



**N THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2024-000215

First-tier Tribunal No: PA/51990/2023
LP/02364/2023

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 30th May 2024**

Before

UPPER TRIBUNAL JUDGE REEDS

Between

**A B
(ANONYMITY ORDER CONTINUED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Wood, Solicitor advocate instructed on behalf of the appellant

For the Respondent : Mr Thompson, Senior Presenting Officer

Heard at Phoenix House (Bradford) on 15 May 2024

DECISION AND DIRECTIONS

1. The appellant appeals, with permission, against the determination of the First-Tier Tribunal (Judge Brooks) promulgated on 1 December 2023 . By its decision, the Tribunal dismissed the appellant's appeal on all grounds against the Secretary of State's decision to refuse his protection and human rights claim.
2. The FtTJ did make an anonymity order and no grounds were submitted during the hearing for such an order to be discharged. Anonymity is granted because the facts of the appeal involve a protection claim.
3. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the

public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

The background:

4. The factual background can be summarised as follows. The appellant is a national of Albania born on 9 October 2004 . He arrived in the United Kingdom (“UK”) on 18 August 2021 and claimed asylum on arrival. The FtT summarised the appellant’s case as follows: is that he is at risk of persecution on return to his home area as his family is involved in a blood feud in Kosovo. There is no state protection available and if he relocated within Albania, he would easily be found. The respondent accepts that the appellant’s family is involved in a blood feud in Kosovo. However, return to Albania is reasonable. State protection is available and internal relocation is available to the appellant.
5. The FtT dismissed the appeal. In summary the FtT found that whilst it is accepted that the appellant’s family is the subject of a blood feud in Kosovo, beyond this, the FtT did not accept the credibility of the appellant’s account. The FtT referred to the number of inconsistencies in the appellant’s account which undermined his claim, even taking into account periods of time when the appellant was a minor. The appellant’s father has continued to live some 300 metres away from the aggressor family, he has worked intermittently and yet had faced no problems from the aggressor clan. Despite the deceased’s children coming of age several years ago and the appellant now being 19 years of age, there is no evidence of anyone looking for the appellant or enquiring as to his whereabouts. The FtT therefore made a finding that there is very little evidence of commitment by the aggressor clan towards the prosecution of the feud.
6. The FtT took into account that the appellant is a national of Albania and would be returned to Albania. Considering the factors set out in EH (blood feuds), the FtT noted that the blood feud relates to the killing of one person. This took place in 2004, some 19 years ago. The person responsible for the killing was the appellant’s grandfather. Nobody in the appellant’s family has been killed. Even taking into account the fact that the appellant has only recently come of age, there is very little evidence of commitment by the aggressor clan towards the prosecution of the feud.
7. Based on the evidence before the FtT and for the reasons set out in her decision, the FtT did not accept that the appellant had a well-founded fear of persecution in his home area in Kosovo. In the alternative, the FtT found that the appellant had not established to the lower standard of proof that he faces a real risk of persecution or serious harm if returned to Albania and that there would be sufficiency of protection for him.

The appeal before the Upper Tribunal:

8. The appellant sought permission to appeal the decision. Permission to appeal was refused by the FtT but on renewal was granted by UTJ Keith on 6 February 2024.
9. Mr Wood relied upon the written grounds as follows.

Ground 1:

10. It is submitted that Judge Brooks has permitted a procedural unfairness to operate in proceedings before her. It is apparent from the Respondent’s refusal

decision at [16] that it is accepted that the appellant and his family are involved in a blood feud in Kosovo. It is therefore submitted that in light of EH (blood feuds) Albania CG [2012] UKUT 348 (IAC) the appellant had established that there was an active blood feud. Rather the respondent's case as set out at [18] of his refusal decision was that because the actors the appellant feared were in Kosovo return to Albania would be safe. The respondent also asserted that there was a sufficiency of protection and an internal relocation alternative in Albania. It is therefore submitted that it was not open to Judge Brooks in the circumstances of the respondent's concession to proceed to find that at [31] the blood feud was not active: "There is no evidence that the aggressor family has taken any steps to search for the appellant. The appellant is now 19 years of age. His grandfather, mother and sisters remain in Kosovo. He is in regular contact with his family. There is no evidence that anyone associated with the aggressor family has been asking after the appellant's whereabouts or trying to obtain this information from his relatives who remain in the village. Since the appellant came of age, there has been no demonstration of any commitment on the part of the other family to seek revenge."

