Pellumb Kaci died of cardiac arrest on 29/11/2010. The letter also contains the following on the second page:

Your subject, Nadricim Kaci has therefore produced irregularly manipulated evidence to convey the impression that the cause of Mr Pellumb Kaci's death was other than that of natural causes.

I attach the following as evidence to support this conclusion:

- 1) Copy of original death certificate

- 2) Ministerial confirmation that the original certificate states the same details as on the electronic version of the death certificate (supplied earlier to the Embassy/Home Office)
- 3) Copy of the original death act (two pages)

The documents, signed and stamped by the Border Migration Directorate show the death certificate, issued by the Civil Registry in Kamez Municipality. The death certificate has been signed by the chief registrar Anila Haxhijaj. The certificate has been issued for official purposes. It confirms the venue and the cause of death: venue-medical institution and the cause-cardiac arrest.

The Border Migration Directorate has also attached a copy of the Death Act form extracted by the archive of the National Institute of Statistics. The death has been signed by the Medical Doctor Stela Taci, Gastrohepatothologist and bears the official stamp of the "Mother Theresa" University Hospital Centre in Tirana. The title of the death act is: Death Form D-4, Medical Certification of the cause of Death.

Among others, the death form confirms the venue of death: medical institution (see tick) and ultimate cause of death: cardiac and respiratory arrest.

172. A further letter from the British Embassy in Tirana, sets out the standard procedures to be followed in Albania when issuing a death certificate. The first step when a person dies naturally is that the medical doctor certifies that the person is dead and completes a death schedule. The schedule defines the details of the person, the place of death and the cause of death and is signed by the GP and is stamped by the nearest health centre authority if the person dies at home. If a person dies in hospital the death schedule is signed by the medical doctor responsible for the particular ward of a hospital which in this case was Stela Taci a Medical Doctor at Tirana Mother Theresa Hospital. The death 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.
173. 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 to declare and register the death. The Registrar prepares or writes the death act a copy of which was dispatched in the initial correspondence from the Embassy and electronic copy of which was provided by the Albanian Ministry of the Interior. Electronic documents are not signed or stamped because they are printed from an electronic system and are accompanied by a note signed by the Secretary-General of the Ministry of the Interior bearing the official stamp.
174. The third step involves the Registrar issuing the death certificate and providing the informant with an original copy signed and stamped.

175. A further document relevant to the issue of the validity of Pellumb's death certificate is a copy letter from the Mother Theresa Hospital dated 10th April 2014 confirming that Mrs Stela Jorgo Taci is an employee of the hospital in the capacity of Gastro-hepatothologist.
176. The Appellant adduced evidence relating to the death certificate by way of two documents the first being described as an observation by Armanda Hysa on documents provided by the Respondent and secondly a report by James Peter Korovilas of death certificates in Albania dated 2nd February 2014.
177. Armanda Hysa describes herself as an Albanian citizen who has studied history in Albania and who is currently a Post-Doctorial Fellow in Albanian studies at University College in London. The report contains a declaration that the author is able to distinguish when there are problems with legal documents and certificates due to her qualifications and Albanian knowledge.
178. There is set out in the document a list of material sent by the Appellant's solicitors which are followed by a number of observations in the following terms:

- a. None of the certificates stating in which precise hospital Pellumb Kaci died.
- b. None of the certificates makes it clear where does Stela Taci work, in which precise institution, in ambulatory or neighbourhood (would be GB) or in any hospital (in which, and where)?
- c. The death certificate released from Kamez Municipality is only sealed but not signed. It misses the name of the official of the municipality who released the certificate, and his or her signature.

There is no number and year of the civil register.

No cause of death is written

The personal number of Pellumb Kaci (the unique number which every citizen has) is also missing. I have attached a death certificate in order to compare the difference.

- d. Albanian state does not consider any death certificates valid released before 23.05.2011. Valid certificates are only those released after the said date.
- e. The name Isuf Celaj is correctly written.
- f. With regards to the Act of Death:

It is not written which commune or municipality released the document
it is not specified which hospital death happened (only medical institution this is not a hospital)

There is no sign and no seal of the official of the municipality or commune who released this act of death

The personal number of the legal expert, Stela Taci is also missing.

According to what I have observed above I conclude that the documents related to the death of Pellumb Kaci lack necessary official data and are not to be trusted.

179. The report of Mr Korovilas sets out the contents of an Albanian death certificate following which the following observations are recorded:

I am aware that the place of residence section has been left blank on the death certificate of Pellumb Kaci (dated 7 to December 2010) and this section has also been left blank on the death certificate of Nuri Kaci (dated 3rd May 2011). The fact that this section of these two certificates has been left blank is most likely an indication of the fact that this is not a vital piece of information for identifying the deceased.

The 'cause of death' section on an Albanian death certificate is by far one of the most controversial sections. The cause of death is usually recorded by a doctor, who then issues a 'medical verification or death schedule'. The cause of death is then recorded on the death certificate. Albania uses the ninth edition of the International Classification of Diseases (ICD-9) to record the medical causes of death. According to the procedures outlined in ICD-9, the 'causes of death' should take into account both the primary and secondary causes of death. However, the procedures laid out in ICD-9 are not always followed in Albania, with approximately 10% of death certificates not containing a clear indication of secondary or external causes of death.

180. Mr Korovalis opines that the fact certain sections of the certificate had not been completed, such as place of residence, should not be taken as a significant omission on the death certificate as the absence of information as to the cause of death may simply reflect the fact that the cause of death is unclear, for example, if there is uncertainty of the primary and secondary causes of death.
181. The report also refers to the fact there are two death certificates for Pellumb one issued in 2011 and one in 2013 by the same authority in Albania. The expert refers to possible explanations for the differences in the two documents but, as he rightly states, he cannot assume the role of the decision maker which is a matter for the Tribunal. The expert does, however, refer to the fact failure to record the death on the first certificate may be because the primary cause was unclear, it may reflect the fact that the family of the deceased have insisted that the cause of death is either 'modified' or left blank. This in turn could be a reflection of petty corruption within the Albanian medical services although it is difficult to be certain about the extent to which this particular process is subjected to corrupt practices.
182. Under the heading "specific questions relating to this case" Dr Korovilas states he has examined the death certificates of Teuta Burelli and Nuri Kaci. Whether the reference to the former name is an error as the death certificate in dispute is that of Pellumb Kaci is not clear but his conclusion is that omissions from the

certificate should not be taken to indicate that there was something essentially wrong with the death certificate. The main purpose of Albanian death certificates is to confirm that a person is dead and that the identifying information is vital rather than incidental information such as the cause of death or place of residence.

183. In his oral evidence to the Upper Tribunal Dr Korovalis confirmed he is an academic and researcher in Economics who has undertaken in a lot of work in Albania since 1996. He was asked by Mr Smart whether he had seen the second death certificate regarding Pellumb as the report suggests the certificate seen relating to this individual is expressed in the singular although Dr Korovalis could not recall off the top of his head whether he had seen it. He referred to the bundle he had been sent although he did understand that one certificate had said cause of death was natural causes and the other had said nothing.
184. When asked whether the ICD-9 classification included natural causes Dr Korovalis stated he was not sure as he could not recall. There then followed an exchange between the witness and Mr Smart relating to whether the expert had a copy of the death certificate that gave the cause of death and whether his impression would change if he knew that cardiac arrest was given as cause of death which the expert responded to by stating he was asked to comment on discrepancies in the certificates and that he could not recall if copies of the certificates were placed in front of him or not.
185. In relation to the Albanian health service, Dr Korovilas's evidence was that the health service is underfunded and corrupt with some officials asking for a fee to provide documents and that it was within the bounds of possibility that pressure could be put on an official issuing a document.
186. In relation to the question of whether family had reports of deaths, Dr Korovilas stated the death schedule had to be filled out by a doctor who has to put the cause of death. The issue is whether there was conflict between primary and secondary cause. There was the chance the family might want to call a cause of death something else which may be an explanation as to why information recorded may not be accurate.
187. Having considered all the available evidence regarding the death certificate of Pellumb Kaci we prefer the evidence emanating from an official source in Albania communicated through the British Embassy supported by the letter from the Hospital confirming their employment of the doctor who signed the death certificate. There is insufficient evidence before us to establish a reasonable likelihood that the completed death certificate recording death by natural causes is not a genuine document. The weight of evidence proves it is. We find the Respondent has proved it is evidence that can be relied upon. The evidence supports the claim that an altered/incomplete certificate has been provided with the cause of death removed or omitted by the Appellant or his

family. Dr Korovilas gave evidence that members of a family may have their own reasons for not wanting the cause of death recorded which in this case may be to avoid it being shown that the cause of death was as a result of natural causes and not the alleged blood feud.

