



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

Appeal Number: PA/12941/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 26 January 2018**

**Decision & Reasons Promulgated
On 26 February 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE SHERIDAN

Between

**RA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Mughal, Counsel instructed by Montague Solicitors LLP

For the Respondent: Mr S Walker, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Albania, born on [] 1999. This appeal arises from the decision of the respondent dated 7 February 2017 to refuse his protection claim. The appellant's subsequent appeal to the First-tier Tribunal was heard by Judge Walker who, in a decision promulgated on 23

August 2017, dismissed the appeal. The appellant is now appealing against that decision.

Background

2. The appellant claims to face a risk on return to Albania both because of a blood feud and because of human trafficking.
3. The appellant claims, inter alia, that:
 - (a) His family has been in a blood feud since July 2009 when his father's paternal uncle killed someone.
 - (b) In 2009, shortly after the murder, his father fled to Greece.
 - (c) In September 2013 his older brother went into hiding.
 - (d) In October 2014 he was approached by two men who beat and threatened to kill him when he did not tell them the whereabouts of his father and father's uncle.
 - (e) Shortly after being attacked, he went to stay with an uncle of his mother, in another town.
 - (f) He left Albania, assisted by his mother's uncle, and met his father in Kosovo. He then travelled with his father to Belgium where his father left him with agents. The agents took him to a small house with other Albanians where he was forced to work as a translator for an Albanian gang in their dealings with a gang of Belgian drug dealers.
 - (g) He was beaten and sexually assaulted whilst being forced to work for the Albanian gang in Belgium.
 - (h) He escaped from the gang by running from the house to the port in Gent, which was about thirty minutes away (on foot). He had his passport with him. He came across an Albanian couple who were waiting to board a lorry bound for the UK. He joined them and travelled by lorry to the UK.
4. The appellant's brother applied for asylum in the UK without success. The appellant claimed at the hearing before the First-tier Tribunal not to know about this or to have been in contact with his brother.
5. The respondent rejected the appellant's application. It was not accepted his family were involved in a blood feud or that he was the victim of trafficking.

Decision of the First-tier Tribunal

6. The judge did not find the appellant credible and rejected his account in its entirety. The judge gave multiple reasons for finding the appellant not credible. These included the following:
- (a) The appellant contradicted himself by stating in his asylum interview that he had spoken to his mother whilst in Belgium but denying any contact with his family since leaving Albania in his witness statement.
 - (b) The appellant's account of his father leaving Albania in 2009, shortly after the blood feud was said to have started, was contradicted by the evidence from the Albanian authorities (obtained from the British embassy in Tirana) that the appellant's father did not leave Albania in 2009. The evidence from the Albanian authorities was that his father was outside Albania from 28 November 2014 to 12 December 2014.
 - (c) No explanation was given as to why the appellant's father would take him to Belgium simply to leave him there rather than arrange for them to live together in Greece.
 - (d) The appellant failed to explain why, if there was an ongoing blood feud, his father would return to Albania. The judge commented, at paragraph 48 of the decision, that:

"It is highly unlikely that the appellant's father would willingly return from safety to live in Albania if he were to return to a situation where he was forced to live in self-isolation as a result of a persistent threat to his life."
 - (e) The appellant stated in his asylum interview that his family did not have problems before October 2014 but later said that his brother was threatened in September 2013.
 - (f) There was no evidence of any other deaths or injuries resulting from the feud even though it was said to have been ongoing for over eight years.
 - (g) It is highly unlikely the gang in Belgium would need to rely on a 15 year old boy who fell into their control by chance to serve as their translator; or that the two gangs in question would occupy the same premises, as claimed by the appellant.
 - (h) The appellant's account of his escape was not plausible as it was very unlikely the gang would allow him to keep his passport or that he would happen upon an Albanian couple boarding a lorry bound for the UK just at the time he was escaping. Nor was the appellant's account of the gang paying him so he could buy himself food considered plausible given his claim to be held captive by them.

Grounds of Appeal

7. Multiple grounds are raised in the grounds of appeal. They are as follows:

- (1) The judge did not consider the evidence of the appellant in accordance with his age and circumstances or recognise that because of his age he was less likely to give a coherent account.
- (2) At paragraph 38 the judge erred by failing to give reasons for finding the appellant was in contact with his father when the appellant's evidence was that contact had been lost.
- (3) At paragraph 48 the judge failed to deal with the issue of "closed lives" with regard to the appellant's father returning to Albania.
- (4) At paragraph 39 the judge rejected that the appellant would be useful to the criminal gang in Belgium due to his age when it was his age that made him useful to them because that would help him avoid being stopped or charged by the police.
- (5) The judge failed to take into account that the appellant would be particularly vulnerable to re-trafficking.
- (6) The judge did not give adequate reasons as to why internal relocation was viable.

Submissions

8. Before me, although Ms Mughal stated that all grounds were relied upon, she only submitted arguments in respect of the first ground which concerns the appellant's age. She argued that although the judge had properly directed himself about the appellant's age, in practice it was not taken into consideration. She maintained that the appellant's account did not in fact contain inconsistencies; rather the issues identified by the judge were a reflection of how the appellant's understanding of what he had experienced had changed as he matured.
9. I asked Ms Mughal to clarify if she was saying that there were inconsistencies but these could be explained by the appellant's age and immaturity or that there were no inconsistencies. She made clear that her contention was that when the appellant's age is taken into account it is apparent that there are not, in reality, inconsistencies between what he said in his asylum interview (when he was substantially younger) and in his later statements and at the hearing.
10. Mr Walker's response was that the judge had properly directed himself as to the appellant's age and had reached a conclusion on credibility that was properly open to him given the clear inconsistencies in the evidence.

