



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/05173/2015

THE IMMIGRATION ACTS

Heard at Field House
On: 23 January 2017, 3 April 2017,
16 June 2017 and 14 November 2017

Decision & Reasons Promulgated
On 27 November 2017

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

F B (ALBANIA)
[ANONYMITY ORDER MADE]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant:

Mr B Ali, Counsel instructed by Aden & Co, solicitors

For the respondent:

Mr T Wilding, a Senior Home Office Presenting Officer

DECISION AND REASONS

Anonymity order

The First-tier Tribunal made an order pursuant to Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. I continue that order pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008: unless the Upper Tribunal or a Court

directs otherwise, no report of these proceedings or any form of publication thereof shall identify the original appellant, whether directly or indirectly. This order applies to, amongst others, all parties. Any failure to comply with this order could give rise to contempt of court proceedings.

Decision and reasons

1. The appellant appeals with permission against the decision of the First-tier Tribunal dismissing his appeal against the respondent's refusal to grant him international protection, either as a refugee or by way of humanitarian protection, or leave to remain in the United Kingdom.
2. The appellant is a citizen of Albania born in May 1998. The appellant's claim for asylum was made in March 2014, when he was a child of 15. The appellant came to the United Kingdom in 2013, having travelled from his home in Durres, Albania via France and Italy, on his own passport.
3. In a decision sent to the parties on 7 February 2017, I set aside the decision of the First-tier Tribunal and ordered that the appeal decision be remade in the Upper Tribunal on a date to be fixed. The appeal was adjourned on 3 April 2017, and again on 16 June 2017. It comes before me for substantive hearing today, to remake the decision on the facts as they are now.
4. In making this decision, and at the hearing, I have had regard to the guidance on children and vulnerable adults, both from the Senior President of Tribunals in 2008, and from the Presidents of the Upper Tribunal and First-tier Tribunal in 2010 in *Joint Presidential Guidance Note No 2 of 2010: Child, vulnerable adult and sensitive appellant guidance*. The appellant's evidence was taken by the respondent when he was a child, as was his witness statement.
5. The appellant has had, but did not take, the opportunity to file an updated witness statement. He is still only 19 but he has been legally represented throughout. No submissions were made today as to any required adjustment for his young age during his evidence, and his representative made no complaint of the manner in which the appellant's brief cross-examination had been conducted.

Background

6. The appellant's account in his asylum statement on 4 March 2014 is that he and his family are ethnic Albanians from Berat, and all are non-practising Muslims. The appellant's parents and extended family still live in his home area in Albania, including his younger brother. He has a paternal grandmother, two paternal uncles and one paternal aunt there. Another paternal aunt lives in the United States. All his paternal relatives are married and all of those in Albania have children. The appellant has a maternal grandmother and grandfather, another two uncles and two aunts. One of his aunts lives in Greece, with her husband and four children. All the rest of his maternal relatives live in Albania with their spouses and all have children.

7. The appellant's parents both worked, his mother as a tailor, in a factory and at home, and his father as a builder. The appellant's father was a heavy drinker, and eventually could find no construction work. He became an alcoholic, and was violent to the appellant, his mother and his sibling. The appellant's schooling suffered. His mother was extremely frightened of his father. He told the family that if they left him, he would find them and kill them. The mother's complaints to her brothers made things worse, as the father threatened them and told them to stay away. He beat the appellant's mother for seeking help. The appellant himself was too frightened to confront his father, and to his knowledge, his mother did not ask the police to help, again because she was afraid.
8. In 2012/2013, the appellant's father began to gamble and to borrow money which he could not pay back. The appellant's previously excellent schoolwork began to suffer. He had to stay home because of bruising, and when he asked his teachers for help, they failed to take action.
9. This part of the appellant's account is accepted by the respondent.

The abductions

10. The appellant's account was that when his money ran out, and the earnings of the appellant and his mother were insufficient, his father borrowed from criminal gangs. In June 2013, the appellant's father found employment for the appellant, as a waiter in a bar/café, and took the appellant's earnings to help pay for his gambling, as well as the mother's earnings from her tailoring work.
11. The appellant says that in August 2013, he was abducted and detained by criminal gang members, to try to force his father to pay the debts he owed. He was picked up while returning from work, not far from the family home, his hands and mouth gaffer taped, and he was driven in the car to a room in the ground floor of a building. There, the gang members took the tape off the appellant's mouth, telephoned his father, and put him on the telephone to his father, then took the telephone away and spoke to his father in the next room, swearing, demanding their money, and threatening to kill the appellant if his father did not pay what was owed.
12. The appellant was released after about 2 hours, threatened with death if he mentioned the abduction, and thrown out of the car about 300-400 metres from home. When the appellant got home, his mother was unaware what had happened. His father did not tell his mother, but he beat her when she asked him about the abduction.
13. His father told the appellant not to cry, to say nothing, and that he would pay back the debts. The appellant's father said that if the family went to the police, the gang members would come and kill them all. The appellant was reluctant to return to his bar job, afraid to leave the house, but his father insisted, beating the appellant when he refused. The appellant returned to work.

