



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

Appeal Numbers: PA/11837/2017  
PA/10473/2017  
PA/10696/2017

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 29<sup>th</sup> October 2018**

**Determination  
Promulgated  
On 17<sup>th</sup> December 2018**

**Before**

**UPPER TRIBUNAL JUDGE LINDSLEY**

**Between**

**A P (1)**

**M P (2)**

**E P (3)**

**(ANONYMITY ORDER MADE)**

Appellants

**and**

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

Respondent

**Representation:**

For the Appellant: Mr I Palmer, of Counsel, instructed by Barnes Harrild & Dyer Solicitors

For the Respondent: Mr J McGill, Senior Home Office Presenting Officer

**DECISION AND REASONS**

## *Introduction*

1. The appellants are citizens of Albania. The first and second appellants are married, and the third appellant is their son born in 1995. They are therefore all adults at the current time and at the time of the appeal to the First-tier Tribunal. The third appellant arrived in the UK on 21<sup>st</sup> October 2012, when he was a minor, and claimed asylum the next day. The first and second appellants arrived in the UK on 31<sup>st</sup> May 2016, and claimed asylum on 6<sup>th</sup> June 2016.
2. The first appellant was refused asylum on 24<sup>th</sup> November 2016, the second appellant on 3<sup>rd</sup> October 2017, and the third appellant on 3<sup>rd</sup> October 2017. The first and second appellants also have a daughter who left Albania with them, and who is a dependent on their claim. The appeals against the decisions were dismissed on all grounds by First-tier Tribunal Judge JK Swaney in a determination promulgated on the 16<sup>th</sup> February 2018.
3. Permission to appeal was granted by Upper Tribunal Judge Freeman on 15<sup>th</sup> August 2018 on the basis that all of the grounds were arguable but that there would be a great deal of explaining needed on the salient features of a blood feud given that the first appellant had lived in Tirana from 2008 until 2016 when they left for Italy.
4. The matter came before me to determine whether the First-tier Tribunal had erred in law.

## *Submissions - Error of Law*

5. The grounds of appeal contend, in short summary, firstly that the First-tier Tribunal failed to consider relevant evidence going to why the third appellant had not been able to give a consistent account of the incident which led to the blood feud relating to his age and the fact that he was not present; there was a failure to consider the origins of the internet article supporting the fact that the original shooting incident took place; and also to consider the expert evidence that blood feuds are not reported in the Albanian press as they are commonplace.
6. Secondly, it is contended that there was a failure to consider relevant expert evidence of Ms Antonia Young with regard to young women being increasingly threatened in blood feuds which explained why the first and second appellant's daughter was threatened but the second appellant was not. There was also an error in finding that Ms Young's email to Mr Marku was not disclosed when this was in fact present, and thus in failing properly to consider the report and give it due weight.
7. Thirdly, it is said that the First-tier Tribunal erred by failing to apply country guidance in EH (Blood feuds) Albania CG [2012] UKUT 00348 and the expert evidence when finding that police protection would be

available to the third appellant. This evidence indicates that there is no sufficiency of protection in the appellants' home area of northern Albania if there is a blood feud.

8. Fourthly, it is contended that the First-tier Tribunal failed to consider the fact that the third and first appellants managed to be safe from threats by remaining indoors in self-confinement.