188. The second piece of material documentary evidence is the transcript of the judgment of the Judicial District Court of Tirana, an English translation of which appears at page 574 to 580 of the Appellant's first bundle. This records the verdict of a three judge Judicial Panel delivered after the conclusion of a criminal prosecution on 13th May 2003. The defendant is stated to be Lurjan Kaci, the son of Lufti Kaci, born in 1980 and a resident in Kamez a district of Tirana. It is recorded that Lujan was tried whilst he was 'on custody' from 11/10/2002 and sentenced through a fast judicial process.
189. The charges are stated to be premeditated murder/first-degree murder and illegal possession of a firearm. It is noted at the end of the hearing the Court heard the Prosecutor's case who asked for (a) the defendants to be found guilty of the penal act of premeditated murder/first-degree murder in accordance with the relevant article of the Albanian Penal Code and (b) that the defendant be found guilty of the penal act of illegal possession of a firearm and given a one-year jail sentence.
190. It is noted in the judgement that on the 27 December 2001 the Judicial District Court of Tirana heard the case in the defendant's absence, found him guilty, and sentenced him to a 25 year jail sentence. The Court of Appeal Tirana ruled on 19 June 2002 against the decision of the District Court and remitted the case for a retrial to be heard by different Judging Panel. During the retrial process the defendant was arrested and the court proceedings carried out in his presence.
191. On 18 April 2003, following the request of the defence, the defendant underwent a psychiatric examination in accordance with the legal medical Article 50 which showed:
 1. The defendant, Lurjan Kaci, shows the present signs of remission of schizophrenia (no complete recovery).
 2. The defendant carried out his act under reduced mental equilibrium in circumstances of psychopathological disorder as above.
 3. The defendant is accountable in front of the law for the act he committed.
192. The judicial review of the case is said to show that on 27 July 2001 the defendant Lujan Kaci killed with a firearm the victim Ritvan Burelli. Immediately after that the defendant left the scene and also the machine gun with which he carried out the murder. The defendant admits that he committed the murder but rejects the Prosecution's claim that the murder was carried out for blood feud motives. He

claims that he carried out the murder under an instant strong shock, which was caused by the victim's insults towards the defendant.

193. The judgment of the court is recorded in the following terms:

The victim, Ritvan Burelli, was married to the defendant's sister, Teuta Kaci, and they had a child.

In 1995, the victim, Ritvan Burelli, killed his spouse in (illegible).

For this reason, the defendant's family forgave the victim, Ritvan Burelli. Based on this and in compliance with the rules of Article 284/1 of the Code of Penal Procedure (prior to the amendment - Article 8813 dated 13/06/2002) it was decided to drop the charges against the victim, Ritvan Burelli.

After this incident, the friendship between the two families remained at the same level as before by visiting each other and both families maintaining normal relationships with the child.

In 1997, the victim, Ritvan Burelli, got married to a girl from Lura, the same village where the defendant is originally from.

After the second marriage the victim started to cut every contact with the defendant's family. He aggravated the relationship to the point of not allowing the defendant's family to meet their grand daughter.

After this situation caused by the victim, Ritvan Burelli, heated exchanges took place often between the latter one and the defendant, because of the child. As mentioned above the victim refused to allow the defendant's family to meet the child.

After this situation the victim continued to insult the defendant constantly even by saying that the defendant will have the same fate as his sister.

According to the witness, Lufti Kaci, in some occasions the defendant fought against the victim and every time the cause of the fight was the defendant's niece and not his sister's death.

Being under continuous provocation of the victim, who insulted and threatened constantly to kill the defendant, he decided to commit the murder of the victim, Ritvan Burelli.

On the day of the incident, the defendant left his home holding the bag where he held his machine gun.

At the village Laknas' stop (taxi stand) the defendant got on as a passenger in a taxi (minivan type) towards Kamez. The taxi belongs to Muharrem Peposhi.

After driving for a while, the victim and a friend of his appeared and wanted to get on the taxi where the defendant was.

When the defendant saw the victim, he told the driver to stop the car and shot twice towards the victim. After this, the defendant came back to get on the taxi, but the witness driver did not let him in. The defendant, shot another spray of bullets towards the victim, left the machine gun at the scene and flee away from the scene.

194. The Court in their findings rejected the defendant's claim of murder under a strong shock of psychic state and found that the murder committed by the defendant must be classified as premeditated murder. In relation to the blood feud motive the Court found as follows:

The court does not accept the blood feud motive, because the murder of defendant's sister by the victim is considered a closed matter from the defendant's family as well as the victim's family, legal point of view and canon law, facts which were also accepted by the Prosecution Services.

Another convincing evidence for the Court is the witness statement of Lufti Kaci, who categorically dismisses the blood feud motive in the murder of victim Ritvan Burelli by the defendant.

This statement becomes convincing for the Court, because, as it was explained above, the two families had closed blood feud matter.

Another argument for the Court is the fact that the starting point of aggravated relationship between the two families has been the victim's second marriage and worsened relationship with the child, who is defendant's niece. This fact dismisses the blood feud motive.

The circumstances explained above dismiss... (illegible) and also the blood feud motive for the murder, a motive which is required under Article 78/2 of the Penal Code.

The fact to be accepted is that the defendant acted in revenge against the victim. However, in this case the motive must be considered as a weak motive guided by the defendant's patriarchalism, because the defendant, insulted by the provocative and teasing behaviour of victim, decided to kill the victim to fulfil his aim.

195. The conviction of premeditated murder by weak motive is the verdict entered. The Court took into account the fact Lurjan carried out the crime in the state of psychiatric disorder caused by his illness as stated in the legal medical expert report together with attenuating circumstances and handed down a sentence of 15 years jail with a one third reduction of first-degree murder and a jail sentence of one year for the conviction of the illegal possession of a firearm.
196. The transcript also notes that an appeal was launched against the ruling and the documents sent to the Court of Appeal who decided to uphold the District

Court ruling. The document does not state whether it was the Prosecution or defendant who appeal.

197. What is of particular note in the transcript is the finding of the Court that:

The court does not accept the blood feud motive, because the murder of defendant's sister by the victim is considered a closed matter from the defendant's family as well as the victim's family, legal point of view and canon law, facts which were also accepted by the Prosecution Services.

198. The evidence of the Appellant, Mr Coka and Mr Marku was that the killing was a blood feud killing and that there had never been reconciliation for the killing of Teuta Kaci. Not only does the evidence accepted by the Court show that killing was reconciled, this is a finding based upon not only the evidence of Lufti Kaci as suggested by Mr Marku given as a means to mitigating the impact upon his son of the offence, but also from Ritvan's family who must have been contacted or spoken to during the course of the investigation. This fact was also accepted by the Prosecutors office that would have had access to the evidence from both families.

199. In relation to Nuri Kaci, there is within the bundle a press article dated 27th April 2011 from the Municipality of Lura recording that the Debar police arrested Ersjon Hoti, 19, the main suspect for the murder of 32 year old Nuir Kaci:

"The event occurred in the Debat Lura, two days ago after a fight occurred in the forests of lures. 19 years old accused of crime committed in conjunction with other citizen Faslli Hoti and other persons.

Police announced yesterday that two people were escorted by police officers Bishop. It was originally cast doubt that the murder of Kaci is performed by 30 year-old, Faslli Hoti, while the latter's injury was interpreted as the event happened by the victim or veteplogosje

Yesterday, the investigative group has laid strong suspicion that other people are involved in the murder of 32 years old. Reserved information sources claim this was followed at dawn yesterday R. Hoti, 28, Hoti Fallsi brother and his cousin, A, Hoti, 26 years old.

The disappearance of the crime weapon, which killed Nuri Kaci, raises suspicion that other people were involved in armed conflict.

200. A further news article is headed "Murder in Diber after conflict for wooden material". The article records the death of Nuri Kaci and injuries to Fasil Hoti following a dispute that began 6 months earlier over the cutting of wood on the mountain and of Fasli Hoti demanding payment from Nuri Kaci for the cutting of wood he claimed was his. A confrontation occurred during which guns were

drawn and Nuri Kaci killed. The police attended and seized guns and made arrests.

201. The material available does not support the claim this was a blood feud killing or, as alleged by Mr Marku, a joint enterprise between the Burelli and Hoti clan. It is an act of criminality.

Country information

202. The Secretary of State also seeks to rely upon a recent publication entitled Country Information and Guidance Albania: that was published in 2014 setting out guidance to caseworkers in relation to the issue of blood feuds a copy of which is to be found in the trial bundle as are other articles produced by the Appellant, the majority of which relate to the existence of blood feuds in Albania.
203. This tribunal is not, however, intending to produce a country guidance case relating to the existence of blood feuds in Albania as that is not a specific issue in the appeal and the hearing has not been case managed for such purpose. The Upper Tribunal intend to produce such a decision in light of the reduction in the frequency of blood feuds and improvements in sufficiency of protection in Albania enabling it to revisit the findings in EH (Albania) which was decided in 2012, in due course.
204. Within the Respondent's documents is a copy of a letter from the British Embassy in Tirana dated 12 June 2014 in the following terms:

The British Embassy through RALON colleagues based in Tirana, routinely monitor trends in the basis for asylum claims in the UK. Involvement in a blood feud is cited by Albanian asylum seekers in the UK in a significant number of cases. In January, an intensive Embassy fact finding a visit to the North of Albania sought to assess the real extent of the problem, including meetings with NGO's, faith groups, mayors, prefects, police chiefs, and prosecutors in three towns at the centre of the regions responsible for the bulk of blood feud based asylum claims: Shkoder, Lezhe, and Kukes.

There are three main problems in tackling the blood feud: (a) the problem of defining what blood feud is, (b) the lack of objective information, and (c) the vested interests attaching themselves to the phenomena. The field visit team reached a number of conclusions based on common messages from nearly all interlocutors, including NGOs and faith groups.

Definition of "Kanun" based blood feud

Definition of blood feud is a problem: the term is used loosely in most cases. Blood feud is a long-term process guided by a series of ancient and written rules setting out the boundaries of 'taking blood'. For example in traditional blood feud, women and children are exempt. Traditional blood feud even allowed the

killer to attend his victim's funeral. But modern day criminality and revenge is just that, paying little heed to the principles of the "Kanun", except for the fact of retribution. The definition of blood feud presents a problem exacerbated by the trade in so-called "blood feud certificates". The number of asylum claimants at UK borders citing blood feuds is far greater than would be likely from those affected by genuine blood feud. Interlocutors both official and NGO suggests that genuine victims of the practice would not be able to leave their homes, let alone cross the continent.