14. A week later, the same gang approached the appellant's mother outside the house and threatened to take the appellant away and kill him, if the debt remained unpaid. His mother told his father, who refused to let her go to the police. The appellant went on going to work. His father came home bruised at times and the appellant thinks the gang were also threatening him directly.
15. On 16 October 2013, the appellant was abducted again by members of the same gang. He recognised two of those who had previously abducted him. This time, he was detained and ill-treated overnight, being threatened with a gun, punched, and slapped on the face. The gang members said that this time he would not be released: he would have to work for them, or he would be killed and his family would be harmed.
16. The appellant escaped, broke a window, and went to a friend's house, too afraid to go home. He telephoned his mother, who came with his genuine Albanian passport and money to leave the country (about €700 or £626), which she borrowed from her relatives. The respondent does not accept that part of the account, save for the domestic violence element.

Travel to the United Kingdom

17. The appellant travelled openly from Tirana airport to France via Italy, for which he did not need a visa, as both Italy and Albania are in the Schengen zone. He bought a return ticket to France via Italy (Rome Fiumicino). After checking in, he had to bribe an airport official 20,000 Lek (about £133) to let him travel alone, as he was a child. In France, he met a group of other Albanians, and travelled on with them, arriving in the United Kingdom clandestinely in a lorry on 28 October 2013. He escaped from the lorry and was picked up by the police, walking on the motorway. He was referred to Social Services and claimed asylum on 23 December 2013.

Refusal letter

18. In her refusal letter, the respondent erroneously at [14] referred to the appellant not having advanced any fear of the Turkish authorities. That is clearly an error, as the rest of the letter refers to Albania. She accepted the appellant's age and identity, and that he is an Albanian citizen, as his passport confirmed. She made allowances for the appellant's age, but disbelieved his account.
19. The refusal letter set out the unaccompanied minor policies for Alitalia and Blue Panorama airlines, the only airlines which fly from Tirana to Paris via Rome Fiumicino. Alitalia has a special unaccompanied minor service: the minor must be accompanied at the airport, and until airborne; there is an additional charge of €40-75, and for those age 15-17, the service must be pre-booked. The airline will check with the Embassy of the country of nationality. Blue Panorama permits a maximum of 2 children per flight under the age of 14, travelling as unaccompanied minors. It is necessary to contact the airline's call centre at least 72 hours before departure. (There is no suggestion that there are any rules for persons over 14 years old). The respondent disbelieved the appellant's account of his journey.

20. The appellant had not cooperated with the family tracing efforts made by the respondent, in that he had not provided a specific address or contact details for his parents in Albania. However, the respondent had checked the appellant's family details via the British Embassy in Tirana, and a letter from the Embassy confirmed the appellant's personal and family details. No evidence of family members had been traced to the United Kingdom or other overseas immigration databases. The appellant had a Facebook and Google+ profile. The respondent gave details of further tracing opportunities through the British Red Cross, and of the voluntary return programme run by Refugee Action. Applying *KA (Afghanistan) & Ors v Secretary of State for the Home Department* [2012] EWCA Civ 1014, the respondent considered that she had met her family tracing obligation, and relying on *EU (Afghanistan) and others v Secretary of State for the Home Department* [2013] EWCA Civ 32, the respondent regarded the fact that the appellant's mother had paid for him to come to the United Kingdom as indicative of his having maintained contact with his family thereafter.
21. Turning to internal relocation, and after setting out the relevant legal principles, the respondent considered that 'there are parts of Albania [unspecified] in which you do not have a well-founded fear of persecution and to which it would be reasonable and not unduly harsh to expect you to go; for example to another area within the urban sprawl of the capital city Tirana; or to live with any of your relatives such as aunts, uncles, or grandparents'.
22. The appellant had not advanced or established any fear of state agents in Albania and the respondent concluded that 'you have failed to establish the police in Albania would be completely unwilling or unable to offer you assistance and protection'. The humanitarian protection and human rights claims also failed.
23. The respondent considered that it would be in the appellant's section 55 best interests to return to Albania, that he would be able to make contact with family members in advance, to arrange a parental escort, and that his first language was Albanian as was part of his schooling.
24. The appeal was dismissed.

