Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/01774/2020

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 22 September 2021	**On 12 January 2022**
Extempore	

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

L G
(ANONYMITY DIRECTION MADE)

Respondent

Representation:
For the Appellant: Mr S Whitwell, Senior Home Office Presenting Officer
For the Respondent: Ms V Easty, Counsel instructed by Duncan Lewis & Co Solicitors (Sackville House London)

DECISION AND REASONS

1. The Secretary of State appeals with permission against the decision of the First-tier Tribunal, in this case Judge S Taylor, promulgated 8 March 2021 in which the respondent, (previously the appellant in the First-tier Tribunal), whose appeal against refusal of asylum, was allowed.

2. The respondent's case is in brief that he is at risk from a blood feud which has arisen in Albania. The details of that are summarised in paragraph 7 of the First-tier Tribunal's decision. They are also set out in considerable

length in the refusal letter, which runs to, unusually, some 60 pages. The judge in effect accepted that the respondent was likely to be the target of a blood feud and accepted also that there would be no sufficiency of protection for him; and, that he was entitled to recognition as a refugee, concluding at paragraph 25 that relocation would not be a viable option.

3. The Secretary of State appealed against that decision on two grounds which were elaborated in submissions before me.

4. The first ground is that the judge had erroneously believed that the Secretary of State had accepted that the alleged blood feud and kidnapping did take place; but, on a proper reading of the refusal letter, at paragraph 77 it was clear that those claims had been rejected. This error was material as it had influenced the overall consideration of the evidence.

5. The second ground is that the judge had failed to give adequate reasons for findings on a material matter, specifically reasons as to why he would be considered a target in the alleged blood feud and why if the respondent's father was isolating there was no explanation of this, nor has the judge disclosed what was in the appeals decisions for the uncles who had been found to be refugees by the appropriate authorities in Canada, nor was it said that the judge established why the respondent could not seek to relocate with his family and that the risk had not been made out.

6. It is fair to say that there are a number of problems with the refusal letter. I consider that the judge was entitled to note that it is meandering and at 60 pages is the longest refusal letter I have seen in nearly twenty years sitting as a judge.

7. It is said at paragraph 77 that the blood feud is not accepted and, as Mr Whitwell submitted, the actual blood feud is considered in detail from paragraphs 36 to 58. Mr Whitwell submits that the apparent acceptance of a subjective fear at paragraph 80 is a typographical error when it is said:

> "In the light of the above conclusions it is accepted that you have demonstrated a genuine subjective fear on return to Albania. However, for the reasons given below it is considered that your genuine subjective fear is not objectively well-founded because there is a sufficient protection by the authorities in Albania",

It is submitted that this is inconsistent with what is said at paragraph 77 where the blood feud and being a victim of forced labour and criminality are expressly rejected.

8. It is difficult, however, to see that this is a typographical error. It does not necessarily follow that this is a concession but the judge was entitled to rely on the inconsistency in his decision and his comments at paragraph 18 are, I consider, well-reasoned and sustainable. There is no indication that it was put to the judge by the Secretary of State in the appeal that there was a defect in the refusal letter which, it is now said, is a patent

defect. More to the point, I consider that even if this were not a concession properly made that the judge gave adequate and sustainable reasons relying primarily on the decisions in respect of the relatives in Canada, the expert opinion and the letter from the Catholic Church to conclude that what the appellant said was correct and was believable. On that basis I consider it cannot be said that ground 1 is made out and it is somewhat unusual for the Secretary of State to seek to rely on her own inconsistencies in suggesting that a decision is unsustainable.

9. Turning to ground 2, I consider that it would not be appropriate to treat this as a submission that the judge had failed properly to follow country guidance. That is not what was pleaded although I do accept that there are reasons that it is necessary for a judge to make specific findings in order to conclude that there is a blood feud. For the reasons I have already given the judge was entitled, viewing the evidence as a whole, which the judge did, having properly set out and considered the account and the evidence from Canada that that was so.

10. In terms of the specific grounds, what is averred at paragraphs 2 and 3 are, with respect to the Secretary of State, arguing the point again. The same can be said for what is said at paragraph 4. As the Court of Appeal has had cause to state before, an appeal before the First-tier Tribunal is not a dress rehearsal, it is the actual performance, and it is not appropriate to in effect seek to put the case again to the Upper Tribunal, dressing it up as though it was an error of law. I consider that in reality this ground is actually seeking reasons for reasons and bearing in mind that the Secretary of State was a party to the appeal, she was fully aware of the evidence put in front of the judge and had the opportunity to make submissions. In that context and viewing the decision as a whole. these points are not well-made. The judge reached conclusions as to the risk to the respondent which were both sustainable and adequately reasoned. The secretary of state

11. For these reasons I conclude that the decision of the First-tier Tribunal did not involve the making of an error of law and I uphold it.

Notice of Decision

1. The decision of the first First-tier Tribunal did not involve the making of an error of law and I uphold it.

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 his 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 29 September 2021

Jeremy K H Rintoul
Upper Tribunal Judge Rintoul