11. By permitting the procedural unfairness set out above Judge Brooks has vitiated her overall adverse conclusion on the appellant's credibility, his account and the issue of risk upon return. 8. Had Judge Brooks not materially erred in law as set out above then the First-tier Tribunal could have come to a different conclusion on the Appellant's appeal.

Ground 2:

12. It is submitted that Judge Brooks has failed to take account of material matters before reaching her conclusion on risk upon return. At [22] of her decision Judge Brooks acknowledges that the appellant has a home area in Albania and that this is only 50 minutes' drive from where his family home is located in Kosovo:
13. It was the appellant's uncontradicted evidence that no visa is needed to travel between Kosovo and Albania. However, Judge Brooks does not apply her earlier finding at [22] when considering the reach of those the appellant fears. This failure must vitiate her conclusion on the risk to the Appellant in Albania.
14. Further, when considering the issue of internal relocation Judge Brooks fails to take account of her own finding at [22] of having a home area with familial connections when considering the issue of the appellant being traced [37]: "...I consider whether the clan aggressors could track down the appellant through word of mouth, however, by the appellant's own admission, the majority of his family members have left Albania. Having never lived in Albania for any significant period of time the appellant does not have any community connections which could be used to track him down."
15. It is apparent that Judge Brooks accepts that the appellant does have some family members in Albania. In both AM and BM (Trafficked women) Albania CG[2010] UKUT 80 (IAC) and BF (Tirana -gay men) Albania CG [2019] UKUT 93 (IAC) the Upper Tribunal held that due to the nature of Albanian society that it is plausible and possible to trace an individual (often via family connections) in the country and in particular in Tirana. Tirana was one of the places that the Respondent asserted that the appellant could relocate.
16. The appellant also relied upon the background country evidence at page 138 of his bundle which states: "Q. What about relocating to different area, is this an option? A. I don't think that is a solution as Albania is small and BF families will

find these people in other places in Albania. The 17 year old referred to was not in a remote place where the crime was committed but the police didn't have the capacity to protect the family." 51. Elana Prroj told the FFM team (in a passage quoted in the CPIN at [12.1.13]): "A. In this country it is easy to find anyone. We moved to Vlore and then elsewhere, and still they found us there, so no, it's not enough."

17. Vlore was the other destination specified by the Respondent as a possible place or relocation. There is no demonstration that Judge Brooks has considered the above point when assessing internal relocation. The failure to consider the above material matters relevant to the issue of internal relocation must vitiate Judge Brooks' conclusion on the same and therefore render her overall adverse conclusion on risk on return unsafe.
18. Additionally, the appellant relied upon the evidence at 128 of the Appellant's bundle which confirmed that the migration of Albanian families from the north of the country to places such as Tirana has extended the geographical spread of blood feuds: "Indeed, as Global Initiative itself acknowledges, "[t]he high number of families in areas where blood feud is not culturally entrenched (i.e., in Tirana and Durrës) can be explained by the fact that families have moved to these areas from the north of the country, bringing the feuds with them."
19. The appellant relied on page 130 of his bundle which contains the following quote: "Our interviewees confirmed that the steps taken by the government since 2015 are insufficient to address blood feuds. Greater action is needed, for example, to strengthen measures against judicial corruption and corruption of public officials because corrupt judges may refrain from imposing the proper sentencing for blood feud murders. Furthermore, while the justice reform is having some positive effects, there is still room for improvement when it comes to dealing with blood feuds. For example, interviewees suggested that the justice reform should be thorough to strengthen the rule of law and more should be done to improve economic and education status of families in blood feud, especially given that beyond monitoring and some home schooling, the action plan seems to be having little effect."
20. It is submitted that the above background evidence was relevant to Judge Brooks considering whether there would be a sufficiency of protection available to the appellant outside his home area in Albania. The failure to consider the above country evidence must vitiate Judge Brooks' conclusion on sufficiency of protection, risk upon return and therefore the Appellant's overall appeal.
21. If the FtTJ had not materially erred in law as set out above then the First-tier Tribunal could have come to a different conclusion on the Appellant's appeal. The appellant seeks the remedy of having the decision set aside and the matter remitted to the First-tier Tribunal for a procedurally fair rehearing.
22. In his oral submissions Mr Wood relied upon those grounds. In relation to ground 1, he submitted that there was procedural unfairness because the FtTJ went behind a concession made by the respondent in the decision letter at paragraph 16. It was the appellant's case that the blood feud stretched from Kosovo to Albania and that the FtTJ gone behind the concession and was procedurally unfair and was material to the outcome of the appeal.
23. As to ground 2 he relied upon the written grounds are summarised above. Mr Wood reiterated the factual finding of the geographical location between the appellant's home in Kosovo and home area in Albania but that the FtTJ had not taken that finding into account in her assessment of whether it was possible to trace the appellant in Albania. This was a relevant consideration as set out in

paragraph 13 of the grounds of challenge. The background evidence cited in the grounds referred to the ability to trace within Albania and Mr Wood confirmed the page numbers for that material.

