



**Upper Tribunal  
(Immigration and Asylum Chamber) Appeal Numbers: PA/50142/2021 &  
PA/50143/2021**

**(UI-2022-001695 & UI-2022-001692)  
IA/00892/2021 & IA/04043/2021**

**THE IMMIGRATION ACTS**

**Heard at : Field House  
On the 8 August 2022**

**Decision & Reasons Promulgated  
On the 29 September 2022**

**Before**

**UPPER TRIBUNAL JUDGE KEBEDE**

**Between**

**BS  
AL  
(Anonymity Order made)**

Appellants

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms S Anzani, instructed by Connaughts Solicitors

For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The first appellant is a citizen of Albania, born on 17 March 1984. She left Albania with her son AL, born on 7 April 2012, at the end of December 2015 and travelled to Kosovo, and from there to the UK via Germany, Belgium and France, arriving in the UK in a lorry at the end of May 2017. She was served with illegal entry papers on 11 September 2017 and made an asylum claim,

completing a screening interview on 3 October 2017 and a substantive interview on 6 August 2018. Her asylum claim was refused on 11 January 2021.

2. The appellant's asylum claim was made on the basis of fearing persecution in Albania as a result of a blood feud involving her husband's family and another family, the H family. The appellant claimed that she married her husband on 14 February 2009 and that he left Albania for the UK in April or May 2014 whilst she arrived at the end of May 2017. She claimed that her husband was arrested and detained in the UK when out walking with their son and was returned to Albania in June 2018 whilst their son was put into care for five months. She had not heard from her husband since then. His family was a well-known family in their area and had been in a blood feud with the H family since 1998. Her husband and his family had been subjected to assassination attempts and threats and had been forced to live in a number of different cities in Albania. The appellant claimed that she and her husband had travelled to Belgium in 2012 to seek asylum and they stayed there for three months before suspending their asylum application and returning to Albania when her husband saw a member of the H family there. They moved to a different area of Albania but her husband continued to receive threats so he decided to leave, in 2014. The appellant claimed that she remained in Albania, staying with her husband's brother, B. She claimed that attempts were made to kill B in 2015 and 2016 and that after the first attempt they stayed indoors for a year. After an assassination attempt in 2016, B fled to France with his family and was granted asylum there. She then decided to leave Albania two months later.

3. The respondent, noting the lack of evidence of threats, the lack of reasons why the appellant had not spoken to her husband since he left the UK and the limited evidence about her brother-in-law B's asylum claim in France, rejected her account of her fear of the H family. The respondent noted that the appellant had evidence of B having been targeted by unknown people but noted a lack of substantiation of her husband or herself being targeted, or of the attack on B being a result of a blood feud. The respondent concluded that there was no active interest in the appellant by the H family and that there was in any event a sufficiency of protection and an internal relocation option available to her. The respondent concluded that the appellant could therefore return to Albania and that the refusal decision was not in breach of her human rights.

4. The appellant appealed against that decision and her appeal was heard by First-tier Tribunal Judge Bennett on 13 January 2021. The appellant gave oral evidence before the Tribunal. The judge accepted that there was independent documentary evidence of the existence of a blood feud between the H family and the family the appellant claimed was her husband's family, but noted the lack of evidence linking her husband's family name to the blood feud. The judge accepted that B and his family had been granted subsidiary protection in France and that that lent support to the appellant's claim as it referred to attacks against B. However he ultimately did not accept that B was the brother of the appellant's husband or that her husband's family was involved in a blood feud. The judge was also not satisfied that the appellant's husband had left the UK or that she had lost contact with him or was estranged from him and he

concluded that they could all return to Albania together where they would be at no risk.

5. Judge Bennett noted that a linked appeal had been listed for hearing for the appellant's son, AL, but he considered that there was not in fact a valid appeal, since AL was a dependent upon BS's case and had not made a separate claim. He dismissed AL's appeal as being invalid.

6. Permission to appeal to the Upper Tribunal was sought on behalf of both BS and AL. With regard to the former, the ground of challenge was that the judge had failed to have regard to material evidence including a report from the Albanian Interior Ministry which confirmed the attack on B, a family certificate naming B as part of the family, and evidence about the appellant's husband's removal from the UK. With regard to the latter the grounds asserted that separate consideration should have been given to the risks to AL.

7. Permission was granted in the First-tier Tribunal and the matter then came before me for a hearing.

8. At the hearing, Mr Tufan confirmed that the appellant's husband had, in fact, been deported from the UK and that he had been refused leave to enter on 10 October 2018 when seeking to re-enter the UK in breach of the deportation order. He provided the Home Office CID notes to that effect, together with a copy of the notice of a decision to deport dated 6 November 2017 and the deportation order issued on 14 February 2018. Mr Tufan submitted that that information undermined the judge's adverse credibility findings in relation to the whereabouts of the appellant's husband and that it was material to the outcome of the appeal which was based to some extent upon a rejection of the appellant's account of her husband's removal from the UK. He conceded that the judge's decision ought therefore to be set aside and the case remitted to the First-tier Tribunal.

9. In light of Mr Tufan's concession both parties agreed that there was no need for anything other than a short decision without full reasons. In the circumstances I set aside Judge Bennett's decision as being based on adverse credibility findings which in turn relied upon information that was available, but had unfortunately not been presented, to the Tribunal by the respondent and which may well have affected the judge's findings. The appropriate course, as the parties agreed, is for the matter to be remitted to the First-tier Tribunal to be heard *de novo* by a different judge.

10. Ms Anzani made no further comments about the separate appeal of AL and it seems to me that the grounds at [22] and [23], in particular the end of [23], accept that AL can and should be treated as a dependent on BS's claim, rather than as a separate appellant, provided that there is specific consideration given to any risk to AL as part of the determination of BS's appeal. Accordingly there is one appeal only, PA/50142/2021.

## **DECISION**

11. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal to be dealt with afresh, pursuant to section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Statement 7.2(a), before any judge aside from Judge Bennett.

### **Anonymity**

The anonymity direction made by the First-tier Tribunal is maintained and is extended to the appellant's son.

Signed: S Kebede  
2022  
Upper Tribunal Judge Kebede

Dated: 8 August