First-tier Tribunal decision

25. The appellant's first appeal decision before First-tier Tribunal Judge Mackenzie was the subject of an appeal to the Upper Tribunal. On 23 February 2016, the appeal was remitted to the First-tier Tribunal for rehearing afresh. The appeal was then heard by First-tier Tribunal Judge Oliver in August 2016. The Judge's decision was sent to the parties on 15 September 2016. I have set aside that decision and now remake it.

Upper Tribunal hearing

26. At the hearing on 14 November 2011, the appellant gave oral evidence, adopting his witness statement of 20 August 2015, which had not been updated or supplemented. He confirmed his new home address in Hounslow, London.

27. The original witness statement set out the appellant's evidence as at 20 August 2015, when he would have been 17 years old. It asserted that the appellant was a credible witness and a member of a particular social group (a child who was a victim of domestic violence) and that he was concerned that the refusal letter referred to a fear of the Turkish, not the Albanian authorities. He sought to correct his account of the age at which a child could work in Albania: he now said that he had always believed it to be 18, and that no other children worked in the same place as he did. He considered that given his age, he should have been given the benefit of the doubt in this respect.
28. The appellant said that the purpose of the screening interview was not for him to give all the information about his substantive claim: during his screening interview, he was told 'to keep any account of my problems in Albania short...I would have an opportunity later to provide a more detailed account'. He said that although airlines have a specific procedure for unaccompanied minors, that was not always adhered to in practice. At [7], the statement continues:
- “7. ... After I arrived at the airport, I approached a person and asked where I could buy tickets to travel to France and he showed me the desk. I approached the desk and brought [sic] a ticket using my passport and my age was not queried. I then checked in and was given a boarding pass. I then went through luggage security and later met a female Albanian immigration officer and she checked my documents and told me that I was not allowed to travel because of my age. I then handed over to her an envelope which contained 20,000 Lek [about £133] and she allowed me to pass and I later boarded the plane.”
29. The witness statement says that there were no adequate reception arrangements in Albania and he should have been granted discretionary leave to remain. He had no contact with his family and had made no effort to contact them, 'mainly because of fear from my father'. If relocated to another part of Albania, his father and the gang members would find him: Albania was a small country and taking into consideration his age, and his lack of contact with his own family, it would not be difficult for his father or the gang members to find him. The appellant maintained that the police in Albania were corrupt and lacked the necessary resources: they would not become involved in domestic issues and he would not be given sufficient protection on return. The appellant asked that his appeal be allowed.
30. The appellant gave no further evidence in chief and was tendered for cross-examination. In cross-examination, he confirmed having left Albania in October 2013 but stated that he had no contact since then with his mother, brother, or other family there. He confirmed that his mother had paid for him to leave Albania, but said that he was scared and afraid of letting her know he was safe, as probably his father would then have an idea about him. If the appellant's father came to know where he was now, he would have a lot of problems. The appellant's mother had not asked him to let her know where he went, when she gave him the money to leave Albania. She had not previously offered him money to do so: it was fear of the gangs which caused his mother to find the money for him to leave.

31. The appellant confirmed that he continued to rely on his abductions by the criminal gang as the reason he left Albania. Asked to explain why he had not mentioned this aspect of his claim on entry, the appellant asked for the question to be repeated, then said he that he probably had not understood. He did not have a solicitor for the screening interview. Someone from the Home Office that day had suggested to the appellant that he just answer questions in a simple way, telling him to say 'not so much', just to say small things. That was why, when asked if he had any other fears if returned to Albania, apart from domestic violence by his father, he had said that there were none.
32. Asked why, in his first witness statement, the appellant said that the gang members came to his house, he said that was incorrect. His mother had left her job, and they had caught up with her away from the house, but not far: the gang did know where they lived. He was unsure whether they knew he had a brother.
33. The appellant had worked from June - September 2013 as a waiter, during the summer break. When the gang picked him up, he was still working: in holiday time, he worked every day, and when at school, he worked at the weekends. The place where he worked was about 5 minutes' walk from his home, but the gang never came to his place of work.
34. As regards the appellant's journey to the United Kingdom, the appellant was asked whether he been asked any questions about his age when he went to the airport to buy a ticket. He was 15, and travelling alone. This part of his evidence was difficult to clarify: the question had to be repeated several times. The appellant said he told them that he was travelling alone, and wanted a ticket to go to France. He said that they told them he could not travel at that age, and that he needed someone with him. the appellant said, 'I was like, give me a ticket' and apparently they did, because he showed his passport to the immigration officer when boarding the plane. He then said that he was *not* asked who was travelling with him, when he bought the ticket. This part of the evidence did not strike me as reliable, to any standard.
35. The appellant said that on arrival in France, he did not seek to stay there as he was aware that he could not get asylum in France. His understanding was that you would be returned home, if found in France. He could not travel there with a visa, and feared they would return him.
36. There was no re-examination.

