



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

Appeal Number: AA/06031/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 21 December 2015**

**Decision & Reasons Promulgated
On 7 January 2016**

Before

UPPER TRIBUNAL JUDGE CANAVAN

Between

**E S
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J. Collins, Counsel instructed by Sentinel Solicitors

For the Respondent: Ms J. Isherwood, Home Office Presenting Officer

Anonymity

Rule 14: The Tribunal Procedure (Upper Tribunal) Rules 2008

Anonymity was not granted at an earlier stage of the proceedings despite the fact that the First-tier Tribunal Presidential guidance Note (No.2 of 2011) recommends that a direction will normally be made in cases involving children and vulnerable people. The appellant is not yet 18 years old and for this reason I find that it is appropriate to make a direction. Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. No report of these

proceedings shall directly or indirectly identify her or any member of her 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.

DECISION AND REASONS

Background

1. The appellant says that he entered the UK clandestinely on 10 October 2013. The exact date when he claimed asylum is unclear from the evidence currently before the Tribunal. The appellant claims that he is at risk on return to Albania as a result of a blood feud. He says that the feud arose with a family in Tirana when his paternal cousin shot and seriously injured a member of their family.
2. The respondent refused the application in a decision dated 08 August 2014. She did not consider it plausible that he would be at risk as a child because it was asserted that Kanun law did not sanction the targeting of children. He was unable to provide sufficient detail as to why the police were unable to provide protection when his father reported the matter. The respondent did not accept that the appellant was likely to be at risk as a result of a blood feud. However, the appellant was granted Discretionary Leave to Remain until 07 May 2016 pursuant to the respondent's policy on unaccompanied asylum seeking children.
3. The appellant appealed under section 83 of the Nationality, Immigration and Asylum Act 2002 ("NIAA 2002") (as applied at the time). As such, the appeal was confined to consideration of whether the appellant should be recognised as a refugee or qualified for Humanitarian Protection.
4. First-tier Tribunal Judge Cohen ("the judge") dismissed the appeal in a decision promulgated on 31 July 2015. He accepted that there was evidence to support the claim that there had been a shooting incident in Tirana. He went on to find that there was no evidence to show that a blood feud had arisen as a result of that incident. The person was eventually arrested and prosecuted for the crime. The appellant had been vague in his evidence about what happened when his father reported the blood feud to the police [17]. There was no evidence to show that his father reported the matter to the police or sought reconciliation. He found that the fact that the newspaper articles relating to the shooting in Tirana did not mention a blood feud was "highly indicative" that a blood feud did not exist [18]. The judge went on to find that the appellant's evidence was vague and lacking in cohesive detail. He did not find it plausible that the appellant's father would not tell him where he was going when he left in January 2013 or that it was plausible that the appellant no longer had any contact with any members of his family. He inferred from this that the appellant's family members were still likely to be living in his home area [19].

5. Although the judge made clear that he did not accept the appellant's account he went on to consider the case in the alternative. Even if strangers had come to the appellant's village asking about his family he concluded that the appellant did not know who they were and it was "pure speculation" that they were from the family who he says declared a blood feud. For this reason the judge concluded that the appellant's subjective fear was not objectively well-founded [20]. In [22] he made the following finding:

"The appellant was unsure as to how his father was informed that the [other] family had declared a blood feud against him and his father. The appellant's claim is vague throughout and I find even allowing for his age that had been significant events occurred as claimed that the appellant would have more knowledge that he does. I find that the appellant's lack of knowledge lack of ability to provide a cohesive detail is because the appellant has simply based a fabricated asylum claim upon a reported criminal act and has learnt a series of facts and is unable to vary from that script."

6. He went on to find that there was no evidence to show that the appellant's family tried to seek protection from the authorities. He referred to background evidence to suggest that effective protection was likely to be available [23]. He took into account the fact that other members of the appellant's family had moved to Greece and concluded that there was a pattern of family migration for economic betterment. He found that it was likely that the appellant was sent to the UK for this reason and to further his education [24]. The judge then referred to the country guidance decision in *EH (blood feuds) Albania* [2012] UKUT 00348 and noted what was said about blood feuds being more prevalent in the north of Albania. He took into account the fact that the shooting incident took place in Tirana and found that it was reasonable to infer from this fact that the appellant was in fact from Tirana (and not from the north as claimed). He was not therefore likely to be involved in a blood feud [25]. For these reasons he concluded that the appellant would not be at risk on return [26].

