



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-005202

First-tier Tribunal No: HU/50669/2024

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 28th of January 2025

Before

UPPER TRIBUNAL JUDGE O'BRIEN

Between

LISIV FEREZAJ
(NO ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Smith of Counsel, instructed by A-Law Solicitors

For the Respondent: Mr Walker, Senior Home Office Presenting Officer

Heard at Field House on 15 January 2025

DECISION AND REASONS

1. The appellant was born on 29 May 1988. He is a citizen of Albania.
2. The appellant appeals with the permission of First-tier Tribunal Judge Adio against the decision of First-tier Tribunal Judge Dyer ('the judge') promulgated on 22 September 2024 dismissing his appeals against the respondent's refusal of his human rights claim.

The Parties' Respective Cases

3. The grounds of appeal allege 3 errors of law: the judge failed to have regard to expert evidence; the judge failed properly to assess the evidence; and, the judge took a flawed approach to Article 3 ECHR. Permission was granted on all grounds.

4. The respondent did not submit any rule 24 response and Mr Tufan accepted at the hearing that the judge had erred, in particular in the manner outlined in ground 1.

Submissions

5. I accept Mr Tufan's concession that the judge erred as alleged in ground 1. The judge considers the impact of removal on the appellant's step-children at [17-20] and concludes at [20]:

'...the impact to them of his departure will not be of sufficient weight so as to raise concerns that their best interests were not being met as they remain with their mother.'

6. Whilst the judge does refer in the paragraphs above to 'the social worker report' (a report by Nikki Austin, registered social worker), no mention at all is made of Ms Austin's assessment of the children's best interests, which she summarises on p5 of her report thus:

'It is my assessment that it is in the best interests of [the 4 affected children] that Mr Ferezaj remains with them in the UK.'

7. No issue appears to have been taken or found with Ms Austin's expertise. Whilst it is open to a judge to reject expert opinion, he must give adequate reasons for doing so. No such reasons were given in this case.
8. Given the fundamental importance of this issue, the parties agreed that the matter should be heard afresh in the First-tier Tribunal.

Notice of Decision

1. The appeal is allowed
2. The judge's decision involved the making of an error of law and is set aside.
3. The appeal is remitted to the First-tier tribunal to be heard by a different judge with no findings of fact reserved.

Sean O'Brien

Judge of the Upper Tribunal
Immigration and Asylum Chamber

23 January 2025