



**Upper Tribunal  
(Immigration and Asylum Chamber)  
AA/06409/2015**

**Appeal Numbers:**

**AA/06565/2015**

**AA/06566/2015**

**AA/06567/2015**

**AA/06568/2015**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 11<sup>th</sup> October 2017**

**Decision & Reasons  
Promulgated  
On 18<sup>th</sup> October 2017**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE GRIMES**

**Between**

**MR SM  
MRS AM  
MASTER AM  
MISS AM  
MASTER AM**

**(ANONYMITY DIRECTION MADE)**

Appellants

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellants: Ms R Moffatt, Counsel instructed by Simman Solicitors  
For the Respondent: Ms Willocks-Briscoe, Home Office Presenting Officer

## **DECISION AND REASONS**

- 1.** The Appellants, nationals of Albania, appealed to the First-tier Tribunal against the decision of the Secretary of State to refuse their application for asylum in the UK. First-tier Tribunal Judge Kaler dismissed the appeal in a decision promulgated on 20<sup>th</sup> March 2017. The Appellants now appeal to this Tribunal on the basis of permission granted by First-tier Tribunal Judge Grimmett on 14<sup>th</sup> August 2017.
- 2.** The first Appellant is a male citizen of Albania, the second Appellant is his wife and the other three Appellants are their children. They all claimed asylum on entry to the UK on 25<sup>th</sup> February 2013. A request to return the Appellants to Italy under the Dublin Convention was accepted by the Italian authorities but following although they were to be removed to Italy under the Dublin Convention and the Appellants applications for asylum were refused on these grounds of appeal. However, following an application for Judicial Review the first Appellant was interviewed and the Respondent made the decision to refuse the applications on 24<sup>th</sup> March 2015.
- 3.** The basis of the first Appellant's claim is that there is a blood feud between his family and another family and that he is at risk in Albania as the result of this blood feud. The Secretary of State did not accept that the Appellant or his father is involved in a land dispute with the family of MM as claimed. In any event the Secretary of State accepted that there is a sufficiency of protection in Albania and that internal relocation remained a viable option because it is not unduly harsh for the Appellant to relocate within Albania.
- 4.** In her decision the First-tier Tribunal Judge considered the documentary evidence submitted in relation to court proceedings in Albania and concluded that she was satisfied that there was a land dispute between the Appellant's father and MM's family and that the Appellant is now acting as a plaintiff in respect of land he is claiming from MM [52]. Because of inconsistencies in the Appellant's evidence the judge did not accept that the Appellant received a text message causing him to leave his home. The judge accepted that there were some threats made to the Appellant which related to the dispute between the families [54]. The judge accepted that there was a protracted land dispute saying that the threats were at most an attempt to stop the Appellant from pursuing his claim for land [54]. The judge noted that it appeared from the documents that the courts have ruled in favour of MM's family so that there is little for them to gain from any ongoing threats. The Appellant has decided not to pursue his claim and the judge noted that, while courts are open to bribes, there was no evidence before her to show that MM's family is influential. She noted that the courts appear to have considered the matter fully and it did not follow that the judge had been bribed. The First-tier Tribunal Judge said that the robbery and arson at the home of the Appellant's

parents may have been to do with the land dispute or it may have been due to other people who have nothing to do with the dispute and noted that it seemed astonishing that if these events occurred the parents did not contact the police, instead contacting only the Appellant after the fire [55]. The judge did not accept that the Appellant left his home area without his parents because of threats or fear of violence. The judge accepted that what starts as a dispute about land can escalate into a blood feud [56] and went on to consider whether that is what actually occurred in this case. The judge found that there was no connection between the land dispute and the murder of the son of MM noting that another man was prosecuted and sentenced for the death of MM's son and that if there is a blood feud it is more likely that it exists between MM and the family of the man who was sentenced. The judge accepted that there was a feud between the Appellant's family and that of MM but it was not a blood feud noting that no blood was spilt that involved this Appellant and did not conclude that MM believed this Appellant was involved after the conviction of the other man [56].

5. The judge considered the country guidance case of **EH (blood feuds) Albania CG [2012] UKUT 00348**. The judge noted at paragraph 59 that the only evidence that there may be a threat to the Appellant and his family now comes by way of the reports from Albania from the Appellant's mother but noted that there was no direct evidence from her. The judge noted that, although there was a statement from another witness who is in the UK and claims to have spoken to the Appellant's mother, she was not tendered for evidence so her evidence could not be tested. The judge concluded with her omnibus findings of fact at paragraph 60 finding that the Appellant owns some land in Albania and that another family laid claim to the land and went through the courts to establish their rights and won. The judge found that it was credible that there were threats made during the course of those proceedings but it was not established that those making the threats were responsible for any arson or robbery. The son of MM was murdered in 2007 and the murderer was imprisoned. The judge did not find that any threats made to the Appellant or his family relate to that murder but were in relation to the land dispute. The judge did not accept that the Appellant's brothers have fled or are in hiding because of any threats. There was no evidence of any threats made to them and they were not interested in the land dispute. The Appellant's mother is not in hiding, she was located by the Appellant's mother-in-law. There is or was a land dispute in the judge's findings but no blood feud.
6. In terms of the sufficiency of protection the judge found at paragraph 62 that the authorities act in relation to threats and offending and investigate complaints noting that they decided in one case not to act as they found the complaint related to a land dispute. The judge was not persuaded on the evidence that the police would not investigate matters because of any influence exerted upon them as they successfully prosecuted the murder of MM's son.