Decline of "Kanun" and the establishment of rule of law

According to local authorities, and faith-based NGOs, this lack of objective information on blood feud is exacerbated by some NGOs with an interest in exaggerating the extent of the problem for their own purposes, including perpetuating the significance of "Kanun" in modern Albania. Blood feuds were driven by culturally understood rules from 15th century Coda ("Kanun"), the provisions of which were transmitted orally through the generations. Blood feud usually started with a dispute between families which escalates to a fight in which someone is killed. The victim's family then felt that "blood was owed" and honour could only be restored by the taking of a life of a member of the killer's family. "Kanun" more generally was a way for inhabitants of remote settlements to organise themselves in the absence of a functioning state and rule of law. The phenomenon was stamped out during the regime of the dictator Enver Hoxha, when penalties for feuding families were harsh. But the collapse of the regime in the early 1990s, and the law enforcement vacuum left in remote areas of the North by the absence of a functioning state, left space for revenge killings to reassert themselves. **"Kanun" law no longer predominates.** Since the 1990s the state has established a functioning system of law and order through local policing, prosecutors and courts. Modern revenge killings bear little resemblance to the codified, almost ceremonial aspects of "Kanun" based blood feud.

Local authority statistics

Statistics about the number of people affected by blood feud vary greatly. At one end of the scale are certain NGOs with vested interests in inflated numbers, who claim that more than 1000 families are affected. At the other end, local units of the State Police tend to estimate the lowest numbers. Most interlocutors, including from the NGO groups we met, suggested that the figure of local prosecutors were likely to be the most accurate. These figures are toward the lower end of the spectrum, slightly higher than police records, but far lower than some of the more outlandish NGO estimates. Prosecutors, we were told, have the most accurate numbers because any judgment issued by an Albanian court can be verified through the Prosecutor General. Regional prosecutors have access to this information. Indeed, the prosecutor for the Shkoder district offered to share such data with the UK agencies. The range of figures for each region are as follows: Lezhe region (mayor and prefect), 50-75 families comprising up to 390 people, whereas the police said the families were more likely to be involved in "general fighting" rather than any activity related to "blood feud" and that only nine of those could genuinely be classified as blood feud; Shkoder (prosecutor and police director), 60 families comprising 145 people; in Kukës the Deputy Mayor claimed only one family in the city, but the police claimed zero. The Chair

of the Regional Council claimed up to 180 families across Kukës region. All interlocutors suggested that the incidence of blood feud is sharply declining (except for one contact, widely suspected of selling blood feud certificates, and with a political interest in exaggerating crime levels).

Local authority support

Despite the declining trend, local authorities are active. Police and criminal justice system representatives monitor, record, and provide a degree of protection to affected families. The authorities also prosecute perpetrators. Municipalities, while facing budgetary constraints, offer social service support, home schooling and medical/psychiatric assistance to victims of blood feud. Faith groups, especially the Catholic Church and local mosques, cooperate inter-denominationally in an effort to address the problem with work to support affected families, and reconciling conflicts.

Vested interests

Vested interests and criminality play a key role in inflating the sense of the scale of the phenomenon. The Albanian press, hungry for sensation, report murders as blood feud, even in cases of straightforward gangland murders. Some local journalists have reportedly accepted money to report a murder as a blood feud in order that family members might then use the invented blood feud in an asylum bid. Others have simply invented a story, without a dispute having taken place, for the benefit of two families' immigration plans. Corrupt NGOs and local officials also blur definitions. Fake "blood feud" certificates are easily available for a price from both NGOs and local officials. The Albanian government no longer recognises blood feud "certificates" from NGOs, police or local government offices. In discussions other NGOs advised us not to extend asylum to claimants as this would, in genuine cases, only exacerbate the situation for relatives remaining in Albania. The only real solution is reconciliation of the parties in Albania.

Actions to mitigate false blood feud claims

There are a number of future possible actions to mitigate false blood feud claims. Any Albanian court judgment can be verified through the Prosecutor General's office in Tirana as the most reliable way of determining a claim. RALON in Tirana is also in a position to respond to queries from the UK asylum caseworkers via a newly introduced referral process. In cases where claimants are not subject to state persecution (as would be the case in all "blood feud" claims) local checks can verify names and ages of claimants, thereby mitigating another trend of false claims coupled with false identities.

Declining trend

The visit confirmed a generally declining trend in the incidence of genuine blood feud in Albania. Modern blood feud is very limited, and a few cases can really be defined as such, many either being fraudulently invented cases, or simply cases of common criminality and revenge. Conversations with almost all interlocutors highlighted that reference to blood feud "certificates" either produced by NGOs

or by local officials was largely pointless. Other embassies in Tirana take the same view.

Recent government action

Since the field visit, the government, which came to office in September 2013, has further stepped up efforts to tackle blood feud, including issuing revised instructions to local police services and further toughening sentences to offenders through amendments to the Albanian Criminal Code. The Albanian Criminal Code was reinforced during 2014 to provide for stiffer penalties for those convicted of blood feud killings of up to 30 years imprisonment. The government has also taken steps to tackle the problem of fake blood feud certificates and documentation. A number of arrests have taken place during 2014.

Note of earlier Country Information Guidance

Previous country information guidance on blood feud in Albania cited a 2002 NGO report in which it was claimed that “most of the houses in Northern Albania look like fortresses built of stone, with small apertures serving as windows. Even to date many Albanians shut themselves inside their houses where they remain isolated for life in order to escape from blood vengeance”. This is simply not true. Embassy staff travel widely to all parts of Albania. Most towns in Northern Albania are bustling provincial centres with no sign that “many Albanians shut themselves in for life”. The passage bears no relation to reality and is misleading. There remain a small number of such towers, but these are historical relics.

Country guidance case law

205. The current applicable country guidance case is that of **EH (blood feuds) Albania CG [2012] UKUT 00348 (IAC)** in which the Tribunal held:
- (i) While there remain a number of active blood feuds in Albania, they are few and declining. There are a small number of deaths annually arising from those feuds and a small number of adults and children living in self-confinement for protection. Government programs to educate self-confined children exist but very few children are involved in them;
 - (ii) The existence of a ‘modern blood feud’ is not established: Kanun blood feuds have always allowed for the possibility of pre-emptive killing by a dominant clan;
 - (iii) The Albanian state has taken steps to improve state protection, but in areas where Kanun law predominates (particularly in northern Albania) those steps do not yet provide sufficiency of protection from Kanun-related blood-taking if an active feud exists and affects the individual claimant. Internal relocation to an area of Albania less

dependent on the Kanun may provide sufficient protection, depending on the reach, influence, and commitment to prosecution of the feud by the aggressor clan

- (iv) International protection under the Refugee Convention, Qualification Directive or Articles 2 and 3 ECHR is not available to an appellant who is willing and intends to commit a revenge killing on return to his country of origin, by reference to that intention
- (v) Where there is an active feud affecting an individual and self-confinement is the only option, that person will normally qualify for Refugee status
- (vi) In determining whether an active blood feud exists, the fact-finding Tribunal should consider: (a) the history of the alleged feud, including the notoriety of the original killings, the numbers killed, and the degree of commitment by the aggressor clan toward the prosecution of the feud;(b) the length of time since the last death and the relationship of the last person killed to the appellant;(c) the ability of members of the aggressor clan to locate the appellant if returned to another part of Albania; and(d) the past and likely future attitude of the police and other authorities towards the feud and the protection of the family of the person claiming to be at risk, including any past attempts to seek prosecution of members of the aggressor clan, or to seek protection from the Albanian authorities;
- (vii) In order to establish that there is an active blood feud affecting him personally, an appellant must produce satisfactory individual evidence of its existence in relation to him. In particular, the appellant must establish: (a) his profile as a potential target of the feud identified and which family carried out the most recent killing; and(b) whether the appellant has been, or other members of his family have been, or are currently, in self-confinement within Albania;
- (viii) Attestation letters from Albanian non-governmental organisations should not in general be regarded as reliable evidence of the existence of a feud;
- (ix) Documents originating from the Albanian courts, police or prosecution service, if genuine, may assist in establishing the existence of a blood feud at the date of the document relied upon, subject to the test of reliability set out in **A v SSHD (Pakistan)** [2002] UKIAT 00439, [2002] Imm A R 318 (Tanveer Ahmed)

- (x) Unless factual, prompt and consistent, Albanian press reports will add little or no evidential weight in considering whether a feud exist;
 - (xi) Whether the feud continues and what the attitude of the aggressor clan to its pursuit may be will remain questions of fact to be determined by the fact-finding Tribunal.
206. Four reports written by Antonia Young have been considered. Dr Young did not give oral evidence to the Tribunal having indicated in an e-mail dated 23rd July 2013 that she was having to withdraw from the case indefinitely due to health and family reasons. Her evidence has therefore not been tested through cross-examination.
207. The first report dated 24th May 2013 sets out background country information relating to Albania from 1990 to the present, blood feuds and the law, CNR Mr Marku and reconciliation organisations, and the police and healthcare which are not specifically relevant to the issues under consideration. It is not disputed there is a history of blood feuds in Albania and the personal defence of Gjin Marku by Antonio Young is not the purpose of the report. It is also the case that these reports, dated 18th September 2011, 26th November 2011, 24th May 2013 and May 2007 have not been written with the expert having the benefit of the more comprehensive evidence that has been made available to this Tribunal.
208. We accept that weight may be placed upon such reports in relation to the historical aspects of blood feuds but not in relation to the current situation or the specific issue of whether there is a genuine subsisting blood feud between the Kaci and Burelli or Hoti families or the circumstances in which Pellumb Kaci died.
209. The report by Robert Chenciner refers to the Appellant having told his solicitors that his bother Pellumb was severely wounded in a feud and is currently hospitalised in Albania which is contrary to Mr Kaci's evidence that he did not know about his brother's situation. It is also illustrative of the incorrect information provided by Mr Kaci in relation to his matter which some may see as an attempted manipulation of the evidence to support the blood feud claim. This report is dated 6th October 2010 and again has been written without reference to all available material.