Evidence of Sonya Landesmann

37. Ms Sonya Landesmann, BA (Hons), Dip. Intercultural Psychotherapy, UKCP registered, prepared a country expert report. She had before her all relevant documents in the appeal, including the refusal letter, the British Embassy letter, and the appellant's statements, interview records. Ms Landesmann set out her duties to the Court at section 3 of the report, and her statement of truth at section 4 is *Ikarian Reefer* compliant. The witness was not called to give evidence.

38. Ms Landesmann describes herself as an intercultural psychoanalytic psychotherapist who has specialist training in how mental and emotional distress may be expressed by people from other cultures. She also has professional qualifications in teaching English to adult speakers of other languages. TEFL teaching in London in the 1980 and 1990s brought her into contact with people from around the world, principally in Turkey, Iraq, Iran and Syria. The witness has lived and worked in Sudan in 1983 and in Mozambique for 2 year thereafter. She has visited southeast Turkey to observe the situation of Iraqi kurds there.
39. In 1992, Ms Landesmann was taught by Professor Roland Littlewood in the Department of Academic Psychiatry, at University College London (UCL), and she has remained in contact with him. Professor Littlewood has a specialist interest in Albania. In 2000, the witness attended a seminar led by Professor Littlewood on blood feuds in Albania. In 2001, the witness attended a seminar with a presentation by Antonia Young in the Anthropology Department at UCL on cultural behaviour regarding Albanian women and 'sworn virgins' in Albania who are treated as honorary men. In June 2016, the witness appeared on the morning programme on Radio Kent, talking about why people want to leave Albania.
40. The witness has never been to Albania but has nevertheless written a number of cultural and psychosocial reports on circumstances in Albania, concerning blood feuds, trafficking, homosexuality, and the position of women and children. Her knowledge of Albania appears to be based on the contact with Professor Littlewood and on conversations with Albanian asylum claimants in the United Kingdom. Ms Landesmann considers that she has had 'the opportunity for more intimate conversations than I would most probably have done had I attempted to do so in situ in Albania'.
41. Ms Landesmann finds the appellant's account entirely plausible. His account is similar to other clients' accounts, in partiucalr in relation to the criminal gang and the possibility of keeping the appellant and forcing him to work off his father's debt. The mother's response in removing him from Albania to prevent that she considers indicative of credibility: the family would know there was no other option, to keep him out of the hands of the gang.
42. Ms Landesmann considers the appellant's circumstances to be akin to that of a victim of trafficking and that, given the family structure in Albania, he would not be able to relocate quietly but, even in Tirana, would be asked about his family background. To that extent the witness disagrees with the findings in *EH (Albania)* that there is sufficiency of protection in the larger cities of Albania. The need to register at state offices such as the police, doctors, or school, would make the appellant visible to those pursuing him or his father.
43. On the question of sufficiency of protection, the witness says that it is her 'opinion and experience' that the police will not become involved in a domestic situation, including domestic violence. A man has a right to beat his wife and the general attitude would be to be dismissive, or turn a blind eye. 'In [her] experience', the

father would regard the appellant leaving as a breach of his honour, and would prefer that he remained and worked off the father's debt with the criminal gang. The police are ineffective and unable to assist in a feud, or in a situation like that of the appellant's father. The police and state are corrupt. The appellant's family members could not help him as that would endanger them with the gang. Ms Landesmann relied on the evidence of Ms Schwandner-Sievers, quoted at 2.6.6-2.6.8 in the respondent's Country Information and Guidance on Albania, that family reintegration was the only way to return and that family members would be the first places the gang would look for the appellant.

44. The appellant would not have access to a shelter on return. Nor was there adequate protection for children, although Ms Landesmann recognised that the appellant was no longer a child. The Amnesty International report indicated that there were over 3000 incidents of domestic violence reported to the police in 2014, mostly by women, and that almost 1300 resulted in criminal proceedings. However, the witness discounted the Amnesty International evidence on the basis that 'as it is the case that it is so shameful to go to the police to report any incident of domestic violence or other matter considered to be private family matter, that this will not represent the whole picture'.

