



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

Appeal Number: AA/12472/2015

THE IMMIGRATION ACTS

**Heard at Bradford
On 27 July 2018**

**Decision & Reasons Promulgated
On 03 September 2018**

Before

UPPER TRIBUNAL JUDGE HEMINGWAY

Between

**DG
(ANONYMITY DIRECTED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Holt (Counsel)
For the Respondent: Mr Diwnycz (Senior Home Office Presenting Officer)

DETERMINATION AND REASONS

1. This is the claimant's appeal to the Upper Tribunal, from a decision of the First-tier Tribunal (the tribunal) which it made on 4 December 2017, following a hearing of 15 November 2017 and which it sent to the parties on 7 December 2017. The tribunal decided to dismiss the claimant's appeal from the Secretary of State's decision of 20 August 2015 refusing to grant her international protection.
2. The tribunal granted the claimant anonymity. It explained, at paragraph 96 of its written reasons of 4 December 2017, that it was doing so because the case involved information relating to minors. Nothing was said about anonymity before me but I have concluded it is appropriate to continue the anonymity direction and I do so.

3. The claimant is a female national of Albania who was born on 25 March 1974. There are two children (though one is now an adult) who are dependents upon her claim. Her immigration and adjudication history is a little convoluted and, without necessarily attempting to be wholly exhaustive, I shall set it out below.

4. The claimant says that she and her children left Albania on 17 June 2013 and travelled to Belgium. She claimed asylum in Belgium on 18 June 2013. However, on 24 July 2013, and without any decision having been made as to that claim, she returned to Albania. On 14 October 2013 she departed Albania once again and, with the assistance of an agent, undertook a journey by lorry which eventually brought her to the United Kingdom. She arrived on 19 October 2013. It is recorded that, having previously intimated that she would do so, she formally claimed asylum in the United Kingdom on 28 November 2013. But, given the previous claim in Belgium and her previous presence there, the United Kingdom authorities initially refused her claim on “third country grounds”. Some legal challenges followed but eventually the United Kingdom authorities agreed to consider her substantive claim. Accordingly, she attended a screening interview on 20 July 2015 and then a substantive asylum interview on 12 August 2015. However, that resulted in the above decision to refuse to grant her international protection.

5. The claimant appealed the decision of 20 August 2015 to the tribunal. On 17 May 2016 her appeal was dismissed. But permission to appeal to the Upper Tribunal was granted and, on 29 July 2016, the Upper Tribunal set aside the tribunal’s decision and remitted. It was that remittal which, in due course, led to the tribunal’s decision of 4 December 2017. Permission to appeal the tribunal’s decision of 4 December 2017 was granted, by a judge of the Upper Tribunal, on 10 May 2018 and it was that grant which led to the matter coming before me on 27 July 2018 for a consideration as to whether or not the tribunal had erred in law.

6. As to the claimed events said to underpin the application for international protection, the claimant asserted that she was at risk in Albania as a consequence of a blood feud. As to that, she said that there is, to this day, an ongoing feud between her family and what I shall simply refer to, in order to protect anonymity, as the H family. She said (and indeed there is no dispute about this) that a man called AH, a politician, was killed in Tirana in 1998 and that that occurred at a time when one FH (a member of the H family) was the Chief of Police in that area. The killing of AH (not a member of the H family) led to some tension, protests and demonstrations. That led to a number of killings at the hands of the H family. The claimant asserts that on 2 April 2002 her husband (who I shall simply refer to, without any intended disrespect and simply to preserve anonymity, as “IG”) was killed by one ZH, a female member of the H family. The tribunal recorded that the killing of IG was said to be an accident in the sense, as I understand it, that he was not an intended victim albeit that he was shot. The claimant says that, because the killing was accidental, the H family, in accordance with what is known as Kanun Law, sent a representative to ask her family for forgiveness. However, such forgiveness was not requested in the appropriate way under Kanun Law. But her family agreed that they would take no action, in terms of the exacting of revenge, for a period of 40 days. But within that 40 day period two members of the H family were killed. The claimant says that members of her family were not responsible for those deaths but the H family believed that they were. She says that members of her own family, fearing the H family, left Albania at that time. She did not do so herself but in December 2008 she received a threatening telephone call. There was then, it was claimed, an incident when an attempt was made to abduct her son. She complained to the police in Albania about her fears but decided, to protect her safety and that of her children, she would have to leave Albania and that is why she went to Belgium and that is also why she says, if she has to return to Albania now, she will be at risk at the hands of the H family.

