



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

Appeal Numbers: PA/07922/2018  
PA/07924/2018  
PA/08430/2018

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 21<sup>st</sup> June 2019**

**Decision & Reasons  
Promulgated  
On 3<sup>rd</sup> July 2019**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**XS  
ES  
ES**

**(ANONYMITY DIRECTION MADE)**

Appellants

**and**

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

Respondent

**Representation:**

For the Appellants: Ms G Loughton

For the Respondent: Mr T Lindsay, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal to the Upper Tribunal by three Appellants, minors, from Albania who had made a protection claim based on the fact that they were at risk because of a blood feud between their father and another family. The matter came before Judge Black at Taylor House on 25<sup>th</sup> March 2019

and in a Decision promulgated on 5<sup>th</sup> April. She dismissed the appeal on all grounds.

2. The very brief chronology is that the Appellants' mother had come to the UK previously with the first and oldest of the children and claimed asylum. That asylum claim was rejected on the basis that the judge at the time found that the mother would not be at risk. The blood feud had ended because the mother had separated or divorced from her husband and also on the basis that women were not at risk in blood feuds.
3. The Appellant then had the subsequent two children, the other two Appellants in this case, and they lived with extended family, in particular the maternal grandmother, for several years. However the evidence before the First-tier Tribunal was that that period was not a calm and settled period in that mother was abused by her family members, beaten by other persons and the children themselves suffered abuse from others in school which, their evidence was, was because of the blood feud. I am not making any finding in relation to whether or not those things happened but that is the background under which they claimed.
4. The claim is that they were then forced to leave the family home because of the difficulties between their mother and the rest of the family and lived elsewhere until mother said it was not safe for them to stay in Albania and took them first to Belgium where they lived in a detention camp and then travelled on to France where while attempting to gain entry into a lorry to come to the UK the children were successful but mother was not.
5. What the judge did in deciding the appeal was adopt a lot of the reasoning from mother's own asylum appeal and then found there was insufficient evidence that a blood feud existed at all and also relied heavily on her finding that they had lived safely for a number of years on the second occasion when mother went back. However, the evidence was that they did not live safely because there were a number of attacks and the judge also did not factor into the adverse credibility findings the fact that mother had caused them to flee on a second occasion, so it could be argued that having gone back because she was refused asylum to try and make a life there, she could not and was forced to flee a second time. The fact that that aspect was not taken into account by the judge I find is an error of law which could affect the outcome.
6. The second matter that I am concerned about and which I find to be an error of law is the judge's conclusion that these three unaccompanied children will return to Albania to be collected by social services who and with their help will be returned to their maternal family members who can and will look after them. That is entirely speculative because the evidence that was before the judge was that the maternal extended family and the mother had had a serious falling out and that there had not been any contact even when they were in Albania so to find that there was ongoing contact continuing now is against the evidence that was before the judge. Therefore, the judge did not consider what the position of the children

would be if they did not have family to return to and that was not factored into the Article 8 balancing exercise.

7. Because there are errors both in the findings in relation to the protection claim and the blood feud and risk from that and also the situation on the children's return the Decision will have to be set aside in its entirety and because of the number of findings that need to be made i.e. all of them, it is appropriate that it should be remitted to the First-tier Tribunal.
8. Given the ages of these Appellants I hope that the matter can be reheard in a very short time. The appropriate hearing centre is Taylor House and an Albanian interpreter will be required.
9. An anonymity direction was made in the First-tier Tribunal and given the ages of the Appellants I continue that.

**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 30<sup>th</sup> June 2019

Upper Tribunal Judge Martin