Discussion

210. This is not an appeal in which there is any agreement between the parties in relation to the key issue of whether there exists in Albania an active blood feud in relation to which the blood debt is against the Kaci family which will result in a real risk to the appellant of ill treatment or his being killed in Albania if deported. The issue is not the existence of blood feuds per se in Albania or the

risk arising from the same but the specific claimed threat sufficient to engage Article 3.

211. It is not a requirement for blood to be spilt in every case involving the Kanun, even though Mr Marku makes reference to this on more than one occasion, as any dispute can be settled by reconciliation according to the same code hence removing any obligation to 'take blood'.
212. Mr Pretzel referred in his submissions to the previous determinations of Judge's Cox and Andrew and the persuasive findings arising from the same although, as stated above, such determinations are not binding upon us under the Devaseelan principles.
213. Adjudicator Mrs C Lloyd on 3rd August 2004 found the Appellant to be capable of deceit on a large scale but accepted the account of his sister's death and her husband's subsequent death at the hands of his family members. It was not found, however, that any other person in the family had been killed and found on the basis of the country information that the UN Convention was not engaged and that if risk did exist there was an internal relocation option and a sufficiency of protection available from the authorities in Albania.
214. Professor John Ritson in a determination dated 4th February 2004 of the Appellant's sister Mimosa Bajrami (AKA: Mimosa Kaci) found her to be "quite unscrupulously prepared to lie to an Immigration Officer, to a medical practitioner, with the result that I do not consider that she would have any scruples about lying at the appeal hearing. I had not the slightest confidence in any of her evidence". Mimosa Bajrami had originally made a false asylum claim as a Kosovan, which she later changed to being an Albanian, having given a Dr Brown an account that was entirely untrue but in such a convincing manner the doctor produced a report suggesting she was suffering from PTSD, and claiming to be at risk on return as a result of her political activities as a member of her Legality Movement Party, which was without merit, and a claim to be at risk as a result of a blood feud. In paragraph 7 of his determination Professor Ritson found:

"The appellant claims that she fears a return to Albania due to the existence of a blood feud. Her evidence in this regard is extremely confused. She states that this blood feud began in 1995 when her sister was killed by her husband. She then states that she does not know why her sister was killed by her husband. She alleges but here is not evidence in support that her father's brother subsequently paid someone to kill the dead sister's husband that she and her children would be targeted if returned to Albania as part of the blood feud. Her three brothers could not be targeted she says as one of them is in prison, the other is in the United Kingdom and the third has whereabouts unknown. Since the appellant had no explanation for the initial killing and no evidence of her being targeted, has no explanation for her father who is still alive in Albania not being targeted, I

do not believe the evidence in this regard. I could not exclude the possibility that she had introduced this evidence into her appeal for self-serving reasons."

215. The material now available suggests the cause of death of Teuta Kaci, who was killed in 1995, was known to the family, that there was no evidence of Mimosa being targeted, and that Lurjan Kaci was known to have carried out the killing as he was convicted in his absence in 2001 and arrested in 2002 together with Lindita. The scenario is not that the killing was by someone hired by the uncle.
216. The determination of Judge Cox, promulgated in June 2007 considered the appeal of this Appellant's father, Mr Lufti Kaci. Judge Cox noted Lufti Kaci's case as set out in his screening interview record, statement of evidence form and asylum interview record held on 4 November 2004 in paragraph 9 of his determination. By assessing the various elements of the account, which were stated to relate solely to Lufti Kaci, Judge Cox noted that it was claimed before him that Lufti Kaci encountered problems in Albania due to his daughter being killed by her husband on 29 April 1995 when she was shot in the neck by a weapon used for hunting.
217. Lufti Kaci told Judge Cox that his daughter's murder was reported to the police and her husband only punished for six months and that such limited punishment was given because he carried a weapon illegally and that he was not punished for the murder because he just said that he killed her accidentally. The evidence available to this Tribunal contained in the transcript of the proceedings before the District Court of Tirana, in which Lufti Kaci was a witness for his son, the defendant, shows that such statement misrepresents the actual situation.
218. Similarly, Judge Cox was advised by Lufti Kaci that on 22 July 2001 Ritvan was killed although he was unaware of who killed him and that he was shot with a Kalashnikov. Judge Cox was advised that Lindita and Lurjan had been accused of Ritvan's murder but without any evidence because "this is the communists they need money. This is justice from the communist system". Lufti Kaci claimed it was possible that his brothers were responsible for Ritvan's death but not him or his children. This account is undermined by the evidence given to the District Court. Those proceedings took place in 2003 with judgment being delivered on 13 May 2003 which shows that at the date the evidence was given in its written form as part of the asylum claim or before Judge Cox orally, Lufti Kaci would have been fully aware of the cause of death, that his son was responsible for the killing, and that the District Court had found this was not a blood feud related killing but that of premeditated murder.
219. The claim before Judge Cox that after the arrest of Lindita and Lurjan people came to Lufti's house and shot at it (five or six months after the arrest) although each occasion he was not at home, is not substantiated by reliable evidence from other sources in the determination.

220. Judge Cox also noted in paragraph 16 difficulty in terms of credibility in the case lying in certain inconsistencies and implausibilities of the appellant's account, including the fact that despite the conviction of his son and daughter and what appeared to be an acknowledgement in the 2002 reconciliation agreement, the constant suggestion that those accused were wrongly accused and innocent. It was also noted in asylum interview that he claimed he had never been arrested but in a witness statement of 14 July 2007 and in oral testimony claimed to have been arrested on many occasions but also to have given a fairly vivid account of having been ill treated by the police in custody, which is also combined with a statement in a witness statement that Lindita was released under conditions of house arrest after 30 days due to lack of evidence when it emerged at the hearing that her release to house arrest was in fact a means of serving the balance of her eight years sentence. Judge Cox also noted delay in claiming asylum and found that the establishment of the three core facts were not undermined by such discrepancies. Judge Cox chose to categorise Lufti Kaci's difficulties as representing his being in a form of denial.
221. The next relevant determination is that of Judge Andrew's promulgated on 13 December 2011 which related to the appeal of Jetmira Kaci and Mr Domi. Judge Andrew took into account the findings of Judge Cox and records at paragraph 41 the evidence of the appellants before her that the blood feud continues and that they similarly would be at risk on return. It is also recorded at paragraph 42 that:
- “the first appellant claims that since her return to Albania she has been in hiding, helped by her father's friend to move to other addresses on frequent occasions. She claims that it is because she has continued to move with this frequency that she has not become a victim of the blood feud “
222. Jetmira Kaci is in the United Kingdom but did not come before this Tribunal to give oral evidence to support her brother. That is a matter for her, but this Tribunal can only make a decision based upon the evidence that is made available.
223. Although this is not an appeal against Judge Andrew's decision the Upper Tribunal has received far more evidence than was available to the First-tier Tribunals which cast significant doubt upon the credibility of the evidence that the earlier tribunals were given. In relation to the claim Jetmira needed to remain in hiding, set out in paragraph 42, Judge Andrew herself noted that this claim was contradicted by Jetmira's own evidence. In paragraph 3 it is noted by the Judge that in her VAF of 16 December 2008 Jetmira gave an address in Albania that she claimed she had lived at for two years and seven months which was inconsistent with the claim to have been moving around all the time for her personal protection.

224. As stated above, Judge Andrew found herself satisfied that the blood feud continued as a result of (a) the killing of Pellumb Kaci on 29 November 2010 and (b) the killing of the first appellant's nephew Nuri Kaci on 25 April 2011. We comment further on both issues below.
225. The Secretary of State's position appears to have been that there may have been a blood feud between the Burelli and Kaci clans but that this did not continue past the conviction of Lurjan Kaci. That was a position established prior to the disclosure for the first time in these proceedings of the transcript of the District Court judgment and other relevant evidence.
226. No basis has been established in these proceedings to go behind the decision of the Judicial Panel in Albania in which Judges of that Court not only heard evidence but also were upheld on appeal. It is also a hearing that was ordered to take place following Lurjan Kaci being arrested after an earlier conviction in his absence was overturned, and in his presence.
227. We do not accept that the fact the transcript refers to the prosecution raising the issue of the blood feud means that that was the motive for the killing. The country material relating to Albania records changes that have been made to that country's criminal code in relation to killings that may be blood feud related, as confirmed by Mr Marku, which on conviction carry a higher sentence of imprisonment. The prosecution raised this as the motive for the killing upon which argument was heard but which was rejected by the court. That transcript however also sheds light on a number of other related matters.
228. It is not disputed before us that in 1995 Ritvan Burelli killed his wife Teuta Kaci with whom he had a child. The fact such a marriage between the two families occurred indicates that good relationships must have existed between them. The judgment notes that the death was not premeditated and what follows thereafter is relevant to the question of whether following the killing of Teuta a Kanun blood feud arose. The judgment states:
- “for this reason, the defendant’s family forgave the victim, Ritvan Burelli. Based on this and in compliance with the rules of Article 284/1 of the Code of Penal Procedure (prior to the amendment - Article 8813 dated 13/06/2002) it was decided to drop the charges against the victim, Ritvan Burelli
- After this incident, the friendship between the two families remained the same level as before by visiting each other and both families maintaining normal relationships with the child”
229. The Appellant before us together with other members of his family maintained that the killing of Teuta created a blood feud and that despite Lufti Kaci wishing to seek reconciliation other members of his family would not agree nor would the Burelli family. There is evidence given by members of the National Reconciliation Committee of hostility being directed towards the Kaci family by

Ritvan unless he was forgiven by Teuta's family which appears to be evidence contrary to this judicial finding. It also appears that evidence given by Lufti Kaci to Judge Cox that Ritvan only received a six-month period of imprisonment because he used an illegal weapon (which on its face sounds illogical) is factually incorrect as he must have known based upon the facts as found and the court judgment. The reason Ritvan was released from custody is because that was the effect of the law in the relevant sections of the Penal Code in force at that time as a result of Ritvan being forgiven by Teuta's family, based upon the fact the killing was accidental.

