



Upper Tier Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/06627/2015

THE IMMIGRATION ACTS

Heard at Field House
On 8 January 2016

Decision Promulgated
On 25 January 2016

Before

Deputy Upper Tribunal Judge Pickup

Between

KF

[Anonymity direction made]

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the appellant:

Ms H Foot, instructed by Sutovic & Hartigan

For the respondent:

Mr S Kotas, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, KF, date of birth 5.8.97, is a citizen of Albania.
2. This is his appeal against the decision of First-tier Tribunal Judge Ross promulgated 2.10.15, dismissing on all grounds his appeal against the decision of the Secretary of State to refuse his asylum, humanitarian protection and human rights claims. The Judge heard the appeal on 14.9.15.
3. First-tier Tribunal Judge Lambert granted permission to appeal on 28.10.15.

4. Thus the matter came before me on 8.1.16 as an appeal in the Upper Tribunal.

Error of Law

5. For the reasons set out herein I find no error of law in the making of the decision of the First-tier Tribunal such as to require the decision of Judge Ross to be set aside.
6. In summary, the grounds argue failures and inadequate reasoning in assessing evidence as to risk, relocation and article 8.
7. In granting permission to appeal, Judge Lambert noted only that, "The relatively brief findings and reasoning, limited to paragraphs 21-22 (risk/relocation) and 27 (Article 8) of the decision, renders the grounds arguable. There is therefore an arguable error of law disclosed by the application."
8. That the findings and reasoning are relatively brief is not, in and of itself, an arguable error of law.
9. The primary ground of appeal is that the First-tier Tribunal Judge failed to take into account expert and other evidence in assessing risk on return to Albania, internal relocation and the proportionality of refusal with reference to article 8 ECHR.
10. The judge considered risk on return from §20 onwards of the decision, correctly stating that the issue was whether the appellant who is no longer a child and would not have to live with his father would nevertheless be at risk on account of his age, lack of family support and the animosity of his father. Within §21 the judge explained why the conclusion was reached that the appellant could relocate to another part of Albania and did not accept that his father would have any interest in pursuing him if he returned. The judge considered the evidence but was not persuaded that the father would target him, even if he did find out he had returned and where he was living.
11. Ms Foot submitted that the findings of fact of the First-tier Tribunal were not sustainable on the evidence, in particular that of the expert who suggested that the appellant would remain at risk from his father, whose honour had been insulted and had the means to trace him. Although this is not a blood feud case, it is suggested that the father has complete control of wife and children in Albanian society and would want to pursue him. However, within §21 the judge concluded that there is no evidence that the father, who used to beat the appellant when drunk, had any hostility towards him when sober and that he would not be at risk from him if he did not live with him.
12. In relation to relocation, Ms Foot again submits that the judge ignored the expert evidence, stating that there was no evidence that the father would have any way of knowing of his return if that return were to a different part of the country. She also submitted that it was irrational for the judge to suggest the appellant could be assisted by his (maternal) grandparents (§21), as they live in the same area as the

father. However, that does not prevent them from assisting the appellant to relocate or when living in a different area.