45. The report's conclusions were as follows:

"It is my serious considered opinion based on my knowledge of writing reports on domestic violence, trafficking, kidnapping, blood feuds and honour issues that [the appellant's] account of what happened to him is plausible. ...

I think it would be unduly harsh to return [him] to any part of Albania as I think his life would be in danger, either by being destitute, by being in danger of being found by the original criminal gang, or of being taken by another criminal gang to burgle, beg, transport illegal substances, or for other criminal activities as he would be perceived to be on his own and vulnerable. The lack of ability to find somewhere reasonable to live or to find legitimate work will make him stand out to criminal gangs who will see that he will have no support and be liable to be an easy target. It is also conceivable that his father would be violent to the point of murder for [the appellant] having run away and left him with the criminal gang still wanting their debt repaid."

Other country evidence

46. In the Amnesty International press release dated 22 February 2017 which appears in the appellant's bundle, I was taken to a passage on torture and other ill-treatment which refers to numerous reports by detainees that they were abused in custody. This appellant does not fear the police or the Albanian authorities. A passage on children's rights about an orphanage in Shkodra seems to have little relevance to the facts of this appeal today.

47. The US State Department Country Report on Human Rights Practices for Albania, published in March 2017, contains a passage indicating inequitable enforcement of the law by police, with influence from 'personal associations, political or criminal connections', corruption and unprofessional behaviour. The government had introduced in-car and body cameras and publicly highlighted anticorruption

measures. A passage under 'Children' confirmed widespread, rarely reported child abuse, with 58% of children suffering physical abuse.

48. That was the evidence before me for this appeal.

Submissions

49. In oral submissions for the respondent, Mr Wilding relied on the refusal letter and Mr Clark's skeleton argument served in compliance with the Upper Tribunal's directions. In that skeleton argument, the respondent sought to withdraw any concession that the appellant's father forced him to work in Albania, although the domestic violence remained admitted.
50. The respondent submitted that the abduction claim was a late addition which was not credible. The appellant had not simply failed to disclose the abductions on entry (when, although a child, he was 15 years old and the events had happened just a couple of months earlier), but had specifically stated that he had no other cause to fear save domestic violence from his father. Even giving weight to the fact that the appellant attended the screening interview a solicitor, the appellant had not explained satisfactorily why he had not mentioned the abductions.
51. Nor did the appellant's evidence rebut the background evidence relied upon in the refusal letter, which showed the stringent travel requirements for minors travelling alone, operated by the only two airline operators flying between Tirana and Fiumicino.
52. As regards state protection, the respondent argued that it would have been open to the appellant to contact the police about his father or the criminal gang. The appellant did not claim to recognise the gang or to know more than that they were a criminal gang. He could not and did not assert any credible influence for his father's creditors outside the home area. The appellant's assertion in his asylum interview that his father had told him that the gang had influence 'in department for people who lodge a complaint against this group' did not reach the minimum standard for showing that such influence extended beyond the appellant's home area.
53. The respondent would rely on the guidance given at [216] in *AM and BM* (trafficked women) Albania CG [2010] UKUT 80 (IAC): the risk in each case was fact-specific. The appellant had been unable to explain why, given his father's impecuniosity, he had been able to bribe the police. In *EH* (blood feuds) Albania CG [2012] UKUT 00348 (IAC) at [70], the Upper Tribunal had found that internal relocation was only ineffective where the aggressor group's influence extended beyond the local area. It would not be unduly harsh to return the appellant as an adult to Albania, where he had previously worked and was eligible for assistance under the AVR scheme.
54. In oral submissions, Mr Wilding contended that the appellant had failed to establish, even to the applicable lower standard of proof, that he had a well-founded fear of

persecution for a Refugee Convention reason in Albania, or would suffer serious harm contrary to Article 3 ECHR if returned now.

