



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: AA/07160/2015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 1<sup>st</sup> March 2016**

**Decision & Reasons Promulgated  
On 9<sup>th</sup> March 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MAHMOOD**

**Between**

**K I  
(Anonymity Direction Made)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Miss K Wass, Counsel

For the Respondent: Ms A Fujiwala, Senior Presenting Officer

**DECISION AND REASONS**

1. This matter comes before me pursuant to permission having been granted by Upper Tribunal Judge Goldstein dated 12 January 2016. The appeal relates to a decision by First-tier Tribunal Judge Amin promulgated on 2 October 2015. The Judge dismissed the appeal on all grounds including on protection grounds.

2. The Appellant's claim is in respect of a risk on return based on a blood feud. He was a minor at the time and is still aged under 18. The grounds of the appeal to the Upper Tribunal can be summarised as follows:
  - (1)The Appellant's minority made it obvious that at the time the blood feud was called, the Appellant could only have been told about it by his parents and therefore this was not a credibility point;
  - (2)The background evidence contradicted the Judge's findings that minors would not be the targets of blood feuds;
  - (3)The findings when read with the Country Guidance are unclear;
  - (4)It would be unduly harsh to expect this minor to seek to relocate within Albania on his own;
  - (5)The Judge's findings that the Appellant's claim is based on hearsay and/or speculation is wrong.
3. At the hearing before me Miss Wass said she largely relied on the grounds of appeal which had been drafted by Counsel who had appeared at the hearing. The grounds were supplemented with further matters raised in the application to the Upper Tribunal. It was said that the Judge's incorrect view that the case was based on hearsay and speculation went to all of the reasoning in her decision. The Appellant was only a minor at the time of the application and so incorrect weight had been given to the evidence. The Appellant's knowledge would indeed only be hearsay.
4. As was acknowledged by First-tier Tribunal Judge Landes, Ground Two of the Appellant's grounds had force. This related to the self-confinement. This finding was in conflict with the objective evidence. Miss Wass took me through the other written grounds and in particular said she could not elaborate much further in respect of the written grounds at 4 and 5. In respect of internal relocation and sufficiency of protection there were also errors as set out in the renewed grounds. The Appellant was aged 16 at the time of the hearing. He had been granted Discretionary Leave to Remain. This was not a case in which age was disputed.
5. Ms Fijiwala said that she relied on the Rule 24 Reply. In respect of the hearsay and speculation point the Judge had also looked at the background material. The Appellant's account was not consistent with the Kanun. I should look at paragraphs 5 and 37 **EH (blood feuds) Albania CG** [2012] UKUT 00348 (IAC). The case had been provided to the Judge. Children under 15 and women are not usually killed. The 5 year trigger event is relevant because the Appellant was aged under 15. The renewal of the blood feud was relevant to the 5 year anniversary so the Judge was entitled to consider it in the

context of the objective evidence. The Appellant's father had been released in any event.

6. As for Ground Two the father had remained in the same home after prison. At paragraph 43 the Judge noted that the Appellant was in self confinement. There was no material error of law. In respect of Ground Three it was accepted that the mother was not in prison.
7. As for Grounds Four, Five and Six it was submitted that there was a sufficiency of protection and internal relocation was a viable option. There were clear findings which were properly reasoned. The Judge noted the case of **EH** and the objective material. The Judge also referred to the objective material referred to within the Respondent's Reasons for Refusal Letter.
8. Overall it was submitted that the grounds were a mere disagreement with the findings.
9. In reply Miss Wass referred to the original skeleton argument at paragraph 8 which referred to other background material. It was submitted that there were a number of issues where the Judge had failed to consider the objective evidence.
10. I had reserved my decision which I shall now provide.
11. In my judgment the Judge's decision is fatally flawed. That is for a number of reasons. Firstly, the Appellant is still a minor. There has not been a dispute about his age. He was 16 at the time of the hearing before the Judge and would obviously have been much younger when the events he alleges would have occurred. Therefore as a young child it is not surprising that what he had relayed had been told to him by others, such as his parents. That is indeed hearsay but that is not unusual in this jurisdiction and perhaps not unusual at all when considering the context of this particular claim. I therefore conclude that the Judge materially erred in law in respect of the diminished weight or lack of belief she applied to the Appellant's evidence because it was hearsay.
12. Secondly, I also consider that the Appellant's grounds in respect of the background material to be made out. In my judgment it was clear that the Country Guidance decision in **EH** was not saying that children are not the victims of blood feuds, but that they are not in the usual case. The skeleton argument at paragraph 8 along with the further background material highlighted to the Judge showed this to be so. It was therefore an error of law for the Judge to conclude that a ten year old would not be the subject of a blood feud. That is not what the background material or the Country Guidance had actually said. That too was therefore a material error of law.

13. Thirdly, I note that the Appellant's evidence was that reconciliation has been attempted but it was refused. This too required a clear decision from the Judge. Therefore as for issues of internal relocation and sufficiency of protection, the law is set out in the House of Lords decisions in **Horvath** and in **AH (Sudan) v Secretary of State for the Home Department**. The latter guides whether it would be unduly harsh or reasonable for the Appellant to seek to relocate within Albania. It was against the particular circumstances of this Appellant, accepted to be a child that needed to be considered, albeit with the conundrum of there being no return of him until he is over 18 years of age. In my judgment, with the particular difficulties in respect of the findings in respect of the basic aspects of the claim, coupled with the fact that the Appellant is accepted to require Discretionary Leave to Remain as there are no adequate reception facilities for him on return to Albania, also show material error in the way in which the Judge dealt with these issues.
14. What is of particular concern in this case is that the Appellant is a minor. It does therefore mean that the considerations set out in the Country Guidance and the assessment of the appeal more generally required a different approach to that adopted by the Judge. That is even if one puts to one side the fatal flaws in respect of the finding that the evidence from the Appellant was hearsay or speculation.
15. Having reflected on the matter I conclude that there are material errors of law in the Judge's decision. The Judge's decision is set aside and shall be reheard at the First-tier Tribunal. None of the findings of the Judge shall remain.

### **Notice of Decision**

The decision of the First tier Tribunal contains material errors of law and is set aside.

There shall be a rehearing at the First Tier Tribunal

An anonymity direction is made.

Signed

Date: 1<sup>st</sup> March 2016

Deputy Upper Tribunal Judge Mahmood

