



UPPER TRIBUNAL
(IMMIGRATION AND ASYLUM CHAMBER)

APPEAL NUMBER: AA/11783/2015

THE IMMIGRATION ACTS

Heard at Field House
On 21 March 2016

Decision and Reasons Promulgated
On 27 April 2016

Before

Deputy Upper Tribunal Judge Mailer

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

[BASIR K]

NO ANONYMITY DIRECTION MADE

Respondent

Representation

For the Appellant: Mr P Duffy, Senior Home Office Presenting Officer

For the Respondent: Mr R Spurling, counsel (instructed by Virgo Solicitors)

DECISION AND REASONS

1. I shall refer to the appellant as “the secretary of state” and to the respondent as “the claimant.” The claimant is a national of Albania.
2. On 15 November 2012 the claimant made a claim for asylum, humanitarian protection and human rights. His application was refused in December 2012 but he was granted discretionary leave to remain here until 29 January 2015 as he had been an unaccompanied minor. On 25 August 2015 the secretary of state refused his application submitted on 28 January 2015 for further leave to remain in the UK.

3. In a decision promulgated on 14 January 2016, First-tier Tribunal Judge Coutts allowed his appeal on asylum and human rights grounds. The claimant had alleged that he was involved in an active blood feud and would be a potential target.
4. The secretary of state did not accept that his family was involved in an active blood feud or that he would be a potential target even if the feud did exist. Moreover, he could relocate to another area in Albania without fear of persecution, having regard to his age, state of health, and the education he has obtained in the UK. Further, it was not accepted that the Albanian authorities would be unable to offer him a sufficiency of protection if he were returned to Albania [28].
5. The Judge found the claimant's claim to be credible [29]. The claimant's father had been accused in 1997 of killing Mr Arben [C]. At the end of 2008 the [C] family sent a man to the claimant's family home with a message that 'blood would only be settled against blood' and that a blood feud existed between the families. The claimant was told that if he were found outside the family home he would be killed. The [C] family had been in exile in Greece and having returned to Albania, the sons 'thereby starting the blood feud' [20].
6. The claimant contended that in consequence, he, his brother and their father stayed indoors and did not go out. He and his brother stopped going to school. A maternal uncle supported them. They lived off vegetables grown on a small area of land at the back of their home.
7. On 21 January 2009, the claimant's father went to Skhoder to meet the [C] family to try to reconcile the blood feud. However, Arben [C]'s sons shot the claimant's father, injuring him in his arm. He was hospitalised for several days. The matter was reported to the police, who arrested a member of the [C] family for being in possession of illegal weapons. No action was taken against two of the other brothers of the [C] family.
8. A few days after the shooting the claimant's father was released from hospital. The family sent an elderly man to their home to confirm that the blood feud was still in existence. Attempts at reconciliation did not succeed. Nothing further was heard from the police after an attempt was made to involve them on behalf of the family [23].
9. Although the claimant's father wanted the whole family to leave Albania, he could not raise sufficient funds for the whole family and instead arranged for the claimant to leave. He left on 13 October 2012 with the help of an agent, arriving in the UK three days later, after which he claimed asylum.
10. The Judge accepted his evidence relating to the [C] family leaving Albania for Greece after Arben [C] was killed. That explained the existence of the blood feud being declared only in 2008. The assertions were in line with the objective evidence on Kanun feuds [30].
11. The "objective evidence" suggested that internal relocation within Albania was not a realistic option in the case of a blood feud. The Judge found that the claimant would therefore be at risk on return. He had regard to the framework of factors relevant to

the claimant's circumstances as set out in the country guidance decision of EH (Blood Feuds) Albania CG [2012] UKUT 00348 (IAC) [30-31].