24. In summary he submitted that by going behind the concession vitiated her overall adverse conclusions reached on the appellant's credibility, his account of risk on return. It would therefore necessitate a rehearing of the appellant's claim.
25. Mr Thomson on behalf of the respondent confirmed that there was no Rule 24 response. He submitted that there was no error of law in the decision of the FtTJ which is a thorough decision that provided detailed reasoning to justify the outcome that had been reached. He submitted there was no procedural unfairness as set out in the decision and it was open to the judge to consider the lack of evidence that he would be at risk of persecution or serious harm due to a purported blood feud in Kosovo. The FtTJ did not go behind the concession set out at paragraph 16 of the decision letter as indicated by paragraph 31, but she was entitled to assess the evidence and go into greater detail whilst accepting the existence of a blood feud, why the appellant himself would not be at risk of harm as set out in the factual findings.
26. As to the other points made, the FtTJ recognised the proximity of the home area and took that into consideration. The judge also made a finding that the majority of the family had left Albania reducing the likelihood of being tracked down. He submitted that the FtTJ did engage with the material evidence.
27. Mr Thomson submitted that the FtTJ provided adequate reasoning for her conclusions based on the evidence provided and was entitled to find there was a lack of evidence as to the family he feared being able or having the desire to locate him outside of Kosovo. The appellant's representatives have not highlighted evidence to demonstrate such internal relocation was not feasible. He invited the tribunal to uphold the decision.
28. By way of reply Mr Wood submitted that he relied upon the grounds which were made out for the reasons already given and that the judge had not taken into account evidence which was fatal to the sustainability of the conclusions reached.

Discussion:

29. It is by now well-established that appropriate restraint should be exercised before interfering with a decision of the tribunal below, which will have read and heard the evidence as a whole and which had the primary task of reaching findings of fact and attributing appropriate weight to relevant considerations: see, for example, [JT \(Sri Lanka\) \[2019\] EWCA Civ 1095](#), at [19]-[20] - observations subsequently endorsed in a number of other judgments of the Court of Appeal.
30. The findings made by the FtTJ are set out between paragraphs 14-39. There is no challenge made to the FtTJ's assessment of the expert report between paragraphs 15-20 nor any challenge to the Article 8 assessment. The challenge is to the assessment as to risk on return and the findings of fact and analysis of the evidence between paragraphs 21-39.
31. Those findings of fact and analysis is summarised as follows.
32. The FtTJ took into account that acceptance made by the respondent that the appellant and his family were involved in a blood feud in Kosovo (see paragraph

- 22). The FtTJ set out the geographical location of the appellant's family home in Kosovo as X and that his home area in Albania is X which the FtTJ found a close to each other and that the map indicated was a travel time of 50 minutes away by car (paragraph 22).
33. The FtTJ assessed the appellant's claim by reference to the Upper Tribunal's decision in EH (blood feuds) Albania CG [2012] UKUT 00348 which confirmed that whether a blood feud continues and what the attitude of the aggressor clan to its pursuit may be, will remain questions of fact to be determined by the decision maker.
34. When applying that decision, for following inter-related reasons, the FtTJ did not find the account of the appellant to be credible and did not accept that the appellant would be at risk on return to Albania.
35. The FtTJ's reasoning is as follows:
- (1) The blood feud that the appellant's family is involved in started in 2004. This is some 19 years ago.
 - (2) The appellant's account is that whilst he was in Kosovo he was not targeted by the other family because he and his brother were underage. The FtTJ accepted that this was consistent with background evidence which confirms that children are not generally the direct target of blood feuds until they come of age.
 - (3) The appellant has given an inconsistent account of whether his brother is still in the family home. In his Home Office interview of 17 June 2022, he states that his brother lives in the family home in Kosovo (question 18). His brother was 16 years of age at that time (question 20). However, in his UASC statement of evidence completed in October 2021, the appellant states that he does not know where his brother is as he left home some time ago. In his witness statement of 4 August 2022, he subsequently states that his brother has now left Kosovo and gone to Hungary. Even taking into account that the appellant was a minor when he completed his statement of evidence, the FtTJ found this inconsistency to be significant. As the FtTJ stated, there is a significant difference between his brother living in the family home and his brother having left and the appellant not knowing where his brother is.
 - (4) The appellant's father has continued to live in the family home in Kosovo. This is confirmed by the appellant in his Home Office interview (question 18). His father works in a bakery although this is not a full time job. Sometimes his dad leaves the house although this is at nighttime (question 39). The FtTJ found that whilst the appellant's father may only have worked intermittently, it is not the case that he was in complete self-confinement. The aggressor family only live some 200 to 300 metres away from the appellant's family home. If the aggressor family were committed to avenging the death, the FtTJ did not accept that leaving the house at night would have been a barrier to seeking revenge.
 - (5) The appellant's account is that the children of the person who was killed are now 21 and 19 years of age. They have therefore been 'of age' for several years. In his witness statement of 22 June 2023 the

