



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

Case Nos: UI-2024-004248

First-tier Tribunal No: PA/53013/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 9<sup>th</sup> of January 2025

**Before**

**UPPER TRIBUNAL JUDGE KEBEDE**

**Between**

**AG**  
**(Anonymity Order made)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms A Watterson, instructed by Oliver & Hasani Solicitors  
For the Respondent: Ms S Cunha, Senior Home Office Presenting Officer

**Heard at Manchester Civil Justice Centre on 17 December 2024**

**DECISION AND REASONS**

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision to refuse his asylum and human rights claims.
2. The appellant is a citizen of Albania born on 4 October 1978. He arrived in the UK by air on 6 September 2019 with his wife and children and claimed asylum on arrival, having previously visited the UK for a few days in January/ February 2019. His claim was refused on 2 May 2023 and he appealed against that decision.
3. The appellant claimed that if he returned to Albania he would be murdered by the Capja clan, a notorious criminal organisation which was based in Elbasan, his home town. He claimed that on 28 December 2018 an incident took place in which a former friend, BM, attempted to kidnap him and attacked him at the behest of the Capja clan in order to get to his childhood friend KM who was a rival to the Capja clan. BM got

into his car and pointed a gun at him and threatened him, and told him that the Capja gang had threatened to kill his (BM's) son if he did kill the appellant or KM. He was going to take the appellant to the head of the Capja gang, AC. The appellant managed to escape, although BM hit him with his gun in his face and broke his tooth. He ran to a police car and was taken to hospital where he had stitches. Whilst he was in the police car, BM sent him text messages threatening to kill him and his family if he pressed charges against him. He told the police that someone had stolen his car but he did not mention BM. He texted BM to tell him to erase any traces of him (BM) in his car and to leave the car in a public place. The appellant claimed that his wife called him when he was in hospital and told him that a woman had gone to his house and threatened to kill her and the children if he said anything to the police about BM. He called his nephew to go to his house which he did, and the woman escaped by jumping off the balcony. The woman was FC who was BM's girlfriend.

4. The appellant claimed that he was discharged from hospital the same day and went to the police station to file a report. He told them that he did not know who had hit him or stolen his car and that he had been hit with a piece of wood. His brother found his abandoned car and he then went back to the police station and gave the full account. The deputy chief of police pressurised him to withdraw his report and not to name his attacker. However he gave his testimony and disclosed the name of the leader of the Capja clan. The police did not take any action to protect him. He subsequently received a call from a criminal investigator, AH, who wanted to know the truth about what had happened and wanted to help him. Once the story was published in the newspaper, in February 2019, the appellant was contacted by the police to change his testimony and not to give the names of those involved, but he told the police deputy director that he knew he was corrupt and worked for the Capja clan. The police went to his house to take the testimony of his wife and father and BM was subsequently arrested. The appellant claimed that he then started receiving threats from BM's wife and family. In June 2019 his family moved to Spille, Kavaje, where his family owned a hotel. BM's wife and mother threatened his parents and the staff in the hotel where they worked a few days later, demanding that he take back the charges or else they would kill his children and put a bomb in the hotel. He received a threatening message on 13 August 2019 requiring him to withdraw the charges and it was then that he decided to leave the country. He and his wife went to Macedonia to see if they were able to leave the country without problems. They stayed for two hours and then returned to Albania. They left Albania some days later, on 31 August 2019, by car with their children, travelling to Greece and Spain and then on to the UK.

5. The respondent considered that the appellant's account was inconsistent and lacked credibility. There were inconsistencies in his account of his relationship with BM, how he escaped from BM and how he approached the police after escaping from BM. The respondent had regard to a news article dated 8 February 2019 which gave BM's account of the conflict between them in which he claimed that it was to do with his son's birthday party where he had put the appellant in charge but he had not done anything and they then hit each other. The respondent also had regard to a court document dated 15 May 2020 which did not support the appellant's account of what had happened with BM or of being targeted by the Capja family. The respondent considered that the appellant had failed to show that the Capja family would target him because of his friendship with KM and did not accept that the Capja family was after him. The respondent did not accept the appellant's account of being at risk on return to Albania, but considered in any event that there was a sufficiency of protection available to him and that he could relocate to another part of the country. The respondent considered that the appellant's own evidence showed that the police had taken action against BM when he reported him. The respondent considered

further that the appellant's removal from the UK would not breach his human rights. Whilst there was evidence that he was suffering from mental health problems, he would be able to access adequate treatment in Albania.