230. Statements have been made that the fact Teuta was shot in the neck with a hunting weapons suggested it was not accidental killing but there is insufficient evidence to corroborate such claim and it appears part of a number of statements of evidence that have been made to support the claim of an ongoing existing blood feud from the killing of Teuta for the purposes of supporting the family's claim to be at risk from this point in time.
231. It is also important to consider the Kanun code. The effect of the forgiveness by the Kaci family is that there is thereafter no ongoing blood feud. Having considered the evidence very carefully it is our primary finding that although Ritvan Burelli killed Teuta Kaci this was as a result of accident for which he was forgiven by the family of Teuta Kaci as a result of which criminal charges against him were dropped and under the terms of the Kanun Code no blood feud arose. The matter was reconciled.
232. It is not disputed thereafter that Ritvan Burelli was killed by Lurjan Kaci. The District Court was specifically considering the motive for this killing as part of the process of ascertaining the correct sentence to be passed. The fact Lurjan killed Ritvan is not disputed although a plea that this event arose as a result of a lack of capacity was rejected by the District Court.
233. The Court transcript refers to relationships between the Kaci and Burelli families remaining as before the killing of Teuta after 2005 until sometime in 2007 when Ritvan remarried and thereafter started to cut contact with the Kaci family including denying them the ability to see their granddaughter. The District Court recorded that heated exchanges would often occur as a result of the child including threats by Ritvan Burelli to Lurjan Kaci that he would have the same fate as his sister. Lurjan's father Lufti Kaci is even noted as having given evidence to the effect that on some occasions the two men would fight each other. The same transcript records there being continuous provocation from Ritvan who insulted and constantly threatened to kill Lurjan, as a result of which he decided to commit the murder.
234. We make a finding of fact based upon the evidence to which we feel greater weight can properly be given that the Appellant has not substantiated his claim that the killing of Ritvan arose as a result of an ongoing blood feud. We find the

killing occurred for the reasons set out in the findings section of the transcript of the Judicial District Court of Tirana, recording the findings of the Panel of three judges who considered all the relevant evidence relating to this aspect of the claim before them.

235. We make a finding that the claims of acts of retribution by the Burelli family as a result of the killing of Lurjan have not been substantiated on the evidence before us.
236. We find the suggestion made by the Appellant and other members of his family that the killing of Pellumb arose as a result of the ongoing blood feud has not been substantiated and is in fact a further example of an attempt to manipulate a situation that has occurred for the purpose of supporting the claim that members of the Kaci family are at risk in Albania as a result of an ongoing blood feud.
237. The earlier determinations and particularly that of Judge Andrew, record that it was known back in 2011 that Pellumb Kaci died on the 29th November 2010. Attempts by members of the Kaci family to suggest this occurred as a result of the blood feud show that inaccurate/misleading evidence has been provided for the purposes of those proceedings and before us. We also note the denial of the Appellant before us and others of responsibility for producing the death certificate from which the cause of death had been omitted is implausible. We prefer the documents provided through the British Embassy in Tirana, including the copy of the original death certificate issued at the time of death as more reliable evidence upon which we can attach weight in relation to this element of the case.
238. It is clear that the evidence regarding Pellumb's death emanating from the Appellant has been contradictory. The information in the death certificate shows cause of death as cardiac arrest yet the Appellant before us stated he was shot and there is reference in the evidence we have referred to above claiming that "the gun would never stop shooting". According to Mr Coka, whose evidence we are asked to put substantial weight upon, he heard Pellumb was hit in the head/face with an iron bar although then made reference to an accident. No medical evidence has been provided to corroborate the claim by the Kaci family regarding cause of death and there is no evidence to show that the description of the body given by Mr Coka could not be as a result of the effect of death by cardiac arrest, even if credible.
239. Much has been made by the Appellant before us of the account of the Burelli family not swearing that they did not kill Pellumb but there is no admission or oath from them to the effect that they did or to show they put the same degree of importance upon the swearing of an oath under the Kanun Code as Mr Coka and Mr Marku claim they do. There is insufficient evidence before us to support the claim that Burelli or any other family were responsible for the death of

Pellumb. Their suggestion that such finding should be made by inference as a result of a failure to swear an oath does not displace the far stronger and more reliable evidence produced by the British Embassy in Tirana. We therefore make a finding of fact that the Appellant has failed to corroborate his claim that Pellumb Kaci was killed as a result of an ongoing blood feud. We make no such finding as it is our primary finding above that there is no such ongoing blood feud and, secondly, because the weight of evidence corroborates a finding that the cause of death was natural causes as a result of cardiac arrest.

240. We find that what we have been presented with is a clear example of the type of conduct referred to in the letter from the British High Commission of events that have occurred naturally within Albania being adopted by individuals in support of claims to be at risk as a result of ongoing blood feuds.
241. The evidence relating to Pellumb Kaci also exposes a further attempt to mislead the immigration and asylum tribunals. We refer above to the determination of Judge Andrew and the finding of paragraph 42 that Jetmira Kaci claimed that since returning to Albania she had remained in hiding having to move frequently to avoid becoming a victim of a blood feud. Judge Andrew in paragraph 43 noted a discrepancy in her own evidence and such a claim has now been shown to be totally without merit.
242. We have set out above the evidence provided by the Albanian authorities regarding the procedure for registering a death. In relation to the death of Pellumb his sister Jetmira Kaci is named as the informant whose residential address is given as what appears to be the family home or at a fixed residential address. Jetmira would have received a copy of the completed death certificate specifying cause of death and could not have been in hiding in fear of her life if she was openly engaging in this specific role. This supports our finding that there has been an attempt to mislead as the family would clearly have been aware of the actual cause of death from this time.
243. Judge Andrew refers to a further reason for finding that the blood feud continued which related to the killing of a nephew of Jetmira, Nuri Kaci. It is not disputed before us that this event may have occurred and we have available newspaper articles indicating that the event occurred as a result of a dispute between the family of Nuri Kaci and members of the Hoti family regarding the removal of timber from a local forest. We refer to that evidence above.
244. The claim that such an event occurred as a result of an ongoing blood feud between the Kaci family and Hoti family is not substantiated. Mr Coka referred to such a feud occurring in 1928 which, as a result of the lack of activity or evidence that it was an ongoing feud, was accepted or understood not to be ongoing. Killings relating to property disputes occur and it is not indicated in the evidence as being a unique occurrence. This is also a matter in which the police have become involved and arrested those responsible indicating a

sufficiency of protection. As stated, we do not find that the claim this is evidence of an ongoing blood feud has been substantiated. It is an incident relating to a specific course of events. It has not been established that the nature of the relationship is such as to create a risk for this Appellant on return. There is no evidence that the taking of Nuri's life created a blood feud for which the Appellant before us will have to avenge on return although even if this was the case the case law we have referred to above makes it clear that it provides no defence to him.

245. Other conflicts in the evidence include Mr Kaci's claim an oath was given whereas Mr Coka stated no oath was given, as mentioned above. The assertion of a long-standing blood feud between the Kaci and Burelli and Hoti families is undermined by the marriage of Ritvan and Teuta for if a feud was ongoing as alleged it is not likely marriage would be agreed as it is not said such marriage was one made in settlement.
246. Judge Cox in his determination described this as being a complex matter which appeared to give rise to many unanswered questions and options. If this was to be the case such that the Appellant's claim has not been adequately substantiated it warrants a decision that he has not discharged burden of proof upon him, although examination of the evidence from all sources shows that clear findings of fact may be made which we have set out above.
247. As stated above there appears to have been an attempt in the reports of Antonia Young to defend Mr Marku. It is clear from the evidence given that blood feuds and the organisation of which he is Chairman is a very important role in his life. He has created a role which is referred to in a number of international documents but criticisms that have been made regarding the evidence he has produced, which we have recorded above, give rise to genuine cause for concern as to the reliability of the documentation provided to us or the weight that may be placed upon the same. Our finding that it has not been corroborated that the alleged blood feuds exist is based upon a careful consideration of all the available evidence. Our finding that weight cannot be placed upon the evidence of Mr Marku or Mr Coka that we were invited to do during the course of submissions arises as a result of balancing the completing claims and reliability of the information received.
248. In relation to the core bundle, an analysis of the data contained therein by reference to the findings we have made is attached as Annex A to this determination. We conclude that these documents have been created for the purposes of supporting the claim such a feud exists and accordingly that little weight may be placed upon the same as evidence of any ongoing risk for any member of this family. We cannot be satisfied that the documents are accurate or credible unless stated to be so.