55. Although humanitarian protection and Article 3 ECHR were pleaded, Mr Wilding submitted that this was a case which would stand or fall with the refugee protection claim. That was also the position of the appellant (see the First-tier Tribunal skeleton argument).
56. Mr Wilding observed that the alleged abductions happened over a short period of time, between August and October 2013, but the appellant had not mentioned them in his asylum claim, despite having three opportunities to disclose the abduction part of his account. This was surprising, given the appellant's account of what happened on those occasions.
57. When coming to the United Kingdom, there was no element of coercion or trafficking. The appellant knew he was coming to claim asylum, because he did not stay in France where he considered that he would not be granted protection. His witness statement graphically highlighted the treatment the appellant received at the hands of his kidnappers. The abduction was the cornerstone of the appellant's asylum claim as now advanced but not mentioned by the appellant on arrival in December 2013.
58. The second serious flaw in the appellant's account was that there was no explanation why his mother arranged to send the appellant outside Albania, but not his brother, who was equally likely to be kidnapped, if the object was to put pressure on his father. The mother gave the appellant money to go away, anywhere, without making any arrangement for him to let her know where he ended up, or that he was safe. That part of the account also lacked credibility, Mr Wilding submitted.
59. Finally, the appellant's account of his journey was also incredible and internally contradictory. The appellant's assertion that he had been allowed to buy a ticket for an aeroplane while an unaccompanied minor did not stand up, and the Tribunal should reject it. Airlines look after children who are travelling alone. Mr Wilding invited the Tribunal to find that the appellant had not left Albania in the manner described, and that the core of his story was incredible.
60. As regards the country report of Sonia Landesmann, Mr Wilding invited the Tribunal to place little weight thereon. The report was not written to the *MOJ (Somalia)* standard for expert evidence. It did not make clear the basis of the author's claimed country expertise for Albania, whether generally or specifically in relation to the present appeal. Ms Landesmann had spent no time at all in Albania, and all of her information was second hand. The report relied on *EH (Albania)* but this was not a blood feud case, and Kanun law was not engaged. Nor did the expert's report engage with the facts of this applicant's appeal. It was generic in content, referring to trafficking (the appellant was not trafficked), the position of children (he is not a child) and in places descended into the arena. Overall, the Landesmann report lacked objectivity or expertise and should be given little weight.

61. Mr Wilding submitted that if the appellant returned to another part of Albania, there was no reason to think that he would be identified by anyone. The appellant had studied, and worked 5 minutes' walk from his home, before leaving Albania. It was not unduly harsh to expect him to live in Albania and should there be any difficulties, the authorities would be willing and able to assist him. The appellant had not established that there was a real risk to him of persecution or serious harm if returned now to Albania. He asked me to dismiss the appeal.
62. For the appellant, Mr Ali adopted the updated skeleton argument filed on the appellant's behalf for the hearing, as well as a previous skeleton argument filed in the First-tier Tribunal. He relied on those arguments, and on the appellant's oral evidence and the expert evidence of Sonya Landesmann, the Amnesty International report on Albania for 2016/2017 dated 22 February 2017, and the 2016 United States State Department report on human rights practices in Albania dated 3 March 2017.
63. The First-tier Tribunal skeleton argument states that the appellant was a consistent witness in relation to the disputed abductions and has never stated that he feared the Albanian or Turkish authorities. The appellant's account of paying a bribe to exit Albania was consistent with the endemic corruption in that country. The appellant could not rely on his father's side of the family when returned, as they would support his father. Nor could he rely on his mother's side of the family, given the response from his father's family when his mother sought support because of his father's mis-treatment of her.
64. Submissions in the First-tier Tribunal skeleton argument about family tracing, adequacy of reception arrangements and the applicant's section 55 best interests are no longer relevant as the appellant is now an adult.
65. The appellant submitted that it would be unduly harsh to expect him to live in Tirana away from his family but without the Social Services support to which he still had access in the United Kingdom, as a care leaving young person. The appellant's account was supported by background evidence and in particular, at 2.1.5 of the 2015 Country Information and Guidance report on Albania, the question of protection from non-state agents in Albania was always to be fact-specific. The Albanian authorities would be unwilling to protect a person in the appellant's position, because he was easily identifiable by reason of his different dialect.
66. The second skeleton argument, revised and settled by Amir Masood, solicitor on 7 November 2017, sets out the evidence before the Tribunal, with lengthy extracts from Ms Landesmann's report and the country evidence. The submissions part of the skeleton argument begins at page 13, and after arguing that the appellant's appeal should be allowed on asylum, humanitarian protection and human rights grounds (Article 3 ECHR), the appellant submits that his evidence is consistent, with no major discrepancy, and he should be regarded as a credible historian in relation to past events, allowances being made for his young age (15) and limited education, when he entered the United Kingdom in December 2013. The independent expert evidence is said to support his account, as well as the country evidence.