6. The appellant's appeal against that decision was heard by First-tier Tribunal Judge McClure on 26 June 2024. It was accepted on behalf of the appellant that his claim did not engage the Refugee Convention, and the claim was pursued on humanitarian protection, Article 3 and Article 8 grounds. The appellant and his wife gave oral evidence before the judge. The judge had before him a psychiatric report for the appellant from a Consultant Psychiatrist Dr Pranveer Singh, police reports and notes on the investigation, a record of the court proceedings, records of the text messages from BM, a newspaper report and other news articles, as well as a country expert report from Dr Enkeleida Tahiraj. The judge did not find the appellant's account to be credible. He considered the appellant's willingness to lie to the police in Albania to be of note and he found that the appellant's actions in texting BM from the police car were not those of a man in fear. He considered that the appellant had been exaggerating what occurred in his account given to the psychiatrist and in the evidence before the Tribunal. The judge found it significant that the appellant, whilst claiming that his life and the lives of his family were at risk, had lived in the same place from December 2018 until June 2019 and then from June 2019 to August 2019, and had been working in his café and living a normal life without any problems and without any serious attempt to put the threats into action. He noted that the appellant's move to Spille, whilst claimed to be due to the threats he received, was in fact consistent with his practice over the years of spending the summer at his father's hotel and working there. He therefore considered that the appellant had gone to the hotel to work and not because of any threats.

7. The judge also noted that the appellant had twice left Albania and returned there, to the UK in January/February 2019 and to Macedonia in August 2019, despite claiming that his family's lives were at risk, and did not accept that he would have done so if his life was genuinely in danger. The judge also found it significant that the police had been actively seeking BM and FC and he considered that the appellant's account of withholding the name of his attacker from the police was inconsistent with other parts of the evidence. The judge concluded that, whilst there had been an argument between the appellant and BM, the appellant had not told the truth about the reason for the argument and he did not accept that it had anything to do with AC or that BM was supposed to kill him or take him to AC. He accepted that the appellant was hit, but not by a gun. He did not accept that the appellant's account of being at risk from a criminal gang was true, but considered that there was simply a personal dispute between the appellant and a friend which had nothing to do with criminal gangs. The judge concluded that the appellant was at no risk on return to Albania. He found that he would be able to access medical treatment there and that his removal would not breach his human rights on Article 3 or 8 grounds. The judge accordingly dismissed the appeal, in a decision promulgated on 25 July 2024.

8. The appellant sought permission to appeal Judge McClure's decision on the grounds that the judge had erred in law in making his adverse credibility findings and had failed to exercise anxious scrutiny when assessing the evidence. There were three specific grounds of challenge. Firstly, that the judge had failed properly to take into account the psychiatric report and the support it provided to the appellant's credibility. Secondly, that the judge had failed properly to weigh up the appellant's explanation as to why he did not claim asylum sooner. Thirdly, that the judge had failed to take into account the extent of the Albanian media coverage of the incident

involving the appellant and BM, in particular the news article by the investigative journalist AH, which confirmed that the incident was not simply a personal dispute.

9. Permission was granted on all grounds in the First-tier Tribunal.

10. The matter then came before me for a hearing. Both parties made submissions.

11. Ms Watterson relied and expanded upon the grounds of challenge, submitting that there had been a lack of anxious scrutiny by the judge when considering the evidence. With regard to the psychiatric report, she referred to areas of the report where the expert had given his view that the appellant was not exaggerating his symptoms and appeared anxious and fearful, and genuinely distressed, and she submitted that the judge had failed to take that into consideration. With regard to the judge's findings on the appellant's delay in claiming asylum and failure to claim when outside Albania on previous occasions, Ms Watterson submitted that the judge had failed to weigh up the appellant's explanation for this, as provided in his interview at questions 49 to 50 and 115 and 117, and in his witness statement, namely that he was waiting to see if the Albanian authorities would provide him with protection and that it was the threat in August 2019 which triggered his departure. As for the judge's failure to take proper account of the media coverage which confirmed his account of events in Albania, Ms Watterson submitted that the judge had failed to give proper regard to the six different news outlets which had reported on events and shown his picture, the news articles and most importantly the expert's report following her own independent research into the events and her reference to the report from the investigative journalist AH which she had tracked down herself, all of which confirmed that the incident was linked to organised crime and was not just a dispute between friends.