12. The Judge assessed the factors from that decision, relevant to his circumstances. He found that the blood feud between the [C] and [K] families would remain dormant while the [C] family were outside Albania. Their commitment to the blood feud was demonstrated by the formal declaration after the [K] family were contacted upon the [C]'s return from Greece in 2008.
13. Two attempts by the claimant's father to reconcile matters failed, notwithstanding that 11 years had passed since the death of Arben [C]. There is no time limit for vengeance from an aggrieved family and no male relative of the offender is too remotely related [34].
14. The Judge found it to be credible that the claimant and his family would go into hiding, being unable to flee Albania. The attack on the claimant's father showed a commitment by the [C] family to attack the [K] family. His father is considered to be the main target in the blood feud. The claimant is a male relative in the direct line and would also be at risk [35].
15. The Judge found that internal relocation in Albania would not be an option for the claimant. In particular, the evidence showed that there would be a need for the claimant to de-register from his home area and re-register in the new area. Albania is a relatively small country with a close knit society and a wide dialect variation. He would be stranger in a different area of the country which would attract attention. He relied "by analogy" upon the country guidance authority of AM and BM (Trafficked Women) Albania CG [2010] UKUT 80 (IAC) which referred to the difficulties faced by formerly trafficked women with regard to internal relocation in Albania [36].
16. He found that there is no reason on the evidence to suppose that if the claimant returned to Albania things would be any different. The objective evidence suggested that the authorities in Albania are ineffective at protecting the victims of blood feuds. He found that there would not be a sufficiency of protection if the claimant returned to Albania [37].
17. The claimant's profile puts him at risk of being a potential target. He has spent almost four years in isolation in Albania before he left the country in October 2012. If he were to return and was able to reunite with his family, he would have no choice but to go into hiding again in order to be safe. That would be "an unduly harsh outcome" [38].
18. He had regard to s.8 of the 2004 Act and took into account the claimant's conduct in entering the UK illegally. However, having considered this evidence "in the round" with the other evidence in the case, such damage was minimal as his evidence was otherwise credible [39].
19. On 9 February 2016, Upper Tribunal Judge Martin granted the secretary of state permission to appeal. It was arguable, as asserted, that the Judge may have erred in assessing the claimant's situation in the country guidance by not considering the

reach and influence of the [C] family and in failing to consider the possibility of the whole family relocating within Albania.

20. Mr Duffy relied on the grounds. He contended that the Judge erred in considering internal relocation. He submitted that the reliance on AM and BM, *supra*, was not analogous in respect of the difficulties of the internal relocation. The ability of the trafficked woman with psychological issues and risks associated with this group to internally relocate cannot be compared to the ability of this 18 year old claimant.
21. He relied on [70] of EH (*supra*) where the Tribunal held that a crucial factor in establishing whether internal relocation is a real possibility is the geographical and political reach of the aggressor clan: where that clan has government connections, locally or more widely, the requirement to transfer civil registration to a new area would appear to obviate the possibility of “disappearing” in another part of the country, and would be likely to drive the male members of a victim clan to self confinement in the home area as an alternative. Whether internal relocation is reasonable in any particular appeal will always be a question of fact.
22. He submitted in reliance on the grounds seeking permission, that the Judge did not address the [C] clan's ability, 'geographical and political reach' to find the claimant. Registration is not a factor in deciding whether the claimant can relocate as the Judge did not make a finding that the clan has access to the register and therefore registration is not a risk factor for the claimant.
23. He also submitted that the Judge's finding that the claimant would be a stranger in a different area and might attract attention, was flawed. Whilst a new face in an area might attract attention, there was no evidence before the Judge that the [C] clan had the geographical reach that would attract their attention and has not given reasons why this would be the case.
24. In finding that the claimant would have to relocate without his family and therefore it would be hard for him, the Judge had not considered whether the claimant's family could internally relocate with him, thereby reducing the harshness of internal relocation.
25. The Judge did not engage with the extent of the clan's reach. On the facts, the family had relocated to Greece. A blood feud was not declared until 2008 when the two brothers returned to Albania to prosecute the feud. There was no evidence of their reach. This constitutes a different category from trafficked women who may be fleeing from criminal gangs where their reach is easily imagined. Without getting into the reasons, the Judge's finding in this appeal was unfounded.
26. Mr Duffy submitted that this constituted a reasons challenge. The secretary of state does not know why they would be at risk and there is accordingly an error of law.
27. Mr Spurling submitted that if the decision is read as a whole, it is not difficult to understand what the reasons are.
28. The Judge noted at [13] that he has read and considered all the papers before him. He has been guided to various passages in the objective material. He has read those

passages with special care. They were read in the context of the entire document. The whole documentation is set out before him and has assisted him in arriving at his conclusions.