appellant's account is that his father barely lived in Kosovo since the blood feud and spends most of his time in Montenegro. The FtTJ found this to be inconsistent with the account given in his UASC statement of evidence, his witness statement of November 2021 and his Home Office interview of June 2022. The FtTJ found that this inconsistency was an attempt by the appellant to bolster his claim.

- (6) In cross-examination the appellant stated that his paternal uncle's son used to be beaten by the neighbours of the blood feud family. The appellant's cousin is older than him and this is why he was targeted. The appellant and his cousin both had to change schools because his cousin was beaten up very badly. The FtTJ found it surprising that the appellant did not mention this earlier. The appellant has been legally represented throughout and no doubt would have been advised of the importance of providing all relevant details.
- (7) In cross-examination, the appellant also confirmed that his cousin currently lives in the UK and the appellant is in contact with him. The FtTJ found it surprising that no evidence has been provided on behalf of the cousin either in the form of a witness statement or indeed attending as a witness on behalf of the appellant. Whilst the FtTJ was mindful that corroborative evidence is not necessary, the FtTJ found that this was evidence that was readily available and which goes to the issue of ongoing risk to the appellant, an issue which has been raised in the refusal letter. The FtTJ took this into account when assessing the appellant's credibility.
- (8) The FtTJ found that there was no evidence that the aggressor family has taken any steps to search for the appellant. The appellant is now 19 years of age. His grandfather, mother and sisters remain in Kosovo. He is in regular contact with his family. There is no evidence that anyone associated with the aggressor family has been asking after the appellant's whereabouts or trying to obtain this information from his relatives who remain in the village. Since the appellant came of age, there has been no demonstration of any commitment on the part of the other family to seek revenge.
- (9) In summary the FtTJ found that whilst it is accepted that the appellant's family is the subject of a blood feud in Kosovo, beyond this, the FtTJ did not accept the credibility of the appellant's account. The FtTJ referred to the number of inconsistencies in the appellant's account which undermine his claim, even taking into account periods of time when the appellant was a minor. The appellant's father has continued to live some 300 metres away from the aggressor family, he has worked intermittently and yet has faced no problems from the aggressor clan. Despite the deceased's children coming of age several years ago and the appellant now being 19 years of age, there is no evidence of anyone looking for the appellant or enquiring as to his whereabouts. The FtTJ therefore made a finding that there is very little evidence of commitment by the aggressor clan towards the prosecution of the feud.
- (10) The FtTJ took into account that the appellant is a national of Albania and could therefore be returned to Albania. Considering the factors set out in EH (blood feuds), the FtTJ took into account that the

blood feud relates to the killing of one person. This took place in 2004, some 19 years ago. The person responsible for the killing was the appellant's grandfather. Nobody in the appellant's family has been killed.

(11) Even taking into account the fact that the appellant has only recently come of age, there is very little evidence of commitment by the aggressor clan towards the prosecution of the feud.

(12) Based on the evidence before the FtTJ and for the reasons set out above, she did not accept that the appellant has a well-founded fear of persecution and that the appellant had not established to the lower standard of proof that he faces a real risk of persecution or serious harm if returned to his home area.