12. Ms Cunha submitted that the judge had given anxious scrutiny to the evidence and was entitled to conclude that the appellant had not told the truth. She submitted that the judge had been entitled to find that the appellant had been exaggerating in his account to the psychiatrist and that the evidence he had put to the psychiatrist was not truthful. The first ground was therefore just a disagreement with the judge's findings and the weight he gave to the psychiatrist report. The appellant's explanations for the delay in claiming asylum did not address the issue of the time between BM being arrested and released to the prosecution when he remained in Albania. The judge had found that the appellant had given inconsistent evidence, claiming to be in hiding in his father's hotel yet also stating that he was working for his father because of the financial problems. The judge was entitled to draw the adverse conclusions that he did from the appellant's delay in claiming asylum and gave proper reasons for his conclusions. As for the media coverage, Ms Cunha submitted that the judge was entitled to find that the expert had not tied the risk arising from criminal gangs to the appellant's own circumstances and that the reports were not consistent with the appellant's own rhetoric.

13. Ms Watterson replied to Ms Cunha's submissions and referred again to the threatening texts which led to the appellant's departure in August 2019, which were separate to the texts received on the day of the incident. She reiterated that the expert's report was based on her own research from media sources which confirmed that the appellant's friend KM was linked to rival organisations.

## **Analysis**

14. As a starting point I reject the assertion that there was a lack of anxious scrutiny on the part of the judge. The judge set out the appellant's evidence at length in his

decision, from [9], referring to the various pieces of evidence relied upon and providing a summary of all the police and court reports, newspaper articles and expert reports, from [21] to [48]. He clearly read and engaged with all the evidence.

15. The first particularised challenge to the judge's assessment of the evidence, in the grounds, is to his findings on the psychiatric report of Dr Singh, which can be found at page 266 of the composite bundle. It is to be noted that Dr Singh made clear at section 2.1 that his report was based upon the history directly related to him by the appellant. Ms Watterson relied upon Dr Singh's references, in his report, to the appellant appearing visibly anxious and anxious (sections 5.3 to 5.7, 14.1, 19.2 and 20.3) and upon his view, at section 17.4, that the appellant was not exaggerating or overstating his symptoms. It was Ms Watterson's submission that the judge failed to recognise, and give appropriate weight to, the evidential value of the psychiatrist's views in that respect, particularly when making findings as to the appellant demonstrating an absence of genuine fear. However I am in agreement with Ms Cunha that this is essentially a disagreement with the weight the judge gave to the report and the view he reached about the report. It is certainly not the case that the judge failed to give full consideration to the report as he engaged with it at some length at [40] to [43], summarising its contents and the expert's opinion, and he referred to it specifically at [56] when analysing the expert's views in the context of the appellant's evidence as a whole. In that paragraph the judge gave a particular example of an inconsistent account provided to Dr Singh about the nature of the texts received from BM which, together with other aspects of his evidence that suggested he was not genuinely in fear, led him to conclude that the appellant had been exaggerating to Dr Singh. The judge was not bound to accept the psychiatrist's opinion on the genuineness of the appellant's fear. He gave proper reasons for departing from the psychiatrist's view and was perfectly entitled to reach the adverse conclusion that he did.

16. The second ground of challenge is to the judge's findings on the appellant's delay in claiming asylum. Ms Watterson's submission was that the appellant had given a proper explanation for not having claimed asylum in the UK during his previous visit in January/ February 2019 and for having returned to Albania on that occasion, and on a second occasion following a trip to Macedonia. It was Ms Watterson's submission that the arrest of BM after the December 2018 incident was a good reason for the appellant to believe that he would be adequately protected by the Albanian authorities and for not, therefore, needing the protection of another country. She submitted that that was a proper reason for him not having sought asylum in the UK during his visit in early 2019. She submitted that the appellant had properly explained that it was the threat received in August 2019 which was the final trigger for his departure from Albania. However the judge was fully aware of the appellant's evidence in that regard. He referred to the appellant's explanation for his departure in August 2019 at [10(kk)] and [10(ll)] and [30]. He noted that the appellant's evidence, nonetheless, was that the threat had not ceased with BM's arrest but was ongoing. He referred in particular to the appellant's evidence, as recorded at [10(ff)], that he and his wife were receiving pressure not to pursue the prosecution and had to leave their home town due to ongoing threats. It was therefore not the case that there was any failure by the judge to take account of the appellant's reasons for claiming asylum when he did. The judge was fully cognisant of the appellant's evidence in that regard. He was nevertheless fully and properly entitled to conclude that the failure to claim asylum previously was a relevant matter which undermined the appellant's claim to be in genuine fear.