## **Grounds of appeal**

- 7.** The Grounds of Appeal to the Upper Tribunal contend that the First-tier Tribunal Judge erred in failing to consider the expert country report of Antonia Young saying at paragraph 59 that the expert country evidence is only relevant if she made a finding that there was a blood feud. However it is submitted that the country report was relevant to the question of credibility in that it addressed the plausibility of the Appellant's account and the question of the existence of a blood feud. It is contended that the expert evidence was relevant in terms of the plausibility and external consistency of the Appellant's account. It is contended that in failing to take this evidence into account the judge failed to consider credibility in the round and erred materially.
- 8.** The second ground contends that in finding that the authorities are able to offer protection the judge failed to give reasons as to why the expert's evidence to the contrary was rejected.
- 9.** In the third ground it is contended that the judge made inconsistent findings in that she found that the first Appellant received threats from the aggressor family and that the robbery and arson took place as claimed but also found that he received no threats in relation to the murder of MM's son and that the robbery and arson were not perpetrated by the aggressor family. It is contended that the First-tier Tribunal Judge failed to give proper reasons for distinguishing between the two factual findings.
- 10.** Permission to appeal was granted on the basis that it is arguable that the judge erred in failing to consider the expert report only after she had concluded that there was no blood feud as it dealt with how such feuds arise.

## **Discussion and conclusions**

- 11.** The first ground contends that the judge erred in failing to consider the expert's report. At paragraph 59 the judge said;

"59. The Appellant has not established that he was potential target of a blood feud. His family was not involved with the killing. If the family of the deceased wanted blood from this Appellant's family, they had ample opportunity to seek it. It is only if I find that there was blood feud that the report of Antonia Young is of relevance"

- 12.** In her submissions Ms Moffatt highlighted that the judge had accepted that there was a land dispute, court proceedings and that there were threats against the Appellant's family and that arson and robbery took place but she did not accept that these events were linked to a blood feud. Ms Moffatt referred to paragraph 6.1 where Ms Young indicates that "a blood feud refers to the social obligation to commit murder in order to salvage honour questioned by an earlier murder or moral humiliation".

She also referred to paragraph 6.5 which refers to “a blood feud involving violations of honour which entitles a man deeply affronted by it to take revenge by spilling out the blood of the man who insults his honour”. In her submission therefore it is not necessary to establish a murder in order to establish a blood feud. In her submission the final sentences of paragraphs 56 where the judge refers to the fact that “no blood was spilt” indicates that the judge was requiring the spilling of blood”.

- 13.** Ms Willocks-Briscoe pointed out that the definition of a blood feud at paragraph 6.1 of the expert’s report is from Wikipedia and is not sourced and is no indication as to whether that definition is reliable. She submitted that there was nothing in the judge’s decision to contradict the view at 6.5 of the expert’s report that a blood feud can also arise from a violation of honour. She pointed out that the judge considered the threats against the Appellant’s family in the decision and dealt with the submission that the Appellant would still be considered to be involved but rejected that. In her submission the judge does not suggest that murder is required, just notes at paragraph 56 that no blood has been spent involving this Appellant.
- 14.** In my view it is clear from the decision that the judge did not consider it necessary to show that there was a death to establish that there is a blood feud. The judge accepted that there was a protracted land dispute and gave reasons for her finding that this did not escalate into a blood feud. These included her rejection of the Appellant’s claim that he received threats from MM by text; her finding that any threats received were related to the land dispute; the fact that the courts have ruled in favour of the other family and the Appellant has decided not to pursue any further claim; her finding that it had not been established that the robbery and arson at the home of the first Appellant’s parents was related to the land dispute and the fact that the Appellant’s parents did not report this to the police; the fact that there was no link between the murder of MM’s son and the land dispute; the fact that another man had been convicted of the murder; the lack of evidence of threats to the Appellant’s family now [59]; the lack of threats to the Appellant’s brothers and the fact that they are not in hiding; and the fact that the Appellant’s mother is not in hiding. These findings show that the judge relied on all of the evidence and did not base her finding that there is no blood feud on the lack of a death related to the feud.
- 15.** Ms Moffatt submitted that the expert’s evidence is relevant to the assessment as to whether there is a blood feud. In her submission the expert deals with this case at paragraph 6.24 where she says: “the development of the feud is consistent with numerous other such feuds over property” and later in the same paragraph

“To date although there has been no killing, [the first Appellant] and his parents have suffered multiple threats, attacks and attempted attacks in revenge for their claiming back land originally legally

apportioned to the [Appellant's] family, and due by inheritance to [the Appellant].”

