



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/02152/2013

THE IMMIGRATION ACTS

Heard at Field House  
On 21 August 2013

Date Sent  
On 3 September 2013  
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Before

UPPER TRIBUNAL JUDGE D E TAYLOR  
DEPUTY UPPER TRIBUNAL JUDGE DAVID TAYLOR

Between

INCIDOR NEZAJ  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr P Bonavero of Counsel  
For the Respondent: Mr G Saunders, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is an 18 year old citizen of Albania (born 27 June 1995). He has appealed, with permission, against the decision of First-tier Tribunal Judge K S H

Miller who, in a determination promulgated on 21 June 2013 dismissed his claim for asylum which had been based on his fear of return to Albania due to a family blood feud. The judge found his claims to lack credibility but that, even if there were some truth in the claims, there is adequate sufficiency of protection in Albania.

2. Permission to appeal was granted on 12 July 2013 by First-tier Tribunal Judge Grimmett in the briefest of terms: she stated simply that the First-tier Tribunal Judge “may not have considered the evidence in the round”. It remains nevertheless for the appellant to satisfy us that there was such an error of law in the determination of Judge Miller that his determination should be set aside.
3. In making his submissions, Mr Bonavero relied on the grounds and invited us to find that the judge had dealt with general credibility first before considering the documents that had been submitted on behalf of the appellant. He based this on the fact that in giving his reasons for finding against the appellant on credibility in paragraph 35 of the determination, the final sub-paragraph referred, for the first time in his reasons, to the documents. We do not accept that this was an error of law. The judge had outlined fairly the whole of the appellant’s case and referred to the entire bundle of documents submitted by the appellant. There is no reason to believe that, simply because the judge referred to the documents later in his determination rather than earlier, he did not consider all the evidence in the round.
4. It was also urged upon us that at the date of the First-tier hearing the appellant was one week short of his 18<sup>th</sup> birthday and was still a child in law. Again, we are satisfied that the judge took proper account of this and that is undoubtedly clear from paragraph 34 of the determination where specific reference is made to the appellant’s age. Indeed, the judge went on to say that the appellant “did not appear to have any difficulties in answering the questions which were put to him at the hearing and there was no indication either that he was unwell”. The judge went on at paragraph 35 to emphasise that he “had made every allowance for the appellant”.
5. Mr Bonavero finally expressed concern the judge had not dealt specifically with the documentary evidence that the appellant’s father had been convicted of murder in 1987 and that that gave rise to the blood feud.
6. Mr Saunders addressed us in reply. In relation to the documents submitted by the appellant he relied on the recent Upper Tribunal decision in **MJ (Singh v Belgium: Tanveer Ahmed unaffected) Afghanistan [2013] UKUT 00253 (IAC)**: it remains for the person relying on a document to satisfy the Tribunal as to its authenticity. He submitted that the judge was entitled to reach the decision that he did based on the evidence before him.
7. In our view, it is clear that the judge took the father’s conviction into account. Reference was made to the incident at paragraph 20 of the determination and paragraph 35(i) in particular summarises the judge’s reasons for finding that, even if there was truth in the original incident, there was no reason to believe that there had

been any intervening incidents since 1987 connected to it nor that the appellant would be at risk on return. All these findings were reasonably open to the judge on the evidence before him and, in particular, after he had heard oral evidence from the appellant.

8. An appeal to the Upper Tribunal can succeed only where it can reasonably be shown that the First-tier Tribunal has made such an error of law that its decision cannot be allowed to stand. In this case, for the reasons given above, we are satisfied that there was no such error.

### **Decision**

There was no error in the determination of the First-tier Tribunal and its decision shall stand.

No anonymity direction was requested and none is made.

Deputy Upper Tribunal Judge David Taylor  
3 September 2013