36. In the alternative, even if wrong in relation to this, the FtTJ found that the option of internal relocation within Albania would be available to the appellant and that it would not be unduly harsh for him to do so.
37. In considering this, the FtTJ acknowledged that Albania is a small country, with an estimated population of between 2.8 and 3 million. The proposed point of return is Tirana. The respondent's submission is that, if at risk, the appellant could internally relocate to Tirana or Vlore. The Country Policy and Information Note, Albania: Blood feuds, dated January 2023 ("the CPIN") confirms that freedom of movement is available and generally respected in Albania. People are generally free to change their place of residence or employment [12.1.4].
38. When applying his personal characteristics to the issue of internal relocation, the FtTJ found the appellant to be a healthy young man. There is no evidence before the FtTJ to suggest that he has any particular health issues. The FtTJ acknowledged that the appellant has grown up in Kosovo and has not lived in Albania for any prolonged period of time, but the appellant speaks Albanian. His mother is Albanian as are his relatives on his mother's side of the family. The appellant was brought up by his mother. He would therefore be familiar with the culture and traditions of life in Albania. The FtTJ took into account that the appellant has adjusted to life in the UK during the two years he has spent here and that "This experience will stand him in good stead in adjusting to life in Albania. The appellant has spent some time at school in the UK. This will assist him when seeking employment in Albania". The FtTJ referred to not having been directed to any evidence to suggest that the appellant would be unable to work. The appellant states he has never worked yet in his UASC statement of evidence, the appellant states that he came to the UK with Euro 150 which he had earned by working. The appellant therefore has some work experience. With income obtained from employment the appellant would be able to secure accommodation which he can use as a base to rebuild his life in Albania. The FtTJ concluded that "It is not made out that the appellant would suffer destitution on return".
39. Whilst the appellant would be required to register in any new area, the FtTJ noted that she had not been directed to any evidence to suggest that it would not be possible for him to do so.
40. Dealing with sufficiency of protection, the FtTJ referred to EH (blood feuds) which held that there is no sufficiency of state protection in areas where Kanun law predominates (particularly in northern Albania) but found that the same cannot be said for areas of Albania less dependent on Kanun law.

41. In considering sufficiency of protection, EH (blood feuds) confirms that this is dependent on issues such as the reach, influence and commitment to prosecution of the feud by the aggressor clan. The FtTJ applied this to the factual claim made. The appellant's fear is of a Kosovan family. The aggressor clan live in Kosovo. There is no evidence to suggest that the family members have any presence in Albania let alone any particular influence or reach within Albania. The appellant provides no explanation as to how the family would be able to find him elsewhere in Albania. There is no evidence to suggest that the aggressor clan has any government connections in Albania whether local or national.
42. The FtTJ acknowledged that the CPIN gives examples of families who have moved within Albania and still feel at risk. However, there is no indication that these families felt at risk due to clan aggressors based outside Albania.
43. The FtTJ found that there is no background evidence to suggest that clan aggressors from outside Albania have pursued and targeted individuals within Albania. Based on the evidence before her, the FtTJ was not satisfied that the aggressor clan has any presence or reach within Albania.
44. When considering whether the clan aggressors could track down the appellant through word of mouth, however, by the appellant's own admission, the majority of his family members have left Albania. Having never lived in Albania for any significant period of time the appellant does not have any community connections which could be used to track him down.
45. The FtTJ accepted that if the evidence warrants, a Tribunal can depart from country guidance provided adequate reasons are given but did not find that test is satisfied in this appeal. She did not accept that the appellant would be subject to self-confinement on return to Albania. Even taking into account the fact that the appellant has only recently come of age, the FtTJ found there is very little evidence of commitment by the aggressor clan towards the prosecution of the feud. The FtTJ did not accept that the appellant would be at risk in his home area but even if he was there is no evidence to suggest that the members of the aggressor clan would be able to locate the appellant if he returned to another area of Albania. Whilst the appellant states that his family have previously sought the protection of the police and refers to documentary evidence in support of this, such evidence has not been provided to the Tribunal. The FtTJ stated that she was mindful that the existence of a functioning police force or judicial system does not always imply that sufficiency of protection is available. However, the FtTJ did not find that the evidence before her is sufficient to depart from the findings in EH (blood feuds). The burden of proof remains on the appellant. The FtTJ concluded that the appellant had not discharged the burden upon him and had not established that he would face a real risk of persecution or serious harm on return to Albania.