13. It is further submitted that the judge entirely omitted to consider the evidence of a risk of trafficking and destitution, and that the appellant would be seen as dishonourable, an outcast and a criminal.
14. Ms Foot also submitted that the judge ignored the social work evidence (A15-19) and the oral evidence of Louise Drammeh to the effect that the appellant had remained with his foster family despite turning 18 and was not yet capable of independent living and had not left the home to seek employment or further education.
15. Finally it was submitted that the article 8 assessment was flawed in that the conclusion that the appellant would be able to fend for himself cannot be sustained on the evidence. Reliance was placed on JS (former unaccompanied child - durable solution) (Afghanistan) [2013] UKUT 00568, to the effect that the Tribunal should take into account the appellant's age, background, length of residence in the UK, family and general circumstances, and any particular vulnerability, and whether he would have any family or other adult support on return.
16. That the decision is relatively short is not in itself an error of law. Neither was it necessary for the judge to address every single issue of every single piece of evidence.
17. For the Secretary of State, Ms Kotas pointed out that this was a very straightforward case where it is suggested that the appellant cannot return to Albania because his father had beaten him when drunk. Very little is factually in dispute.
18. I agree with Ms Kotas' submission that on the facts of this case it would be artificial to divorce the issues of relocation from risk on return; they are bound up together. In that regard it is clear from §20 that the judge accepted that the appellant had been abused by his father and addressed his mind to the correct issues. The judge also considered the report of Dr Young, as is clear from the summary at §17 of the decision, referencing the view that there is a risk that word would reach the father that the appellant had returned, as well as the risk of trafficking. The judge also summarised the oral evidence, including that of Louise Drammeh, social worker.
19. I am satisfied that all the findings at §20 and §21 on risk on return and internal relocation are sustainable. The judge considered and has had regard to the evidence, including the expert evidence but reached the conclusion as he was entitled, that there is no real reason for the father to pursue the appellant on his return and that there was no reason why the appellant now an adult could not relocate within Albania, essential out of reach of his father. There is no evidence that the father would necessarily find out about his return. The expert evidence was only to the effect that there was a risk that word would somehow reach his father that he had returned. There appears to be no cogent evidence to justify such speculation. The fact of the matter is that the judge considered all the evidence and then made findings of fact on the primary basis that the father is an alcohol who had beaten his son when

drunk. It is open to the maternal grandparents and/or his uncle to provide assistance and there is no reason why they would not do so. As to the appellant's alleged vulnerability, the judge pointed out that he had travelled to the UK at age 15, unaccompanied and hidden in a lorry, demonstrating his resilience.

20. In effect, the grounds of appeal in this case are no more than disagreements with the findings of the judge. It is clear from the decision that the judge was fully aware of all the relevant evidence and has taken it into account.
21. Reliance is placed on the alleged risk of destitution, exploitation and trafficking contained within Dr Young's report. On considering that report, these appear to be no more than unsupported speculation. For example at A41, the author states, "Who can account for his moral standing? With no one to vouch for him, he would be vulnerable to kidnapping (kidnappers/traffickers look for young people to carry out their illegal work in order to transfer the risk of being caught); or for sexual exploitation." At A42 it is stated, "Living in poverty would expose him to vulnerability to trafficking. Those most at risk of trafficking in Albania are those who have no safe place to go, no supportive family. There is no safe place for them to go in Albania." Finally, at A46 the expert states, "Should (the appellant) be returned to Albania, he could be destitute and extremely vulnerable to trafficking." One searches in vain for hard evidence on this issue.
22. There is very little evidence in this report to substantiate these assertions and scant explanation as to why this appellant would face such risks. The case was never put to the First-tier Tribunal on the basis of trafficking; even Ms Foot's skeleton argument barely touches on trafficking. In her reply on this issue she accepted that this was not a trafficking claim but suggested that it was illustrative of various risks that the appellant might face on return to Albania, independently of the claimed risk of harm from his father. However, it is clear that the judge was aware of the trafficking and vulnerability suggestion, but in reality there is such little credible evidence on this issue that even if the judge had dealt more fully with the issue there was insufficient to justify a risk on return on the basis of destitution, exploitation or trafficking.
23. In relation to article 8 I am satisfied that the judge considered all relevant issues and made sustainable findings with cogent reasoning. The conclusions reached in §27 were entirely open to the judge on the available evidence and there were no exceptional or compelling circumstances.

Conclusion & Decision:

24. For the reasons set out above, I find that the making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.



Signed

Deputy Upper Tribunal Judge Pickup

Dated

Anonymity

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal did not make an order. Given the circumstances, however, I make an anonymity order.

Fee Award **Note: this is not part of the determination.**

In the light of my decision, I have considered whether to make a fee award.

I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make no fee award.

Reasons: No fee is payable in this case and thus there can be no fee award.



Signed

Deputy Upper Tribunal Judge Pickup

Dated