7. The appellant seeks to appeal the decision on the following grounds:
- (i) In assessing the credibility of the appellant's account the First-tier Tribunal failed to give adequate consideration to the fact that the appellant was a child and was even younger at the date of the material events. For this reason he may not have been able to provide as much detail as might be expected of an adult.
 - (ii) The First-tier Tribunal's finding that the appellant's family members were still likely to be in the family home was pure speculation and not rooted in any evidence.
 - (iii) The judge erred in his analysis of whether there was sufficient protection available in light of the fact that the appellant is from the north of Albania where Kanun law predominates. He failed to adequately consider the country guidance outlined in *EH (Albania)*,

which states that in areas where Kanun law predominates there was unlikely to be sufficient protection.

Decision and reasons

8. After having considered the grounds of appeal and oral arguments I satisfied that the First-tier Tribunal decision did not involve the making of an error on a point of law.
9. The fact that an asylum seeker is an unaccompanied child is a material consideration when assessing the credibility of his account. The UNHCR Handbook on Procedures and Criteria for Determining Refugee Status (revised 2011) makes clear that the assessment of a child's case must be done according to his mental development and maturity. Where the child is an adolescent it will be easier to determine refugee status as in the case of an adult, although this will still depend on the child's actual degree of maturity. The assessment of a claim from a minor may call for a liberal application of the benefit of the doubt (paragraphs 214-219).
10. While the judge could have framed his credibility findings in a more structured way that took into account the appellant's age at each stage I find that it is quite clear from an overall reading of the decision that he did, as a matter of fact, take into account the appellant's age to an adequate extent when assessing the credibility of his account. The judge outlined the fact that he had been granted Discretionary Leave to Remain as an unaccompanied minor [2] and elsewhere he mentioned that the respondent accepted that the appellant was a minor [8]. In summarising the respondent's reasons for refusal he outlined the fact that the respondent had taken into account the appellant's young age at the time of the claimed events [9]. He also noted the evidence given by the appellant in his witness statement (he was not called to give evidence) in which he explained that he had limited knowledge of some of the events that led him to leave Albania because of his young age at the time [12].
11. The mere fact that the judge noted those parts of the evidence would not be sufficient if, as a matter of fact, there was no evidence to show that he had considered the appellant's age as part of his overall assessment of the credibility of his account. While the judge's reasoning in paragraph 22 of the decision is brief I am satisfied that it is at least sufficient to make clear that the judge had taken into account the appellant's young age when assessing the overall credibility of his account. As such, I conclude that there is no error of law in relation to the first ground of appeal.
12. The judge did not make his findings in relation to the appellant's family in a vacuum. He was entitled to make reasonable inferences from the appellant's own evidence. The appellant was aware of the fact that other family members were living in Greece. There clearly was contact between the appellant and other family members who had travelled abroad. In those circumstances it was open to the judge to conclude that it was implausible that the appellant, even at his young age, did not know where

his father was. Similarly, I find that it was reasonable for the judge to conclude that it was implausible that the appellant would have been sent to the UK by his mother without any means of contacting her to say that he had arrived safely. Those findings were open to the judge to make on the evidence and disclose no error of law.

13. While I consider that there may be more merit to the final ground of appeal because the judge did not adequately engaged with the country guidance relating to the availability of protection from blood feuds in Albania; any error is immaterial. While the appellant no doubt disagrees with his conclusions the judge's credibility findings are sustainable. He rejected the appellant's account and made a clear finding that there was insufficiently reliable evidence to show that a blood feud was in existence. As such any error relating to the assessment of the availability of protection would not be material to the overall outcome of the appeal.
14. For the reasons given above I conclude that the First-tier Tribunal decision did not involve the making of an error on a point of law. The decision shall stand.

DECISION

The First-tier Tribunal decision did not involve the making of an error on a point of law

The First-tier Tribunal decision shall stand

Signed



Date 07 January 2016

Upper Tribunal Judge Canavan