67. In oral submissions for the appellant, Mr Ali contended that there were pervasive problems in Albanian society, leading to a difficult and dangerous landscape for certain groups there. Mr Ali relied on the 2016/2017 Amnesty International report, the country evidence in the bundle, which dealt with the position of children and victims of trafficking and forced labour. He accepted that the appellant was no longer a child and had never been a victim of trafficking. He further accepted that no blood feud was alleged in this appeal.
68. The appellant had come to the United Kingdom as a teenager, leaving via Tirana. Improbable as it might sound, it was not incredible that he had managed to travel without an adult. Teenagers did travel unlawfully from time to time and there was nothing incredible about his exit. Mistakes happened, and corruption was always a possibility. The appellant's account of what triggered his departure, and of how he left Albania, were plausible and credible.
69. Any problems in the screening interview should be regarded with caution. The appellant had been a child of 15 at the time. As to why the appellant's brother was not also helped to leave Albania, Mr Ali said that where funds were tight, parents sometimes had to choose between their children, which may have been what happened here. The appellant's evidence as to why he was not in contact with his mother, even if lacking in credibility, did not detract from the *Chiver* core of this account, which was sound.
70. Regarding the Landesmann report, Mr Ali said that Ms Landesmann had some expertise and was qualified to give her opinion. Albania was a tough country and her report should be given at least some weight.
71. Having regard to the lower standard, the appellant had shown a well-founded fear of persecution for a Refugee Convention reason or real risk of treatment contrary to Article 3 ECHR and was entitled to protection. The appellant was now 19 years old. Internal relocation would be unduly harsh because the requirement to register for civil status would make the appellant visible on return, and corruption was endemic. If the appellant moved to the north of Albania, his southern accent would identify him. Albania was a patriarchal society and curiosity would lead to adverse interest in the appellant. The appeal should be allowed.
72. I reserved my decision, which I now give.

Discussion

73. The first question is how much of the appellant's account is credible. The domestic violence is not disputed. As regards the appellant's journey to the United Kingdom, his account has been broadly consistent throughout and one at least of the airlines which travels in that direction restricts the travel of children only up to the age of 14. The appellant was 15 when he travelled. I accept his account of travel as credible, having regard to the lower standard of proof applicable in international protection claims.

74. That leaves the abduction claims. They come to this, that the gang picked the appellant up twice, on his short journey home, and held him, to make his father pay the debts, and that on the second occasion, they threatened to keep him and make him work to pay them off. The appellant says his mother was also picked up and threatened, and that before he left, his father was coming home with bruises so that the threats were probably being made directly to his father also.
75. There is nothing inherently incredible in a father who drinks and gambles getting into the sort of difficulty described here. However, it is striking that the appellant failed at his screening interview in December 2013 to mention the abductions, now said to be his main reason for leaving Albania, and that he did not mention them until his asylum interview just three months later. There is also a lack of coherence in the steps said to have been taken by his mother: if the gang wanted a child of the appellant's father to work for them, his father had two sons, and the younger remained in Albania. There is a difference of 5 years between the two boys, as is evidenced by the family record obtained by the British Embassy in Tirana on 6 August 2014.
76. The appellant has not taken any opportunity to communicate with family members in his large extended family, most of whom are still in Albania, to see whether his mother, father and younger brother (who would now be 14 years old) are safe, or whether he is still at risk from the criminal gang he alleges abducted him. I am not satisfied, even making allowances for the appellant's youth when interviewed, and applying the lower standard of proof applicable to international protection claims, that there is a reasonable degree of likelihood that this part of the appellant's account is true.
77. I approach determination of this appeal on the basis that the appellant has a father who beat both him and his mother, and that she arranged for the appellant to leave in the manner he explains in his witness statement and oral evidence. I accept that his father may well both drink and gamble, and that he may have required the appellant to work in a café and give the father his wages. I reject the account of the abductions as a later embroidery of the account. I treat the risk in this appeal as coming from the appellant's father and being confined to the home area.
78. When assessing the country evidence of Ms Landesmann, I remind myself of the guidance given by this Tribunal in *SW (lesbians) Jamaica CG [2011] UKUT 251 (IAC)* at [88]-[89]
- "88. ... As regards knowledge of a country, the Tribunal has also stated in key cases that to be an expert one does not necessarily have to live there or to visit regularly.
89. We reminded ourselves of the guidance given by the European Court of Human Rights in *NA v The United Kingdom* (Application no. 25904/07) [2008] ECHR on the assessment of country information and expert evidence in particular:
- "120. In assessing such material, consideration must be given to its source, in particular its independence, reliability and objectivity. In respect of reports, the authority and reputation of the author, the seriousness of the investigations by means of which they were compiled, the consistency of their conclusions and

their corroboration by other sources are all relevant considerations (see *Saadi v. Italy*, cited above, § 143).

121. The Court also recognises that consideration must be given to the presence and reporting capacities of the author of the material in the country in question. ...