249. The alleged risk to the Appellant from the uncles is not substantiated. The source of this claim is mainly the Appellant himself but both he and family members have been shown to be unreliable witnesses. Insufficient evidence was received to allow us to find this element of the claim is credible or created a credible real risk.
250. We have also noted the claim that the risk to the family increased with the killing of Ritvan. This occurred in 2001 and the evidence shows the Appellant's father returned to Albania in 2004 claiming to have attempted to reconcile but without success. The claim for protection is not based on events that arose from the death of Ritvan but rather from the death of Teuta Kaci in relation to the Burelli family and from 1928 in relation to the Hoti family, and an ongoing blood feud which we have found not to be a credible claim.
251. There is no evidence the Burelli family wish to kill a member of the Kaci family as the only source of such a claim has been shown to lack credibility. As no blood feud has been shown to exist any reaction to the killing of Ritvan will be an act of criminality for which no Kanun obligation attaches. Our primary finding is that no risk of this nature has been proved to exist but if such matters had arisen, in light of the up to date information relating to activities by the authorities, it has not been established that a sufficiency protection does not exist in Albania of which Mr Kaci could avail himself or that it would be unreasonable in all the circumstances for him to internally relocate within Albania away from his home area if required. His claim he could not gain admission as a member of the Burelli family works at the airport is not substantiated or if it is fact that such would enable such an individual to be aware of his return or relocation within the country. A claim there is no place in Albania where he could not live safely has not been substantiated.
252. We find that the Appellant has not discharged the burden of proof upon him to the required lower standard to show he faces a real risk of ill treatment on return sufficient to engage Article 3 ECHR or any of the international protection provisions. He has failed to substantiate his claim there is an existing active blood feud.
253. Article 8 was also raised and has been considered in detail. The position in relation to automatic deportation appeals and the relevant law was recently reviewed by the Court of Appeal in YM (Uganda) v SSHD [2014] EWCA Civ 1292. In the lead judgment Lord Justice Aikens states at paragraphs 15 to 23:
15. The 2012 Rules were modified by ***Statement of Changes to the Immigration Rules of 10 July 2014 (HC 532)*** which were laid before Parliament on 10 July 2014. I will call these the 2014 Rules. I have set out below the relevant 2012 Rules, as amended by the 2014 Rules. I have put the new 2014 provisions in square brackets and I have crossed through the provisions of the 2012 Rules which are deleted by the 2014 Rules, in the hope that both the 2012 Rules and the 2014 Rules modifications can be plainly seen:

A362. Where Article 8 is raised in the context of deportation under Part 13 of these Rules, the claim under Article 8 will only succeed where the requirements of these rules as at [28 July 2014] are met, regardless of when the notice of intention to deport or the deportation order, as appropriate, was served.'

...

397. A deportation order will not be made if the person's removal pursuant to the order would be contrary to the UK's obligations under the Refugee Convention or the Human Rights Convention . Where deportation would not be contrary to these obligations, it will only be in exceptional circumstances that the public interest in deportation is outweighed.

[A.398. These rules apply where:

(a) a foreign criminal liable to deportation claims that his deportation would be contrary to the United Kingdom's obligations under **Article 8** of the Human Rights Convention;

(b) a foreign criminal applies for a deportation order made against him to be revoked.]

398. Where a person claims that their deportation would be contrary to the UK's obligations under Article 8 of the Human Rights Convention, and (a) the deportation of the person from the UK is conducive to the public good [and in the public interest] because they have been convicted of an offence for which they have been sentenced to a period of imprisonment of at least four years; (b) the deportation of the person from the UK is conducive to the public good [and in the public interest] because they have been convicted of an offence for which they have been sentenced to a period of imprisonment of less than 4 years but at least 12 months; or (c) the deportation of the person from the UK is conducive to the public good [and in the public interest] because, in the view of the Secretary of State, their offending has caused serious harm or they are a persistent offender who shows a particular disregard for the law, the Secretary of State in assessing that claim will consider whether paragraph 399 or 399A applies and, if it does not, ~~it will only be in exceptional circumstances that the public interest in deportation will be outweighed by other factors~~ [the public interest in deportation will only be outweighed by other factors where there are very compelling circumstances over and above those described in paragraphs 399 and 399A.]

399. This paragraph applies where paragraph 398(b) or (c) applies if – (a) the person has a genuine and subsisting parental relationship with a child under the age of 18 years who is in the UK and (i) the child is a British citizen; or (ii) the child has lived in the UK continuously for at least the seven years immediately preceding the date of the immigration decision; and in either case (a) ~~it would not be reasonable to expect the child to leave the UK~~ [it would be unduly harsh for the child to live in the country to which the person is to be deported]; and (b) ~~there is no other family member who is able to care for the child in the UK~~ [it would be unduly harsh for the child to remain in the UK without the person who is to be deported]; or (b) the person has a genuine and subsisting relationship with a partner who is in the UK and is a British citizen, [or] settled in the UK, ~~or in the UK with refugee leave or humanitarian protection,~~ and (i) the person has lived in the UK with valid leave continuously for at least the 15 years immediately preceding the date of the immigration decision (discounting any period of imprisonment) and (ii) ~~there are insurmountable obstacles to family life with that partner continuing outside the UK~~ [(i) the relationship was formed at a time when the person (deportee) was in the UK lawfully and their immigration status was not precarious; and (ii) it would be unduly harsh for that partner to live in the country to which the person is to be deported because of compelling circumstances over and above those described in paragraph EX.2 of Appendix FM; and (iii) it would be unduly harsh for that partner to remain in the UK without the person who is to be deported].

~~399A. This paragraph applies where paragraph 398(b) or (c) applies if – (a) the person has lived continuously in the UK for at least 20 years immediately preceding the date of the immigration decision (discounting any period of imprisonment) and he has no ties (including social, cultural or family) with the country to which he would have to go if required to leave the UK; or (b) the person is aged under 25 years, he has spent at least half of his life living continuously in the UK immediately preceding the date of the immigration decision (discounting any period of imprisonment) and he has no ties (including social, cultural or family) with the country to which he would have to go if required to leave the UK.~~

~~[(a) the person has been lawfully resident in the UK for most of his life; and (b) he is socially and culturally integrated in the UK; and (c) there would be very significant obstacles to his integration into the country to which it is proposed he is deported].~~

~~399B. Where paragraph 399 or 399A applies limited leave may be granted for periods not exceeding 30 months. Such leave shall be given subject to such conditions as the Secretary of State deems appropriate. Where a person who has previously been granted a period of leave under paragraph 399B would not fall for refusal under paragraph 322(1C), indefinite leave to remain may be granted.~~

[where an **Article 8** claim from a foreign criminal is successful:

(a) in the case of a person who is in the UK unlawfully or whose leave to enter or remain has been cancelled by a deportation order, limited leave may be granted for periods not exceeding 30 months and subject to such conditions as the Secretary of state considers appropriate;

.....]

[399C. Where a foreign criminal who has previously been granted a period of limited leave under this Part applies for further limited leave or indefinite leave to remain his deportation remains conducive to the public good and in the public interest notwithstanding the previous grant of leave.]

[399D. Where a foreign criminal has been deported and enters the United Kingdom in breach of a deportation order enforcement of the deportation order is in the public interest and will be implemented unless there are very exceptional circumstances].

16. The *Statement of Changes in the Immigration Rules HC 532* said, under the heading "Implementation", that the changes set out in paragraphs 14 to 30 of this statement would take effect on 28 July 2014 and would apply to all ECHR Article 8 claims from foreign criminals which were to be decided on or after that date. The changes in paragraphs 14 to 30 include the new 2014 Rules I have set out above.

17. An explanatory memorandum was attached to the Statement of Changes made to create the 2012 Rules. It set out the view of the Government on the relationship between the 2012 rules and **Article 8**. Paragraph 4.3 stated:

"These changes to the Immigration Rules will come into force on 9 July 2012, except as in paragraph 4.4 below.^[8] However, if an application is made before 9 July and the application has not been decided before that date, it will be decided in accordance with the rules in force on 8 July 2012, regardless of the date that [the] decision is made. The assessment of Article 8 in deportation proceedings will follow the rules in place on the date on which that consideration is made, regardless of when a person was notified of the Secretary of State's intention to deport them."

18. Paragraph 7.2 stated, in part:

"...The rules will set proportionate requirements that reflect the Government and Parliament's view on how individuals' **article 8** rights should be qualified in the public interest to safeguard the economic well-being of the UK by controlling immigration and to protect the public against foreign criminals. This will mean that failure to meet the requirements of the rules will normally mean failure to establish an **article 8** claim to enter or remain in the UK and no grant of leave on that basis. Outside exceptional cases, it will be proportionate under **article 8** for an applicant who fails to meet the requirements of the rules to be removed from the UK".

19. An explanatory memorandum was also attached to the Statement of Changes made to create the 2014 Rules. Paragraphs 3.4 , 3.5 and 4.7 provide:

"3.4. The changes relating to family and private life will come into force on 28 July 2014, in line with the commencement of section 19 of the Immigration Act 2014. The Home Office regrets that it was not possible to finalise this Statement of Changes on a basis that, consistent with normal practice, would have allowed the changes to be laid at least 21 days prior to their coming into force. This is because many of the changes to the Immigration Rules need to coincide with the coming into force of sections 17(3) and 19 of the Immigration Act 2014 on 28 July 2014.

3.5. However, the substance of those changes which concern the alignment of the Immigration Rules relating to family and private life with sections 117B, 117C and 117D of the Nationality, Immigration and Asylum Act 2002, inserted by section 19 of the 2014 Act, along with section 94B of the Nationality, Immigration and Asylum Act 2002, were extensively debated by both Houses of Parliament during the passage of the Immigration Act.

4.7. The changes set out in paragraphs 14 to 30 of this statement take effect on 28 July 2014 and apply to all ECHR Article 8 claims from foreign criminals which are decided on or after that date."

Paragraphs 14 to 30 of the statement contain the amendments to the provisions of the 2012 Rules that I have set out above, ie. the 2014 Rules.

