



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Numbers: AA/06588/2015

THE IMMIGRATION ACTS

Heard at Field House, London  
On the 17<sup>th</sup> May 2016

Decision and reasons promulgated  
On the 23<sup>rd</sup> May 2016

Before:

THE HONOURABLE MR JUSTICE MCCLOSKEY  
PRESIDENT OF THE UPPER TRIBUNAL  
and  
DEPUTY UPPER TRIBUNAL JUDGE MCGINTY

Between:

[K S]

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

Appellant: In person  
Respondent: Mr P Deller (Senior Home Office Presenting Officer)

DECISION

1. This is the Appellant's appeal against the decision of the First-tier Tribunal (the "FtT") promulgated on 26 October 2015.
2. The appeal was initially heard by Deputy Upper Tribunal Judge Drabu on 29 January 2016, at which time the Appellant was represented by Mr Collins (of counsel) and the Respondent was represented by Mr Staunton, Senior Office Presenting Officer.

3. On that day, Deputy Upper Tribunal Judge Drabu heard full submissions, which are recorded within his record of proceedings and which we have taken fully into account in reaching our decision. At the conclusion of the hearing, the Judge stated that the decision of FtT was set aside, on the basis that it contained a material error of law.
4. Deputy Upper Tribunal Judge Drabu retired on 08 March 2016, without a written decision having been promulgated. The matter was therefore listed before us today, for mention.
5. At today's hearing the events described were confirmed as uncontentious by Mr Deller on behalf of the Respondent. Thus the only issue for us was whether the appeal should be retained within the Upper Tribunal or remitted to the FtT for rehearing. He also agreed, Judge Drabu having retired, that the case should be transferred to us to prepare the written decision and any consequential order.
6. Having fully considered all the documentation in the case, including the original decision of the FtT, the grounds of appeal, the record of proceedings before Deputy Upper Tribunal Judge Drabu, and all the documentation contained within the respective bundles, it is clear to us beyond peradventure that the decision of FtT does contain material errors of law.
7. The Appellant is a national of Albania, whose date of birth is [ ] 1998. At the date of the first instance hearing, 06 October 2015, the Appellant was a minor. His case is that he had previously suffered physical abuse and violence at the hands of his father, who was a middle ranking police officer in Albania, he feared further violence from his father and his father had threatened to kill him.
8. It is clear, having closely examined the decision of the FtT, that there was no adequate consideration of the evidence of the Appellant, particularly in respect of the domestic violence he claims to have suffered in the past from his father and his fears in the event of enforced return. Nor was there any adequate consideration of the evidence of the Appellant's mother.
9. Although the FtT did expressly consider the evidence of the Appellant's uncle, who on his own account never actually witnessed any acts of violence towards the Appellant, and the evidence of two friends who tried to intercede on part of the Appellant with his father, there is a clear failure to properly consider the evidence of the Appellant and that of his mother. The bald and unparticularised conclusion at [10] "I do not find the witnesses reliable or credible" is manifestly insufficient.
10. As was stated by the President in the case of MK (duty to give reasons) Pakistan [2013] UKUT 00641 (IAC) -  
"A bare statement that a witness was not believed or that a document was afforded no weight is unlikely to satisfy the requirement to give reasons."

11. In this case, the lack of any meaningful consideration of the evidence of the Appellant or that of his mother manifestly fails to conform to the legal standard in play.
12. Further, the FtT has clearly material erred in law in failing to even mention, yet alone adequately deal with, the expert report by Dr James Korovilas, which addresses the issues of risk to the Appellant, sufficiency of protection and internal relocation.
13. Finally, we conclude that the finding of the FtT at [14] relating to the father's conduct on a specific occasion is demonstrably irrational and inadequately reasoned.
14. We consider that there is a substantial amount of further fact-finding required in this case. Remittal is, therefore, appropriate.

Notice of Decision

1. The decision of the FtT is set aside, with no preserved findings of fact;
2. The case is remitted back to a newly constituted FtT.

Signed

Dated 17th May 2016

Deputy Upper Tribunal Judge McGinty