122. While the Court accepts that many reports are, by their very nature, general assessments, greater importance must necessarily be attached to reports which consider the human rights situation in the country of destination and directly address the grounds for the alleged real risk of ill-treatment in the case before the Court. Ultimately, the Court's own assessment of the human rights situation in a country of destination is carried out only to determine whether there would be a violation of Article 3 if the applicant in the case before it were to be returned to that country. Thus the weight to be attached to independent assessments must inevitably depend on the extent to which those assessments are couched in terms similar to Article 3. ...”

79. In *MOJ* at [25], the Upper Tribunal gave the following guidance about expert evidence before this Tribunal, having reviewed the authorities:

“25. Thus in the contemporary era the subject of expert evidence and experts’ reports is heavily regulated. The principles, rules and criteria highlighted above are of general application. They apply to experts giving evidence at every tier of the legal system. In the specific sphere of the Upper Tribunal (Immigration and Asylum Chamber), these standards apply fully, without any qualification. They are reflected in the Senior President’s Practice Direction No 10 (2010) which, in paragraph 10, lays particular emphasis on a series of duties. We summarise these duties thus:

- (i) to provide information and express opinions independently, uninfluenced by the litigation;
- (ii) to consider all material facts, including those which might detract from the expert witness’ opinion ;
- (iii) to be objective and unbiased;
- (iv) to avoid trespass into the prohibited territory of advocacy;
- (v) to be fully informed;
- (vi) to act within the confines of the witness’s area of expertise; and
- (vii) to modify, or abandon one’s view, where appropriate.”

80. Ms Landesmann in her report gives opinion evidence about Albania, an area where she has no direct knowledge, has not undertaken any academic study, and has little or no discernible expertise: her report is a mishmash of other country reports and unsourced assertions. Ms Landesmann has never visited Albania. Her report lacks any sign of serious investigation or corroboration of sources and descends impermissibly into the arena.

81. It may be that Ms Landesmann has expertise in relation to other countries such as Turkey, Iran or Iraq, but, absent the opportunity to test her knowledge in cross-

examination, I am unable to place any weight on her evidence in the report before me.

EH (Albania) guidance

82. The Upper Tribunal's country guidance in *EH (Albania)* was summarised in the judicial headnote. The case concerns blood feuds and the only relevant guidance for the present purpose is this:

"3. 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."

That is amplified in the decision itself at [70]:

"70. Internal relocation will be effective to protect an appellant only where the risk does not extend beyond the appellant's local area and he is unlikely to be traced in the rest of Albania by the aggressor clan. 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, as set out at 2.4.4 above, 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 for the fact-finding Tribunal."

It is not alleged that there is a blood feud in this appeal, and I have not found it credible that a criminal gang are pursuing the appellant, his mother and his father, in the manner alleged or at all.

83. In *TD and AD (Trafficked women) (CG) [2016] UKUT 92 (IAC)* the Upper Tribunal found that in the case of trafficked women, return to another area of Albania required the consideration of specific factors such as the social status and economic standing of their family; their level of education; their mental and physical health; the area of origin; their age; and the available support network. There is no consideration at that level of detail in the present decision.
84. In *R on the application of FR & Anor (Albania) v Secretary of State for the Home Department [2016] EWCA Civ 605*, applying the decision in *EV (Albania)*, Lord Justice Beatson, with whom Lord Justices Davis and Lindblom agreed, at [108] accepted that domestic violence is rarely punished in Albania but held that:

"108. ... But if FR is relocated, unless her husband or family can find her, [the failure of the Albanian authorities to punish domestic violence] is not in point. FR's claim gives no grounds for considering that her former husband and her family have a reach all over Albania and so, in line with the guidance in EH's case at [70] and [74](c)] set out at [9] and [79] above, it cannot be said that internal relocation will be ineffective to protect her because domestic violence is rarely punished."

85. This appellant is a young man who travelled successfully on his own passport from Albania to the United Kingdom via France. He reached the United Kingdom when he was 15 years old and has had the benefit of education here, although he has not chosen to provide any details thereof. There was no updated witness statement to tell the Tribunal what he has been doing since 2015, whether he has continued to study or begun employment. The very limited evidence before me about internal relocation is not much more than a bare assertion that he could not live away from his home area, but yet he has been able to live in the United Kingdom, which he did not know at all, for a period of 4 years. The appellant is no longer a child and section 55 does not apply to him, nor is there any question of adequacy of reception arrangements at his age.

DECISION

86. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law. I set aside the previous decision. I remake the decision by dismissing the appeal.

Date: 24 November 2017

Signed *Judith AJC Gleeson*
Upper Tribunal Judge Gleeson