Decision on error of law:

46. Turning to the grounds of challenge, there is no procedural unfairness in the decision of the FtTJ on the basis claimed. The FtTJ plainly began her assessment on the basis of the respondent's acceptance at paragraph 16 of the decision letter that the applicant and his family were involved in a blood feud in Kosovo. That is clearly set out within paragraph 22 but also at paragraph 31 . The fact that it was accepted by the respondent that there was a blood feud in Kosovo, and this formed the beginning of the FtTJ's factual assessment, it did not mean that the FtTJ was not entitled to consider the evidence as a whole, including the evidence given in cross examination relevant to the factual account given by the

applicant as to what had happened in Kosovo since the inception of the feud in or about 2004 - 2005. In this respect at paragraph 23 the FtTJ properly directed herself to the decision in EH (blood feuds) Albania CG[2012] UKUT 00348 and that whether a blood feud continues and what the attitude of the aggressor clan to its pursuit may be, will remain questions of fact to be determined by the decisionmaker as set out in the head note to that decision at paragraph 11 which reads as follows:

“Whether the feud continues and what the attitude of the aggressor clan to its pursuit may be will remain questions of fact to be determined by the fact-finding Tribunal.

47. This was the task that the FtTJ undertook. The FtTJ’s factual assessment of the blood feud in Kosovo took into account the evidence given as to the nature of the blood feud and that it had started in 2004 approximately 19 years ago. As to the continuation of the feud the FtTJ addressed the appellant’s evidence in relation to family members and found that the appellant himself had not been targeted in Kosovo (see paragraph 24) which is consistent with being underage but that in relation to the circumstances of his brother, who the judge also found to be a potential target of the feud, that the appellant had not given a consistent account of whether or not his brother remained in the family home for the reasons set out at paragraph 25. As to the appellant’s father, the appellant confirmed that his father continued to live in the family home and that he worked in a bakery. Whilst the appellant’s account was that he had left the house at nighttime and worked intermittently, the FtTJ found on the evidence this was not consistent with being in “self-confinement”. Given the proximity of the family home to that of the aggressors, which was 200 to 300 metres away, the judge found that if the aggressor family were committed to avenge for the death, then leaving the house at night would not have been a barrier to seeking such revenge (see analysis at paragraph 26).
48. As to the ongoing risk of the blood feud in Kosovo, the FtTJ also identified other inconsistencies in the appellant’s account that related to his father’s presence (see paragraph 27) and that he had claimed during cross examination that his paternal uncle’s son was beaten by the neighbours of the blood feud family based on being older than the appellant which is why it was targeted, had been a factual matter which had not been raised previously despite being legally represented which undermined his account (see paragraph 28). Further at paragraph 29, he confirmed that his cousin currently lived in the UK, and he was in contact with him. However there had been no evidence obtained from the appellant’s cousin despite that being readily available and relevant to the issue of ongoing risk which was a further matter of adverse credibility.
49. Despite the deceased’s children coming-of-age several years ago and were now 21 and 19, the FtTJ found that there was no evidence of the family members of the aggressors looking for the appellant or enquiring about his whereabouts or trying to obtain information from his relatives who remained in the village. The judge found on the evidence since the appellant had come of age, there had been no demonstration of any commitment on the part of the other family to seek revenge (see paragraph 30).
50. In her assessment of the blood feud in Kosovo, the FtTJ was applying paragraph 6 of the headnote which reads as follows:
 6. *In determining whether an active blood feud exists, the fact-finding Tribunal should consider:*

(i) the history of the alleged feud, including the notoriety of the original killings, the numbers killed, and the degree of commitment by the aggressor clan toward the prosecution of the feud;

(ii) the length of time since the last death and the relationship of the last person killed to the appellant;

(iii) the ability of members of the aggressor clan to locate the appellant if returned to another part of Albania; and

(iv) the past and likely future attitude of the police and other authorities towards the feud and the protection of the family of the person claiming to be at risk, including any past attempts to seek prosecution of members of the aggressor clan, or to seek protection from the Albanian authorities.

7. *In order to establish that there is an active blood feud affecting him personally, an appellant must produce satisfactory individual evidence of its existence in relation to him. In particular, the appellant must establish:*

(i) his profile as a potential target of the feud identified and which family carried out the most recent killing; and

(ii) whether the appellant has been, or other members of his family have been, or are currently, in self-confinement within Albania.