**16.** She referred also to paragraph 7.1 where in conclusion the expert said:

“I confirm that I consider it plausible for [the Appellant] to fear for his life as well as that of his son, and for harm to come to his wife and daughter. I find his descriptions of the family feud, and thus his fear of attack, and potential murder if returned to Albania also plausible. I would argue that as a blood feud target, he would be at risk from those of the opposing feuding family, and that he and his family would not have any assurance of protection from any source even were he to relocate elsewhere in Albania.”

**17.** In Ms Moffatt’s submission the expert’s conclusion was relevant to the existence of a blood feud. Whilst accepting that the expert’s report is general Ms Moffatt highlighted the issues relevant to this appeal in section 6 of the report. She submitted that paragraph 6.24 of the expert’s report was relevant to the assessment of credibility. She submitted that, given that the expert’s expertise had not been impugned, her evidence should have been taken into account in relation to plausibility and external consistency of the Appellant’s claim and characterisation of the dispute between the Appellant and the other family as a blood feud.

**18.** Ms Willocks-Briscoe on the other hand submitted that the decision of the judge has to be looked at holistically and that the judge made the correct assessment of the case. From paragraph 52 on the judge sets out her reasons for not accepting that there was a blood feud. At paragraph 54 the judge accepts that there was a protracted land dispute and a ruling in favour of the other side, therefore there would be little for them to gain from threats. Their lack of influence was also dealt with by the judge. In her submission it is clear at paragraph 56 that the judge accepts that she is aware that land disputes can escalate but went on then to look at what actually happened in this case. She pointed out that the judge considered the country guidance at paragraph 57 and at paragraph 58 she looked at the actions of the other party and at paragraph 59 set out her findings that there was no direct evidence in relation to the threats and attached no weight to the witness statement of the Appellant’s mother-in-law because she had not been tendered for examination. In her submission, having looked at all of the different sources, the judge’s conclusions at paragraph 60 were open to her on the evidence. Ms Willocks-Briscoe submitted that the expert cannot make credibility findings and the expert report can only deal with the Appellant’s credibility at its highest.

**19.** As highlighted by Ms Moffatt the nub of the complaint in this case is that the judge failed to give adequate consideration to the expert report before her. I accept that the only explicit reference to the expert report is at paragraph 58 where the judge said that the expert’s report was only of relevance if she found that there was a blood feud.

- 20.** I accept that on the face of it this may appear as if the judge failed to take into account a relevant expert report for the purposes of her assessment of this appeal. However, it is apparent on reading the expert report as a whole that much of the expert report is general information in relation to the background of blood feuds, general information in relation to blood feuds and the law in Albania and reconciliation organisations in Albania. It is only at section 6 that the judge engages with the specifics of this appeal. Even at that much of section 6 contains general information about blood feuds and the definition of a blood feud. There is little analysis of the account put forward by the Appellant as to whether the scenario described by the Appellant amounts to a blood feud rather than a land dispute.
- 21.** There is some engagement with this case at paragraph 6.16 of the expert's report but that is in the context of an assumption that the Appellant is in fact involved in a blood feud. At 6.24 the expert says, "the development of the feud is consistent with numerous other such feuds over property" and says later on in that paragraph that the Appellant and his parents "have suffered multiple threats, attacks and attempted attacks in revenge for their claiming back land originally legally apportioned" to the Appellant's family. In the conclusion at 7.1 Ms Young said that she considered it plausible that the Appellant would fear for his life and that his descriptions of the family feud and fear of attack and potential murder is also plausible.
- 22.** In my view these few conclusions specific to this case fail to engage with the evidence and the facts of the case as put forward. Of course the expert cannot make assessments of credibility. However she failed to engage with the factual scenario instead gave opinions as to risk based on the assumption that there is a blood feud without analysing whether in this particular case the circumstances are such as to amount to a blood feud.
- 23.** In these circumstances there is nothing wrong with the judge's assessment at paragraph 58 that is only if she found that there was a blood feud that the expert's report became relevant. In fact, looking at the decision as a whole, it is clear that the judge engaged with all of the evidence put forward by the Appellant and all of the circumstances put forward by the Appellant in assessing whether the land dispute which was accepted had escalated into a blood feud. The judge properly applied the guidance in **EH (blood feuds) Albania CG [2012] UKUT 00348** which gives guidance at paragraph 6 of the head note, as set out in the judge's decision, on the factors to be considered in determining whether a blood feud exists. The judge considered those factors. The judge gave adequate reasons which were completely open to her on the evidence before her as to why she found that it had not.
- 24.** I find no material error in the judge's decision at paragraph 58 that she did not need to engage with the detail of the expert's report in light of her finding that there was no blood feud.