17. Furthermore, as Ms Cunha submitted, the appellant's delay in claiming asylum and his actions in voluntarily returning to Albania when he did, were not the only reasons

for the judge drawing the adverse conclusions that he did about the genuineness of the appellant's claim to have been in fear for his life. At [57] to [60] the judge gave further reasons for rejecting the appellant's account to have been living in fear, including a lack of further incidents or attacks, which he found to be contrary to the background evidence on the actions of criminal gangs, as well as internal inconsistencies in the appellant's own evidence about the situation with his father's hotel and whether he was hiding in the hotel or working there. As Ms Cunha submitted, none of those findings were challenged in the grounds, and for all those reasons it seems to me that the judge was perfectly entitled to draw the adverse conclusions that he did about the genuineness of the appellant's claimed fear.

18.As for the third ground, I reject the assertion that the judge failed to take proper account of the media coverage confirming the appellant's account of events in Albania. The judge considered the media reports in considerable detail. The grounds, at [16], refer to the appellant's account of his claim having being widely reported in independent news articles and YouTube videos and refer to the news articles produced and the links to further articles provided by the expert Dr Tahiraj. Ms Watterson referred to the numerous pictures of the appellant appearing in the media reports. The problem for the appellant, however, in maintaining such a claim, is that the majority of the articles relied upon were not accompanied by translations and the judge was therefore unable to accord them any weight. The fact that the articles contained the appellant's picture could not be a reason to expect the judge to accept the reports as support for his claim to be involved in mafia activities, without further details. Only two of the newspaper reports were translated. The judge addressed both fully, at [27] to [29], noting at [29] that the second article referred to the Capja family but not to any incident with the appellant. The only report referring directly to the appellant was the article of 8 February 2019, the title of which is translated as "was AG kidnapped or not, the full accounts of the arrested, here's how the event in Elbistan happened" which the judge considered at [20] and [27] to [28] of his decision, noting that it simply recited BM's version of events and referred to the appellant not knowing who had tried to kidnap him. The judge plainly considered the article to be of little assistance to the appellant in supporting his claim of the events in Albania and, in my view, he was perfectly entitled to conclude as such.

19.Ms Watterson submitted that the expert report of Dr Tahiraj was of particular importance, in that the expert had undertaken her own independent research and had found an article written by the journalist AH about the appellant. She submitted that the judge had failed to consider that evidence which was significant in that it supported the appellant's claim that the incident was more than a private dispute. However, at [44] to [49] of his decision, Judge McClure addressed Dr Tahiraj's report at length. At [54] and [57] he judge made it clear that he had reached his conclusions with the expert opinion in mind. He specifically referred to the expert's mention of AH's reports on criminal gangs at [45] of his decision. Whilst he did not expressly refer to AH's account of the attempted kidnap, as mentioned by Dr Tahiraj at the bottom of page 11 of her report, there was little to be drawn from that in any event. Although Dr Tahiraj referred to a report by AH stating that AG was kidnapped in a mafia style, she went on to state that the journalist did not explain why he was held and she provided no further information about the report. The report she mentioned as being available online was not produced in the appeal bundle and the title of the report which was cited in the footnote was not translated. That seemed to be consistent with the number of other untranslated articles relied upon by the appellant, and indeed it is somewhat surprising that where such reliance was placed upon media coverage in support of his claim, the relevant translations were simply not made available to the judge. Judge McClure would therefore not have had the benefit of viewing the article

and of assessing the context in which the appellant was mentioned, and in the circumstances nothing material arises from this.

20. For all these reasons it seems to me that the grounds are not made out. Judge McClure undertook a thorough and comprehensive assessment of all the evidence. The challenges to his conclusions are essentially disagreements with the weight that he accorded to the evidence, disguised as assertions of a failure to take full and proper account of the evidence. Having fully and carefully assessed the evidence, the judge made cogently reasoned findings and reached conclusions which were fully and properly open to him.

### **Notice of Decision**

21. The making of the decision of the First-tier Tribunal did not involve a material error on a point of law requiring it to be set aside. The decision to dismiss the appeal stands.

### **Anonymity Order**

The Anonymity Order previously made is continued.

Signed: S Kebede  
Upper Tribunal Judge Kebede

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

30 December 2024