51. Therefore in summary whilst the FtTJ proceeded on the basis set out in the decision letter at paragraph 16 that there was a blood feud in Kosovo, on her factual analysis when applying paragraph 11 of the head note of EH, taken with paragraphs 6 and 7 of the same head note, beyond the existence of the blood feud, she gave her reasoning on the facts as to why she did not accept the appellant's account that by reason of the blood feud and by reference to the nature of the feud and what had happened to the family whilst in Kosovo after the inception of the feud, that he would be at risk of persecution or serious harm if returned to his home area in Kosovo. The FtTJ's reasoning is summarised at paragraphs 31 as follows:

"It is accepted that the appellant's family is the subject of a blood feud in Kosovo. Beyond this, I do not accept the credibility of the appellant's account. There are a number of inconsistencies in the appellant's account which undermined his claim, even taking into account periods of time when the appellant was a minor. The appellant's father has continued to live some 300 m away from the aggressor family, he has worked intermittently and yet has faced no problems from the aggressor clan. Despite the deceased children coming-of-age several years ago and the appellant now being 19 years of age, there is no evidence of anyone looking for the appellant or enquiring as to his whereabouts. I find that there is very little evidence of commitment by the aggressor clan towards the prosecution of the feud."

52. At paragraph 32 the FtTJ applied the factors set out in the head note of EH at paragraphs 6 and 7, making a finding that the blood feud related to the killing of one person in 2004 and 19 years ago. The person responsible for the killing was the appellant's grandfather. Nobody in the appellant's family has since been killed and even taking into account the fact that the appellant had only recently come of age, there was little evidence of commitment by the aggressor clan

towards the prosecution of the feud. Whilst the FtTJ referred to the appellant failing to establish the lower standard that he faced risk of persecution or serious harm if returned to Albania, it is plain from the decision and the subsequent paragraphs that the FtTJ was referring to Kosovo.

53. For those reasons, it has not been demonstrated that there was any procedural unfairness on the part of the FtTJ who lawfully began her analysis on the acceptance that there was a blood feud, but that on her subsequent analysis of the factual circumstances was not satisfied that the appellant had established to the lower standard of proof that he faced a real risk of persecution or serious harm on return to his home area located in Kosovo.
54. Dealing with ground 2, it is submitted by Mr Wood that the FtTJ failed to take into account material matters before reaching her conclusions on risk upon return. In this respect he cites paragraph 22 where the FtTJ had set out the close proximity between the appellant's home area in Kosovo, and an area which was described as his home area in Albania which was approximately 50 minutes journey by car. In this context the grounds referred to the evidence that no visa is needed to travel between Kosovo and Albania.
55. Whilst the grounds submit that the FtTJ did not consider or apply that finding at paragraph 22 and that evidence of lack of visa for travel, to the question of the reach of those that the appellant feared, that has to be seen in the context of the earlier findings of fact that she had made in relation to the lack of commitment shown by the aggressor family to the appellant and his family members in Kosovo. The FtTJ had set out in that earlier assessment that despite the close proximity of the aggressor family to the appellant's family, some 200 to 300 yards and the fact that the deceased's sons had come of age some time ago, there had been no attempts or steps taken to cause any injury to the appellant's other family members or the appellant himself.
56. Those findings of fact plainly were relevant to the issue of the appellant living outside of Kosovo in Albania and the issue of internal relocation. As the FtTJ identified, the appellant feared a family who were Kosovan and lived in Kosovo. The FtTJ found that there was no evidence to suggest that the family members had any presence in Albania let alone any particular influence or reach in Albania (see paragraph 36). If the family had taken no steps to prosecute the blood feud when he and his family members were living close by, the FtTJ's assessment that they would not be able to or have the motivation to seek him if living in Albania was a relevant factual finding to the assessment of risk.
57. Whilst the grounds seek to centre their challenge upon paragraph 37, the FtTJ did not say that all family members had left Albania but that the majority had. The judge also considered the evidence of the appellant's own connections to Albania but found that as he had never lived in Albania for any significant period of time he did not have any community connections which could be used to track him down.
58. In this context the grounds referred to country guidance decisions (AM and BM (trafficked women) Albania CG[2010] UKUT 80 and BF (Tirana-gay men) Albania CG [2019] UKUT on the general basis that the tribunal had held that due to the nature of Albanian society it is plausible or possible to trace an individual often via family connections in the country and in particular in Tirana. References also made to other background country evidence, all of which emanates from one report which is a critique of the respondent's CPIN, as confirmed by Mr Wood in his oral submissions.