20. On 13 June 2012 the Home Office had issued a statement entitled "Immigration Rules on Family and Private Life: Grounds of Compatibility with **Article 8** of the European Convention on Human Rights". This statement said at paragraph 20 that:

"The intention is that the rules will state how the balance should be struck between the public interest and private right, taking into account relevant case law, and thereby provide for a consistent and faire decision-making process. Therefore, if the rules are proportionate, a decision taken in accordance with the rules will, other than in exceptional cases, be compatible with **article 8**."

21. Paragraph 67 of the same document accepted that there could be cases where a discretion might be used to grant leave to remain outside the new rules. However, it was considered that those cases would be rare, since the new rules reflected the Government's view on how the balance should be struck "between individual rights under **article 8** and the public interests in safeguarding the UK's economic well-being in controlling immigration and in protecting the public from foreign criminals".

22. This document has apparently not yet been revised in the light of the 2014 Rules.

23. At the time of the 2012 Rules the SSHD also issued immigration directorate instructions, chapter 13 of which is stated to explain how decision makers consider claims that the deportation of a foreign criminal would be in breach of his **Article 8** rights. The chapter is entitled "Criminality Guidance for **article 8** ECHR cases". The latest version (5.0) is dated 28 July 2014 and is clearly intended to reflect government thinking on how the new

sections 117A-D and the 2014 Rules should be interpreted by case workers when they have to apply these provisions.

254. It is accepted the Appellant has lived in the United Kingdom since 2000 and has various family members here who currently have status arising out of previous determinations of the First-tier Tribunal. Insufficient evidence has been provided to establish the existence of family life recognised by Article 8 with such family members and it was noted that there are also family within Albania where Mr Kaci spent a considerable part of his life and where it has been found he can be safely returned.
255. Mr Kaci has a relationship with a United Kingdom national, Sophie House, with whom he has lived for some time with whom he has a son born on 18 June 2001. He have given careful consideration to the best interests of the child in out deliberations and afforded them proper status and weight. It is not disputed Mr Kaci and Sophie House live in the United Kingdom and undertook a traditional marriage in 2004, although cohabitation commenced in early 2005 and after his release following a period of imprisonment, although visits did occur whilst he was in prison.
256. The serious nature of the offence and duration of the sentence shows there is a high threshold the Appellant needs to prove he can cross before he is able to succeed in relation to his family and private life in the United Kingdom, such as to overcome the automatic deportation order that has been made against him.
257. It is accepted that if Sophie House wishes to remain in the United Kingdom this family will be split but that is the effect of deportation. The public interest in deportation will only be outweighed by other factors where there are very compelling circumstances over and above those described in paragraphs 399 and 399A. Having carefully examined the points made in his favour in relation to Article 8, we do not find that even if this family unit are separated and the Appellant removed from his son's life, that such very compelling circumstances have been established. The Secretary of State has discharged the burden of proof upon her to show that removal, notwithstanding its effects, is proportionate and in accordance with the law.

Decision

258. **The First-tier Tribunal Judge materially erred in law. His decision has been set aside. We remake the decision as follows. This appeal is dismissed.**

Anonymity.

259. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

We make no such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 as no justification of making such an order has been established on the facts.

Signed.....
Upper Tribunal Judge Hanson

Dated the 18th February 2015

Appendix A

Index	Document	Page No. of Source Bundle	Observations
1	30-12-1995 - Teuta Kaci	1-4	Alleged meeting of missionaries in December 1995. Incomplete translation. Little evidential value. No explanation for why meeting called in December when death occurred in April 1995 and matter was reconciled between the families unless it pre-dates reconciliation in which case it is of historical interest only. Illegible signature on document.
2	9-09-1998- Teuta Kaci	5-8	Alleged note of meeting regarding Hoti and Burelli families. Little evidential value as information limited and reference to reconciliation not explained in light of evidence the Burelli and Kaci were reconciled. Unless it pre-dates reconciliation in which case it is of historical interest only. No signature.
3	19-09-1998- Teuta Kaci	9-12	Not translated in Source Bundle. Not admissible as evidence must be in English or accompanied by a certified translation.
4	31-12-	13-14	Note of information from third party (wife of a friend of

	1998- Teuta Kaci		alleged informant of a rumour/ gossip) of alleged difficulties in marriage between Ritvan Burelli and Teuta Kaci. Claim of ongoing hostility between Kaci and Hoti family claimed but note alleges conversations regarding Ritvan's behaviours between women of Hoti and Kaci family indicating some interaction between them.
5	16-01- 1999	15-20	<p>Page 19 translation dated 2-02-2001. Alleged record of conversation with Lindita Kaci reference blood feud with Kaci family. Claim the family been in confinement for six months. Representatives sent failed to agree. Attempted kidnap of daughter and other family members such as Ndrim threatened.</p> <p>Little evidential value as evidence shows was reconciliation and no active blood feud between Burelli and Kaci family following death of Teuta. Claim to have been in hiding not substantiated. Claim this appellant (Ndrim) threatened at this time not substantiated as he entered the UK on 6th July 2000 and made the false claim for asylum in another name. He was not in Albania at this time.</p> <p>Page 20 - 9-02-2001 document. Translation of letter allegedly from Lindita claiming no reconciliation with Burelli family and situation getting worse. Attempted reconciliation failed. Claim that as a result of threat received Ndrim is not safe and had to flee to UK although they want to know where he is to take revenge.</p> <p>Little evidential value as reliable evidence is of successful reconciliation. Claims not substantiated by reliable evidence. Ndrim could not have fled in 2001 as a result of threats in Albania as he entered the UK in July 2000 as stated above. No reliable evidence of ongoing threats. Asylum claim made by Ndrim in 2000 makes no mention of any such problem in Albania.</p> <p>The letter is also written by Lindita whose evidence raised credibility issues when considered by Judge Andrew in relation to a claim to have been in hiding and constantly on the move for her own safety in addition to the credibility issues relating her being named in the death certificate of her brother Pellumb Kaci and the lack of credibility in her denial of the same.</p>
6	9-02-01 - Jetmira Kaci	21-26	Note dated 16-01-99 allegedly reporting on a meeting with named individuals and recording great concerns with the relationships between the Kaci and Hoti families and

			<p>disputed within the Kaci family regarding the taking of blood for the death of Teuta.</p> <p>Little evidential value as reliable evidence establishes there was reconciliation between Burelli and Kaci families following the death of Teuta. There is no evidence of an active feud between the Hoti and Kaci families at this time. Any feud that may have arisen in 1928 was not active.</p>
7 (marked 8 in bundle index)	9-02-2001 -Jetmira Kaci	27-34	<p>P. 30 translation of note dated 09-02-01. Unsigned note of meeting and alleged risk of murder.</p> <p>P. 34 translation of note dated 10-04-01 Unsigned. Note of meeting regarding alleged information about attempts of Burelli family to threaten Kaci family with police has accused Kaci family of wanting to kidnap girl.</p> <p>The reliable evidence indicates problems between the Burelli and Kaci family following the remarriage of Ritvan in 1997 and his actions in preventing the Kaci family from ongoing contact to their grandchild/niece, the daughter of Teuta. If this is a reference to this event it is not related to the blood feud. Ritvan was alive at this time not being killed until 22 July 2001.</p> <p>Very little evidential value as support for claim of ongoing blood feud. Evidence of attempt to manipulate evidence for this purpose?</p>
8 (marked 8/1 in bundle index)	10-04- 2001 - Jetmira Kaci	31-34	Overlap with item 7 – see above.
9	09-02- 2001	35-38	<p>P38. Translation dated 9-09-01. Note of information received that neighbourhood knows Ritvan murdered by uncles who made Lufti responsible.</p> <p>Little evidential value as proof of ongoing feud. Source that rumour not identified. Mere supposition. Verdict of District Court makes clear finding regarding person responsible for Ritvan's death.</p> <p>Suspicion does not prove fact.</p>
10	28-11- 2001 - Jetmira Kaci	39-42	Note of meeting purportedly in relation to Kaci, Burelli, Hoti families. Discussed ties between Burelli and Hoti families.

			Little evidential value in relation to proof of ongoing blood feud as no such feud established on the basis of reliable evidence.
11	21-01-2002	43-46	<p>Note from named individual to Mr Marku. Unsigned. Post killing of Ritvan Burelli claiming blood feud aggravated between Kaci family and Burelli and Hoti family.</p> <p>See comment above regarding reliable evidence not establishing an ongoing blood feud between the Burelli and Hoti families. No basis for claiming ongoing feud re Kaci-Hoti as no evidence to substantiate the same. Of little evidential value.</p> <p>Transcript of judgment of District Court of Tirana regarding Lujan Kaci.</p> <p>See above.</p>
11/2	13-05-2003 - Jetmira Kaci.	47-61	
12	25-06-2003 - Jetmira Kaci	62-65	<p>Note of meeting with missionaries alleging attempted kidnapping of Jetmira and the intervention of Luzime Domi to protect her.</p> <p>This is the account in relation to which contradictory evidence has been given by Mr Coka who stated that only Luzime Domi was present and that he had never met Jetmira and Mr Marku who stated this is his recollection from information provided by Mr Coka which Mr Coka denies. Little evidential value in light of contradictory accounts. No reliable evidence Jetmira was present at this time and place.</p>
13	25-06-2013 - Jetmira Kaci	66-69	<p>Note recording Luzime Domi very upset with neck marks.</p> <p>Evidence of marks following events described by Mr Coka. Not persuasive of claimed Burelli - Hoti - Kaci feud.</p>
14	25-06-2003 - Jetmira Kaci	70-74	<p>Record of note of event recording Lulzime and her concerns regarding her sister Jetmira.</p> <p>Events regarding Lulzime as described by Mr Coka. But see</p>