#### *Conclusions - Error of Law*

9. The First-tier Tribunal properly directs itself by citing the country guidance in EH at the start of the findings and reasons section of the decision. The First-tier Tribunal also states that consideration is given to the young age of the third appellant when inconsistencies are noted between his account and that of the first appellant with relation to the shooting incident which started the blood feud, and with respect to discrepancies in his evidence about the threats said to have been made to him at school between his evidence and that of the second appellant, see paragraph 52 and 55 of the decision. Although the First-tier Tribunal does not find there to be a blood feud it is accepted that the incident took place in May 2008 where the first appellant's uncle shot two people from two different families injuring one seriously took place, see paragraph 60 of the decision. It is therefore not material that weight was not given to the internet article about the incident as ultimately it is accepted that it happened.
10. The appeal is dismissed because the First-tier Tribunal does not believe the evidence of the appellants and the expert evidence that the fall out from the incident was to create a blood feud in which they had to "confine" themselves to find safety in Albania, and thus that they were entitled to international protection as otherwise they would face a real risk of serious harm.
11. I find that the reasons for rejecting the expert evidence of Ms Antonia Young set out at paragraph 65 of the decision of the First-tier Tribunal are not sufficient or good enough. There are inaccuracies, such as stating that Ms Young's email to Mr Marku was not disclosed; contrary to what is said in the decision it is clear that Mr Marku's information did not come from Ms Young but from another source named in his emails; and the evidence of the appellants is consistent with other family members having referred the feud to the Committee of Nationwide Reconciliation (CNR) as is set out by Mr Marku.
12. However, I do not find that this failure in reasoning is ultimately material as I find that the report of Ms Young cannot be given weight as she relies heavily for her opinion on the key issue of internal flight and sufficiency of protection for the appellants in her conclusion at pages 42 to 46 of her report on the evidence of Mr Marku. Mr Marku is an expert witness who gave evidence in the country guidance case of EH. At

paragraphs 43 to 47 of EH his evidence is described as unimpressive, and it is found that: “he was not a truthful or reliable witness and that rumours of attestation letters being available for payment from CNR were likely to be correct”. As a result, no weight was placed on his attestation letter in the EH appeal. It is also clear from paragraph 47 Mr Marku had been arrested and charged with criminal offences in Albania relating to selling genuine CNR attestation letters for use abroad, although this was not the basis on which the Upper Tribunal formed its low opinion of his evidence.

13. Mr Palmer had not been previously aware of the issue with Mr Marku, but when it arose in the hearing before me he was instructed by his clients (the first and third appellants) that counsel who appeared before the First-tier Tribunal, Ms A Seehra, had known about it and that she apparently informed them that the criminal charges against Mr Marku had not amounted to anything and he was acquitted. However, there was no evidence before me this was the case or any other evidence of any type which would suggest that the opinion the Upper Tribunal had formed of Mr Marku needed to be revisited. As stated above the opinion of the Upper Tribunal in EH explicitly relies on the panel’s own assessment of Mr Marku’s credibility not the criminal proceedings.
14. When considering the evidence of the appellants alone with regard to the issue of whether the incident in May 2008 did amount to a blood feud, I find that the First-tier Tribunal made a rational decision on this evidence, placed in the context of the country guidance, which was lawfully open to them. The First-tier Tribunal had to assess whether the potential “aggressor families” had desire to perpetuate a feud and sufficient reach to create a threat which extended throughout Albania. Examination is given to the contended threats to the daughter of the first and second appellant, and to the third appellant, and to the claims of self-confinement. Care is taken to use the correct definition of self-confinement as set out at paragraph 61 of the decision. It was open to the First-tier Tribunal to conclude that the threats to the daughter did not happen, based on the evidence of the second appellant that women were not involved with blood feuds, but also in the alternative to find that even if the threat was made it was an empty one, see paragraph 56 of the decision. It was for open to the First-tier Tribunal Judge to find that the first appellant had probably transferred his civil registration to Tirana as he was a disabled person accessing benefits as this was consistent with his evidence at interview at question 44, and not contradicted by any other evidence from the appellants before her and thus to conclude he was not in self-confinement. I find therefore the First-tier Tribunal Judge was entitled to find that whilst the first appellant relocated to Tirana he was not in self-confinement for the reasons set out at paragraph 63. It was also rationally open to the First-tier Tribunal to find that the third appellant had not shown the lower civil standard of

proof that he was also not safe in Tirana for the reasons set out at paragraph 58 of the decision.

Decision:

1. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
2. I uphold the decision of the First-tier Tribunal dismissing the appeals on all grounds.

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellants. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings. I do so in order to avoid a possibility of serious harm arising to the appellants from the contents of their protection claim.

Signed: Fiona Lindsley  
Upper Tribunal Judge Lindsley

Date: 30<sup>th</sup> October 2018