25. In relation to Ground 2, Ms Moffatt submitted that, as the judge accepted that there were threats although she did not accept they were attributable to the land dispute, she was required to assess whether returning to Albania would breach the Appellant's rights under Articles 2 and 3. She submitted that in considering this issue the judge failed to engage with the expert's report which contained relevant information in relation to sufficiency of protection, for example at paragraphs 4.10 and 6.11 where the expert discusses the lack of protection. She submitted that this was a material omission.
26. Ms Willocks-Briscoe submitted that section 4 of the expert's report deals with sufficiency of protection and internal relocation but that these issues are also dealt with in the reasons for refusal letter where the Secretary of State sets out her views in relation to this issue. She submitted that any police force cannot provide 24 hour protection. The judge deals with this at paragraph 61 onwards where she finds that the police have not failed to investigate due to the influence of the aggressor's family. The judge recognises that the police can only go by the evidence and has turned her mind to issues of protection. The judge noted that the authorities have already acted. Ms Willocks-Briscoe relied on the case of **The Claimant R (on the application of) v Secretary of State for the Home Department [2017] EWHC 639 (Admin)** and in particular paragraph 57 where the judge said:

"This does not, in my judgment, fulfil the requirements indicated by the guidance on authorities. While, as the claimant submits, a blood feud may not require a death to be initiated (though the case would seem to suggest at least one death or other serious crime will be the hallmark) some evidence of real risk of harm must be needed to clear the hurdle of establishing an act of blood feud. The claimant's case comes close to saying any allegation of blood feud must result in asylum status. This is plainly not justified by the authorities."

Ms Willocks-Briscoe submitted that the judge dealt with this issue head on in her decision and found that the hurdle of establishing that there was a real risk of harm has not been cleared by the Appellant in this case. Ms Willocks-Briscoe referred to other aspects of the judicial review decision where it is noted that there is a difference between a threat and an active blood feud [47].

27. In her submission whilst the judge did not reference the various paragraphs in the expert report it is clear that she has turned her mind to all relevant factors and reached reasonable conclusions as to why she did not accept there was a blood feud and why, notwithstanding corruption, there is a sufficiency of protection.
28. In response Ms Moffatt submitted that the nub of the challenge here is that the judge did not take the expert report into account at all in relation to her assessment of any of the issues. In her submission this failure was



material. The report is relevant to the assessment of credibility and to the issue of sufficiency of protection. In terms of internal relocation she submitted that there was no evidence of the face of the judgment that the judge took into account what the expert said about this and in these circumstances the judge should have done more than she did at paragraphs 62 to 63. She submitted that the expert report does provide evidence in relation to sufficiency of protection which is more broad than just in relation to blood feuds.

- 29.** Ms Moffatt relied on section 4 of the expert's report which deals with sufficiency of protection but I note that almost all of section 4 deals with sufficiency of protection in the context of blood feuds. Accordingly, the evidence of this section is of limited, if any value to the judge in assessing sufficiency of protection in this case. What is of more relevance and what the judge did assess at paragraph 62 and 63 is what actually happened to this Appellant and his family in the context of the land dispute. The judge found that the authorities had acted in some of the cases and that other matters had not been reported to them and was satisfied that no undue influence had been exerted upon the police. The judge also referred to the successful prosecution in relation to the murder which again was more relevant significant evidence as to the actions of the police in relation to the issues put forward by the Appellant.
- 30.** I therefore accept that the conclusions reached by the judge at paragraphs 62 and 63 in relation to sufficiency of protection in this case were open to her on the evidence before her. The second ground has not been made out. Ms Moffatt made no submissions on the third ground. In any event I find that this ground has not been made out. I see no conflict between the judge's properly reasoned findings that there were threats but that it had not been established that the robbery and arson were perpetrated by the aggressor family.
- 31.** In conclusion it is my view that the judge made no material error of law in her approach to the expert report in relation to the assessment of the Appellant's credibility or the sufficiency of protection issue.

### **Notice of Decision**

- 32.** The First-tier Tribunal Judge did not make a material error of law.
- 33.** The decision of the First-tier Tribunal shall stand.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their 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.

Signed

Date: 17 October 2017

Deputy Upper Tribunal Judge Grimes

**TO THE RESPONDENT**  
**FEE AWARD**

No fee was paid so there can be no fee award.

Signed

Date: 17 October 2017

Deputy Upper Tribunal Judge Grimes