29. He also stated that he had regard to counsel's (Mr Spurling's) skeleton argument [17].
30. He heard evidence from the claimant as well as Mr Basir [K] and found the claimant's claim to be credible [29].
31. In the written submissions before the First-tier Judge it was contended that the size of a population was not the true measure of concealment potential. What was of greater relevance is the extent to which "someone sticks out" from the background.
32. The claimant's dialect and solitude are likely to identify him as an outsider; in a clannish, tightly knit society, a young man living on his own is likely to be a target of curiosity and suspicion unless there is a very good explanation for his circumstances. That, Mr Spurling submitted, was the context in which internal relocation had to be assessed; it was accordingly not a realistic option.
33. The Judge at [31] noted that in the absence of reconciliation attempts, the family would have to subject themselves to self isolation. The objective evidence suggested that internal relocation was not a realistic option in this case [31].
34. The Judge set out his reasons as part of a consideration of the framework of factors relevant to the circumstances from EH, *supra*.
35. He submitted that for internal relocation to be an option, it must remain effective until the feud is settled. Internal relocation may be available for a few months or even years but if they can track him down, the claimant would be at risk.
36. At [36] the statement by the Judge that it would be very hard for the claimant to relocate outside of his home and that he would have to do so without the support of his family if he had to remain in hiding amounts to a comment, and is not a part of the Judge's essential reasoning.
37. The Judge had regard to the evidence that there would be a need for the claimant to de-register from his home area and register in a new one.
38. He submitted that the reference to AM and BM, *supra*, was not for the purpose of contending that the claimant would be in the same position as a trafficked woman. The relevance of that submission was to highlight the fact that Albania is a society where people were inquisitive and particularly keen on "social positioning". Returnees would be questioned on where they came from [76].
39. At [165] the Tribunal in AM and BM accepted evidence that Albania is a country with a small population, about 3.5 million, and that it is a society where there would be an attempt by those with whom the victims came into contact, either officially, starting with the border police, or when they attempted to find work or merely acquaintances with whom they would meet, to place them within their family context and endeavour to find mutual acquaintances.

40. At [186] the Tribunal repeated and emphasised that Albania is a country with a relatively small population. Expert evidence referred to common socio-cultural conduct in which every person was socially positioned. Family relations are strong in Albania. It is not possible to live somewhere without being known. The Tribunal had regard to the evidence before it in that case, that as soon as someone says their surname, "we know - the police scan the population. Once the name is mentioned, it depends on the family, but they come here from anywhere they can."
41. Mr Spurling submitted that where, as in AM and BM, the aggressor clan would be motivated to do so, there is a real fear that they may well be able to trace the claimant. At the very least, internal relocation is problematic for the claimant.
42. Moreover, although the Tribunal referred to the past and likely future attitude of the police and other authorities towards blood feuds, the Judge also took into consideration the claimant's first witness statement, at paragraph 14 of which he expressed his fear of the [C] family. He cannot live a normal life anywhere in Albania as they could find him. That family is powerful and knows people everywhere so they could find him easily. The family is rich and have various businesses and plenty of money to spend to find him in Albania. He will not be able to live a normal life there without fear.
43. Mr Spurling accordingly submitted that the Judge took into account that the [C] family may well be able to track him down via the civil registration system. He referred to the Albania OGN of October 2014 which noted at 2.3.7 that internal migrants must transfer their civil registration to their new community of residence to receive government services and must prove they are legally domiciled through property ownership, property rental agreement or utility bills.
44. At [70] of EH, the Tribunal was considering the issue of internal relocation. A crucial factor in establishing whether internal relocation is a real possibility is the geographical and political reach of the aggressor clan. Where that clan has government connections, locally or more widely, the requirement to transfer civil registration to a new area would appear to obviate the possibility of "disappearing" in another part of the country, and would be likely to drive the male members of a victim clan to self-confinement in the home area as an alternative.
45. Whether internal relocation is reasonable in any particular appeal would always be a question of fact. The Tribunal in EH emphasised that whether feud continues and what the attitude of the aggressor clan to its pursuit may be, are questions of fact to be determined by the Tribunal.
46. Mr Spurling submitted that the use of the word "may" in the guidance set out at [74] is significant. It is provided that 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. He submitted that it is accordingly an 'issue at large' and the Tribunal accepts that it may not be possible to internally relocate.
47. He submitted that the Judge properly took into account the events since the end of 2008 and the return of the members of the [C] family from exile in Greece. These

were the sons of Mr Arben [C] who had been killed. The claimant's father had been accused by the [C] family. The Judge had regard to the attempts in January 2009 to attempt a reconciliation. That however resulted in the claimant's father being shot in the right arm and his hospitalisation for several days. No action was taken by the police, who arrested a member of the [C] family (not the two brothers who returned from Greece identified at [20] but a member of the family known as "Cel" for being in possession of illegal weapons. No action was taken by the police against the brothers.