			above re: key issues. No reliable evidence Jetmira was present at 25-06-2003 event.
15	26-06-2003 - Jetmira Kaci	74-77	<p>Note of alleged meeting with Secretary of QPM. Mention of “day before Lulzime and Jetmira have been attacked by traffickers” and “On 25 she intervened to defend her sister who was being kidnapped for trafficking purposes and together they struggled with the traffickers”.</p> <p>Mr Coka in his evidence stated he had not heard that the women of the Kaci family were being targeted by traffickers.</p> <p>Mr Coka’s evidence was that Jetmira was not present on the 25th event, it was only Lulzime.</p> <p>There is no reliable evidence to support a claim this was an attempted abduction by traffickers for the purposes of trafficking.</p>
16	28-006-2003 - Jetmira Kaci	78-81	<p>P. 81. Translation of a letter purportedly from another NGO to Mr Marku. Alleging heightened risk from members of Kaci family. Claiming Lulzime and Jetmira present on 25th June when they were attacked but stating they have additional protection now. Claiming serious case that been followed since 1995.</p> <p>Little evidential weight as (a) country guidance case and country material shows little weight can be put on letters from NGO’s due to the production of false information/letters/certificates. No reliable evidence to support bona fides of Centre of Reconciliation Missionaries in Albania in this regard, (b) claim Jetmira was present on 25th June is not substantiated. See above.</p>
17	9-07-2003 - Jetmira Kaci	82-85	<p>Note, unsigned and not sourced of claim Burelli is continuously interested in Jetmira who has been continuously targeted by traffickers of KI Burelli.</p> <p>Little evidential value as provenance not established. Claim Jetmira was targeted on 25th June not been shown to be true. Claims not supported by reliable evidence. Jetmira shown to be dishonest witness. Claim to have to go into hiding on return from UK been shown not to be credible by own and other reliable evidence.</p>
18	12-09-2003 -	86-89	<p>Note of meeting with named individuals. Not signed. Claim Hoti and Burelli families declare they are going to</p>

18/1	Jetmira Kaci	90-93	<p>take blood from Kaci family.</p> <p>Claim Lulzime defended her sister Jetmira from traffickers.</p> <p>Claim traffickers targeting Jetmira as she is younger and preferable to traffickers.</p> <p>Repeat of issues raised above – see comments made.</p> <p>Verification of blood feud letter issued by Mr Marku.</p> <p>The letter claims the Burelli – Kaci case was archived at request of Lufti Kaci. Reliable evidence establishes no ongoing feud exists between these families as the matter was settled following the death of Teuta.</p> <p>Letter refers to killing of members of both families and the treat to the Kaci family of a blood feud and claims of need to abandon properties and settle elsewhere and that no reconciliation reached.</p> <p>Weight to be given to such verification letter is an issue in light of material referred to above regarding the production of false letters for financial gain.</p> <p>Death of Ritvan occurred in July 2001 and claims family in hiding not substantiated.</p> <p>Other reliable evidence not support claims made.</p> <p>Blood feud certificate issues by the ‘Headman’ and Chairman of the Municipality asserting a blood feud between Kaci and Burelli family back to April 1995. A claim reconciliation between the families was not possible, that members of the family have been in confinement and are currently in England for this reason.</p> <p>Weight to be given to such verification letter is an issue in light of material referred to above regarding the production of false letters for financial gain.</p> <p>Claim blood feud Kaci – Burelli existed since 1995 not supported. Reliable evidence shown the same was reconciled.</p> <p>Confinement claim not supported by other evidence. Claim</p>
	24-03-2004 – Lufti Kaci		

18/2	26-10-2002	94-97	family in UK for this reason not supported by available evidence although if this is the case the applications of visit visa and statement made in support of the same must have been fraudulent as they had no intention of returning to Albania.
19	12-03-2005 - Jetmira Kaci	98-101	<p>Note of meeting claiming Jetmira remains target of traffickers as before and has escaped kidnap attempts on several occasions.</p> <p>Little evidential value as previous claims re: Jetmira not corroborated by the available evidence.</p> <p>Jetmira entered the UK with a visit visa in 2004 and in October 2004 claimed asylum which was found not credible. She was not removed until January 2005. It is not clear when there various attempts were that she escaped from. The dismissal of her asylum claim and removal arose as it had not been established she faced a real risk if returned to Albania.</p>
19/1	20-08-2005 - Lufti Kaci	102-109	<p>P. 105 is a verification letter from Mr Marku in similar terms to that appearing on page 93 above but with the date and protocol number changed. See above for observations.</p> <p>P.109 is a translation of a letter from Bana Association another NGO claiming the blood feud had worsened with a new killing, that of Pellumb Kaci. It is in this note it is claimed a representative of Bena was told by the Burelli family that the firearm will not stop shooting from now on.</p> <p>Little evidential weight as (a) country guidance case and country material shows little weight can be put on letters from NGO's due to the production of false information/letters/certificates. Insufficient reliable evidence to support bona fides of Bena Association in this regard. The claim the blood feud has worsened is undermined by reliable evidence that there was no ongoing blood feud and claim Pellumb was killed has been shown to be untrue as he died of natural causes.</p>
19/2	30-11-2010 - Pellumb Kaci	106-109	Overlap with 19/1. See above.

19/3	23-12-2010 – Nikoll Lleshi	110-113	<p>P.113. Translation of letter from NGO to Mr Marku from Humanitarian organisation Besa 03.</p> <p>Reference in letter to enmity and aggression of Burelli and Hoti family and need to monitor the same for protection of daughters of Lufti Kaci who were attacked by criminals after the killing of Ritvan.</p> <p>See reference above to letters from NGO's and weight issue.</p> <p>The reference to the attack upon the daughter by members of the Burelli family is to the 2005 incident that is mentioned above. No other details of other attacks are specified in the letter.</p> <p>The reference to the murder of Pellumb Kaci has been shown to be incorrect by reference to evidence of death by natural causes that was known to the family as Jetmira was the informant. The claim it is the turn for the Kaci family to take blood will not provide a defence, if true, although the evidence does not support such a contention.</p> <p>The claim the murders of Pellumb are being hidden has been shown to lack credibility as he died of natural causes.</p>
20	7-12-2010 – Pellumb Kaci	144-119	Note to Mr Marku from Mr Coka of discussion with others regarding Pellumb Kaci. Mentions Hoti clan but little evidential value in relation to the key issues in the appeal.
21	20-12-2012 – Pellumb Kaci	120-123	Note lacking detail of an alleged meeting with a cousin of Ritvan Burelli and unnamed individual.
21/1	30-08-2012 – Pellumb Kaci	124-127	<p>P.127. Translation of Certified Statement issued by Bena an NGO. See above regarding weight issues in relation to such evidence.</p> <p>The certificates claims the Kaci family have been involved in a blood feud with the Kaci family since 1995 but reliable evidence established the killing of Teuta was reconciled and no such feud existed.</p> <p>The certificate refers to the death of Ritvan and assertions in relation to the same whereas the verdict of the District Court clearly established responsibility for the killing.</p> <p>The claim Pellumb was killed in blood revenge by Burelli</p>

			<p>and Hoti has been shown by reliable evidence to be untrue as he died of natural causes.</p> <p>This document is of very little evidential value</p>
22	21-10-2012 - Pellumb Kaci	128-131	<p>A document from Mr Coka claiming that since the murder of Pellumb Kaci the situation has worsened and the Burelli and Hoti family claim they will destroy the Kaci tribe.</p> <p>By the date of this letter the cause of death was known as natural causes. There is insufficient credible evidence to establish Pellumb was killed or to support the claim of an ongoing feud.</p> <p>Little weight may be placed upon this document.</p>
23	19-11-2013 - Pellumb Kaci	132-136	<p>P 136. Translation for note purportedly from Lulzime Kaci to Mr Marku claiming his death and hospital records have been manipulated and claiming Pellumb did not die of a heart attack.</p> <p>The reliable evidence both in relation to cause of death and verification of certificate and existence of the medical doctor undermine this claim. The reliable evidence shows that Pellumb died of a heart attack. Attempts to claim otherwise and to make unsubstantiated assertions regarding this issue have little evidential value. They are illustrative of an attempt to discredit evidence deemed contrary to the claim by members of this family.</p>
24	7-04-2014 - Pellumb Kaci	137-143	<p>P. 140 translation of verification document provided at request of Mr Marku prepared by Notary.</p> <p>The text appears to relate to a schedule of killings recording at number 4255 - Pellumb Kaci - motive blood feud, date 29-11-2010, place Tirana, damaged - Burelli family, procedure - non reconciliation.</p> <p>If this is a document created by Mr Marku and held by the NRC this is of little evidential value as it fails to identify the source of the information within the same and is contrary to reliable evidence establishing the cause of death as natural causes, which the author of the document appear to ignore.</p>
25	1-05-2014 - Pellumb Kaci	145-148	<p>P. 148 is a translation of a report from Mr Marku explaining the sources of information regarding killings in Albania.</p>
26	06-09-	149-	<p>Birth certificate of Lufti Kaci.</p>

	2004	152	
27	Copy passport of Luzime Domi	153-156	Poor copy of document.
28	27-03-2014 - Teuta Kaci	157-160	P. 160. Translation of Certificate issued by Republic of Albania, Ministry of Justice, Institute of Forensic, containing a summary of the outcome of the autopsy report on Teuta Kaci carried out in 1995 which concluded cause of death as traumatic-hemorrhagic shock. The certificate was issued upon the request of the family.