59. However the FtTJ did undertake a risk assessment as to the likelihood of these particular aggressors seeking to trace this particular appellant if he did not return to his home area but went to Albania. The FtTJ found that there was no evidence to suggest that the family members had any presence in Albania nor any particular influence or reach within that country. The judge found that there was no evidence that the aggressor clan had any government connections in Albania whether local or national. The appellant could provide no explanation as to how the family would be able to find him elsewhere in Albania. Nonetheless the FtTJ did consider the background evidence, and contrary to the grounds acknowledged that there were examples of families who had moved within Albania who still felt at risk (see reference in the grounds at paragraph 17 which should read a reference to page 128 of the bundle). However the FtTJ's assessment of that evidence was that there was no indication that the families felt at risk due to clan aggressors based outside Albania and based on the particular factual findings relevant to this appeal that the aggressor clan had not taken steps to prosecute the even when living in close proximity.
60. The background material cited on behalf of the appellant in the grounds does not undermine the FtTJ's factual assessment that there was no background evidence to suggest that clan aggressors from outside Albania have pursued and targeted individuals within Albania. This was clearly relevant to the issue of reach the aggressor clan and also as to the sufficiency of protection which the FtTJ found would be available to him (see paragraph 38).
61. In conclusion and when properly analysed, the grounds of challenge amount to no more than a disagreement with the decision. There was no procedural unfairness on the part of the FtTJ on the basis that she went behind a concession in the decision letter for the reasons set out above. Consequently it has not been demonstrated that such a procedural error has vitiated her overall adverse conclusions on the appellant's credibility, his account and the issue of risk on return as the grounds assert.
62. When addressing the adequacy of the analysis undertaken, and when addressing the issue of adequacy of reason in MD (Turkey) v SSHD [2017] EWCA Civ 1958 the Court of Appeal confirmed that adequacy meant no more nor less than that. It was not a counsel of perfection. Still less should it provide an opportunity to undertake a qualitative assessment of the reasons to see if they are wanting, perhaps even surprising, on their merits. The purpose of the duty to give reasons, is in part, to enable the losing party to know why he or she has lost, and it is also to enable an appellate court or tribunal to see what the reasons for the decision are so that they can be examined in case there has been an error of approach. Having considered the decision reached, the FtTJ was required to consider the evidence that was before the First-tier Tribunal as a whole, and she plainly did so, giving adequate reasons for her decision on the material evidence available. The FtTJ plainly had regard to the background material and there is no requirement to set out each and every reference in her factual assessment.
63. The constraints to which appellate tribunals and courts are subject in relation to appeals against findings of fact were recently (re)summarised by the Court of Appeal in *Volpi v Volpi* [2022] EWCA Civ 464 in these terms, per Lewison LJ:
- "2. The approach of an appeal court to that kind of appeal is a well-trodden path. It is unnecessary to refer in detail to the many cases that have discussed it; but the following principles are well-settled:

i) An appeal court should not interfere with the trial judge's conclusions on primary facts unless it is satisfied that he was plainly wrong.

ii) The adverb 'plainly' does not refer to the degree of confidence felt by the appeal court that it would not have reached the same conclusion as the trial judge. It does not matter, with whatever degree of certainty, that the appeal court considers that it would have reached a different conclusion. What matters is whether the decision under appeal is one that no reasonable judge could have reached.

iii) An appeal court is bound, unless there is compelling reason to the contrary, to assume that the trial judge has taken the whole of the evidence into his consideration. The mere fact that a judge does not mention a specific piece of evidence does not mean that he overlooked it.

iv) The validity of the findings of fact made by a trial judge is not aptly tested by considering whether the judgment presents a balanced account of the evidence. The trial judge must of course consider all the material evidence (although it need not all be discussed in his judgment). The weight which he gives to it is however pre-eminently a matter for him.

v) An appeal court can therefore set aside a judgment on the basis that the judge failed to give the evidence a balanced consideration only if the judge's conclusion was rationally insupportable.

vi) Reasons for judgment will always be capable of having been better expressed. An appeal court should not subject a judgment to narrow textual analysis. Nor should it be picked over or construed as though it was a piece of legislation or a contract."

64. With those propositions in mind, the decision reached by the FtTJ was one that was reasonably open to her on the evidence before him and she gave adequate and sustainable evidence-based reasons for her decision. Consequently the appellant has not established that the FtTJ's decision involved the making of an error on a point of law, therefore the decision shall stand.

Notice of Decision:

65. The decision of the First-tier Tribunal did not involve the making of an error on a point of law; the decision shall stand.

Upper Tribunal Judge Reeds
Upper Tribunal Judge Reeds

20/5/24