48. The Judge also took into account that the claimant spent almost four years in self isolation in Albania before leaving in October 2012.
49. Mr Spurling submitted that one of the factors that did not put the claimant at risk during that period was his age. One of the features in the blood feud is that children are not targeted. Once they become adults they then become eligible targets.
50. The claimant was 15 when he came to the UK. Accordingly, if returned as an adult he would have to go into hiding after reuniting with his family. He would have no other choice. Mr Spurling referred to the country guidance case in TD and AD where the Tribunal had regard at [93-94] to the consistent evidence of corruption in Albanian society. Such corruption is hidden and not susceptible to audit. Corruption remains a serious problem, not least in the minds of the Albanian public who after many decades of living with bribery as a way of life may find it difficult to see any change.
51. That fear, even if subjective, irrespective of an individual officer, can impact upon personal decisions about whether to enter the national referral mechanism. This is a framework for the identification, referral and assistance of victims of trafficking returning to Albania. They will be considered for referral. The returnee will be met on arrival and interviewed by police and social workers and offered various forms of assistance.
52. The Tribunal recognised that the NRM is in general an Horvath-standard sufficiency of protection, but it will not be effective in every case. When considering whether or not there is a sufficiency of protection for a victim of trafficking, her particular circumstances must be considered.
53. Mr Spurling submitted that the Tribunal in EH recognised the potential lack of effectiveness of internal relocation, where the clan has government connections, locally or more widely. Accordingly, the requirement to transfer civil registration to a new area would appear to obviate the possibility of "disappearing" in another part of the country and would be likely to drive the male members of a victim clan to self-confinement in the home area as an alternative. Accordingly, having regard to the endemic corruption in Albania, the possibility of access to the register makes it more difficult to relocate internally.
54. Mr Spurling submitted that the motivational factors are very significant in this case. Given that the clan came from abroad to continue the feud is a highly significant factor to be taken into account together with other factors relating to the potential political connection and corruption enabling the claimant to be identified.

55. In the circumstances, Mr Spurling submitted that there is sufficient in the determination of the Judge justifying the outcome. There is nothing perverse or irrational in his decision.
56. In reply, Mr Duffy submitted that if the Judge had put in place what Mr Spurling had argued, the decision could be sustainable. However, he had not. The secretary of state is entitled to know the reasons why she lost. If you have to go through the evidence and the documentation, this is not good enough.

Assessment

57. There is considerable force in Mr Duffy's submission that the Judge has not given demonstrably adequate reasons regarding the clan's ability to find the claimant, or why the claimant, as a stranger in a different area, would attract attention. It is accordingly contended that there was no proper basis for finding that the clan had the geographical reach such that the claimant's presence would attract their attention.
58. As submitted by Mr Duffy, the Judge did not set out in any systematic manner the basis upon which his ultimate finding was made. It is correct that the losing party should be able to fully understand why she lost.
59. On the other hand, I have had regard to Mr Spurling's submissions. He represented the claimant at the hearing. He produced a lengthy and detailed skeleton argument setting out the country guidance decision in EH, *supra*.
60. The Judge stated that he had had regard to the documentation as a whole, including "objective material". He also had regard to the closing submissions of the parties and stated that he had also considered Mr Spurling's skeleton argument.
61. It is not contended that the Judge wrongly found the claimant's evidence to be credible.
62. I have considered the reasons for refusal dated 21 December 2012, where the secretary of state did not accept that the [C] family would wait until 2008, some 11 years later, before declaring the blood feud. That cast doubt over his claim to have been in a blood feud with that family in Albania (detailed reasons for refusal, Annex A, paragraph 8).
63. In his application for leave to remain dated 28 January 2015, which the secretary of state refused, she had regard to his claim of fear of returning to Albania as a member of a particular social group, namely a family involved in a blood feud, and whether his removal there would breach his human rights under Articles 2 and 3 of the Human Rights Convention - paragraph 12.
64. Before the First-tier Tribunal, the secretary of state did not accept that his family is involved in an active blood feud, or that he would be a potential target if such a feud exists [27]. He would be able to relocate without fear of persecution [28].
65. The finding by the Judge that the [C] family left Albania for Greece in 1997 after Arben [C]'s death, explains why the blood feud was not declared until 2008 by his sons on their return to Albania to prosecute the feud [30].