Analysis

11. The judge was required, when assessing the appellant's credibility, to take into consideration his age and maturity. This is made clear at Paragraph 351 of the Immigration Rules, which states:

"A person of any age may qualify for refugee status under the Convention and the criteria in paragraph 334 [dealing with Grant of Asylum] applied to all cases. However, account should be taken of the applicant's maturity and in assessing the claim of a child more weight should be given to objective indications of risk than to the child's state of mind and understanding of his situation. An asylum application made on behalf of the child should not be refused only because the child is too young to understand the situation or have formed a well-founded fear of persecution. Close attention should be given to the welfare of the child at all times."

12. The circumstances of the appellant are that he was 15 when he left Albania and applied for asylum in the UK. In terms of his maturity, there was no evidence before the First-tier Tribunal to suggest his maturity was other than would be typical for a person of his age. There was no evidence of learning difficulties and the uncontested finding of the judge (at paragraph 75 of the decision) was that the appellant was doing well at school, speaks three languages (including English) and "has no medical problems which are relied upon."

13. The judge identified that the appellant's age was relevant to the assessment of credibility. At paragraph 9 the judge stated:

*"Throughout my consideration of the facts of this case I bear in mind that great care must be taken before making adverse findings of credibility and that such findings should only be made where they are justified in the light of the particular circumstances of the case under consideration. **I bear in mind that the Appellant was just 15 years old when he left Albania and was not yet 16 when he had his substantive asylum interview. I bear in mind that when assessing his credibility regard must be had to this and that in such a case it is appropriate to apply a more liberal use of the benefit of the doubt.**" (emphasis added)*

14. Moreover, the judge explicitly stated, when reaching his conclusion, that he took the appellant's age into account. At paragraph 53 the judge stated:

*"Taking all this together I am not satisfied, even to the lower standard and **even having given the Appellant's evidence the required additional benefit of the doubt in view of his age**, that there is any blood feud between the Appellant's family and the Tafani family." (emphasis added)*

15. Ms Mughal recognised that the judge had directed himself correctly in respect of the appellant's age and maturity. Her argument was that notwithstanding the correct direction, the judge had, when grappling with the substance of the case, ignored the significance of the appellant's age and as a consequence found inconsistencies where there were none. I

disagree. The judge found multiple inconsistencies in the appellant's account which cannot reasonably be explained by his age/maturity. For example, the appellant initially claimed to have had contact with his mother from Belgium but later stated that he had no contact with her after he left Albania. This is not a complicated point which would have been impacted by the appellant's age/maturity. He gave two different - and contradictory - accounts of his contact with his family. The judge was entitled to take this into consideration in assessing credibility.

16. Similarly, the appellant's age/maturity does not explain why the objective evidence contradicted his account of his father leaving Albania in 2009. This is not an issue where the appellant being 15 would make it unreasonable to accept what he said at face value.
17. In a well reasoned decision, the judge set out a range of reasons for rejecting the appellant's credibility. This included internal inconsistencies in the account, lack of plausibility and consideration of objective evidence which undermined the account. There is nothing in the decision to suggest that the judge failed, when making the adverse credibility findings, to keep in mind the appellant's age. On the contrary, the judge has been very clear as to the relevance of the appellant's age. Accordingly, the appellant's challenge to the decision on the basis that proper regard was not had to his age and maturity cannot succeed.
18. The other grounds of appeal (which were not pursued at the hearing) attempt to challenge particular aspects of the judge's findings. They have no merit.
19. The second ground argues that the judge failed to give reasons at paragraph 38 for finding that the appellant lost contact with his father. It is unclear what point is being made, particularly as paragraph 38 does not concern this issue. However, what is clear is that at paragraph 48 the judge gave clear reasons for finding that the appellant's father returned to Albania.
20. The third ground submits that at paragraph 48 the judge failed to deal with the issue of "closed lives" with regard to the appellant's father returning to Albania. This is not the case. It is clear that the judge appreciated that the appellant's father could live in self-isolation. This is stated explicitly in paragraph 48.
21. The fourth ground questions the judge's finding about the appellant's claimed role as a translator for a criminal gang. The judge's analysis (at paragraph 56, not paragraph 39 as stated in the grounds) is clear and well reasoned. The appellant's account seems to suggest that criminal gangs relied on the chance appearance of the appellant to enable them to communicate with each other. The judge was entitled to find this lacked plausibility and there is nothing in the grounds to show why such a conclusion was not open to the judge.

22. The fifth ground of appeal contends that the judge failed to deal with the issue of the appellant's vulnerability to re-trafficking. However, this issue was considered at paragraph 73 of the decision. The judge found that the appellant is relatively well-educated and that there is no medical evidence to show particular medical problems. He also noted that the appellant was not lured into leaving Albania by traffickers and that he has family who can provide them with support. On any legitimate view, it was open to the judge to conclude that the appellant was not at risk of re-trafficking.
23. The final ground of appeal submits that the judge did not give adequate reasons as to why internal relocation was viable. This ground has no relevance as the judge was entitled to find, for the reasons I have explained above, that the appellant's account lacked credibility and therefore that he had not established that he would be a risk on return to Albania irrespective of where in the country he decides to live.

Notice of Decision

The appeal is dismissed.

The decision of the First-tier Tribunal does not contain a material error of law and stands.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed



Deputy Upper Tribunal Judge Sheridan

Dated: 21 February 2018