66. The secretary of state has not sought to appeal that finding. The contention on appeal is that the Judge erred in assessing the claimant's situation against EH, by not considering the reach and influence of the [C] family and in failing to consider the possibility of the whole family relocating within Albania.
67. I have set out in some detail the Judge's conclusions relating to the Refugee Convention from [29-41]. The Judge had full regard to the country guidance set out in EH, *supra*. He found in the circumstances that the blood feud between the families would lie dormant when the [C] family was outside Albania. Their commitment to the feud was however demonstrated by their contacting the [K] family upon their return from Greece in 2008 with a formal declaration [33].
68. For the 11 years that passed since the death of Arben [C], the family had refused two attempts by the claimant's father to reconcile. He was in consequence shot in the arm. The Judge had regard to the background evidence that there is no time limit for vengeance. Nor is it considered that any male relative of the offender is too remotely related. He found that it is credible that the claimant and his family would go into hiding, which is considered to be a form of self administered vengeance, demonstrating that the blood feud is active [34].
69. The Judge also found from the fact that the claimant's father was shot that there was a commitment by the [C] family to attack the [K] family. The claimant is a male relative in the direct line, who the Judge found would also remain at risk. As noted by Mr Spurling, the fact that the claimant had been a child prior to his entry into the UK would not have rendered him at risk. However, he would be returning as an adult and would potentially constitute a target for the [C] family.
70. The Judge had proper regard to the evidence as to the difficulties that the claimant would face if he were to relocate outside his home area without the support of his family. He would need to de-register from his home area and re-register in a new one. He also had proper regard to the fact that Albania is a small country with a close knit society. He referred [36], "by analogy" to the country guidance of AM and BM. Although that country guidance decision dealt with difficulties faced by formerly trafficked women with internal relocation in Albania, its use was to show that there is a real fear that a well motivated aggressor clan might well be able to trace the claimant, particularly when regard is had to the need for him to re-register and the real fear that the Albanian authorities would be bribed to provide evidence of his location.
71. The Judge noted that an attempt made by the [K] family to involve the police did not produce any investigation. In the circumstances, he properly considered the likely future attitude of the police and other authorities towards the feud and the protection of the claimant and his family who claimed to be at risk in the future.
72. He also considered the profile of the claimant as a potential target of the feud and whether he has been or other members of his family have been, or are currently, in self confinement within Albania. In finding that the claimant's profile put him at risk as a potential target, the Judge had regard to the recent attacks within that feud made against his family. Moreover, the claimant spent almost four years in isolation in

Albania before he left there in October 2012. He found that if he were to return and was able to reunite with his family, he would have no choice but to go into hiding again in order to be safe. That in itself would be an unduly harsh outcome.

73. The Judge found from the background evidence that the authorities in Albania are ineffective at protecting the victims of blood feuds. Accordingly, there was a proper basis for the finding that there is no sufficiency of state protection for the claimant in Albania [37].
74. Although the Judge did not explicitly consider whether the claimant's family could internally relocate with him, thereby reducing the harshness of internal relocation it is evident from his findings that such relocation might be possible for a short period of time. However, the claimant has a different dialect. He would still be likely to be identified as an outsider. He and his family would be likely targets of curiosity and suspicion, as contended by Mr Spurling. Further, the same problems relating to re-registration and the real possibility of the claimant's identification by the motivated aggressor clan would still remain.
75. I accordingly find that having considered the evidence and the submissions in the round the Judge has made sustainable findings available to him in the circumstances. There is no suggestion that the findings are in any way irrational or perverse.

Notice of Decision

The decision of the First-tier Tribunal Judge did not involve the making of any material error on a point of law. It shall accordingly stand.

No anonymity direction is made.

Deputy Upper Tribunal Judge Mailer

Date 25 April 2016