7. Whilst accepting some of the general factual background asserted by the claimant, the Secretary of State did not believe that there was an ongoing blood feud or that the claimant had told the truth

about any current risk to her or her children. But anyway, the Secretary of State thought that even if the account were true there would be a sufficiency of protection for the claimant and her children in Albania and even failing that, the family would be able to take advantage of an internal flight alternative.

8. The tribunal which heard the appeal on 15 November 2017 received oral evidence from the claimant and it had documentary evidence from each party. Both parties were represented before it.

9. In its written reasons the tribunal set out, in some detail, the claimant's previous immigration and, up to that point, adjudication history. It then set out (in a way which has not been criticised) the various legal tests it had to apply and the relevant burden and standard of proof. It then summarised what had been said by the Upper Tribunal in the relevant Country Guidance Decision of *EH (Blood Feuds) Albania CG* (2012) UKUT 00348 (IAC). It next referred to an expert report which had been produced, on behalf of the claimant, by one Dr. E Tahiraj whose expert credentials were not in issue. It had quite a lot to say about that report. This is what it did say about it:

“37. Dr Tahiraj noted that the killing of the Appellant's husband had been publicly broadcast in the media and is part of what is known as the ‘Tropoja file’. It has been reported (on public media) that the Appellant's husband was not the intended target, but a casualty that happened to be present where the shooting took place. [page 7 of the Report]

38. Dr Tahiraj reports that Kanun is a written code covering twelve aspects of social life: Church, Family, Marriage, House, Livestock and Property, Work, Transfer of Property, The Spoken Word, Honour, Damages, Law Regarding Crimes, Judicial Law, Exemptions and Exceptions. It is a code based on honour and honour of the men in the family in particular. As an honour code, the nature of the offence may sometimes bear little relation to the gravity of revenge exacted: blood may be taken for honour to be restored if a man even feels affronted (by for instance having been overtaken in a car on the road). Then a man may be ‘justified’ in reasserting himself through killing. This opens up the feud, however, since family of the deceased now have the ‘right’ to retribution and take ‘blood for blood’. The blood feud continues until both parties make peace, and honour having been satisfied. Kanun offers three ways to avenge murder: by paying money to the family of the deceased, by securing the forgiveness of the church or by killing the murderer. [page 8 of the Report]

39. Dr Tahiraj states that typically, the victim's closest male relative is obliged to restore honour by killing the offender. Quite often this is carried out because of the pressure felt by the social environment of other relatives, rather than from the people directly involved in it. Despite the fact that Kanun exists as a written test, it is open to idiosyncratic interpretation and what it says is often not as important as what people think it does. [page 8 of the Report]

40. Dr Tahiraj further reports that while Kanun mandates the taking of blood revenge on the perpetrator of a crime or insult to the honour of a family, the contemporary understanding in parts of northern Albania is that the revenge can be taken against any of the relatives of the perpetrator. This particular interpretation of the Kanun has serious implications as it means that revenge can be taken against minor offences committed by adult relatives. [page 8 of the Report]. It is further reported, by Dr Tahiraj that: ‘However, in the past decade women have been killed to atone for family honour [page 9 of the Report]

41. Dr Tahiraj notes that the Appellant claims that she is in a blood feud and although, according to Kanun, ‘the woman is untouchable, even sacred, and if a man is accompanied by a woman outside the walls of the house, he cannot be shot at’ because ‘as many reported cases have shown, rules of blood feud in Kanun have changed to achieve the purpose: restore honour. Therefore, the Appellant's son, daughter or even she herself may be subject to a feud if one is upholding. Blood revenge, even though against rules of Kanun, has not spared priests, girls, women and adolescents in the past. [page 12 of the Report]. She further states that ‘As the Appellant's children are of an age from which their chances of becoming targets of the feud increase compared to when they were little, if the feud is still holding, then it is likely that there would be fear about their safety. [page 12 of the Report]

42. Dr Tahiraj opines that: ‘The fact that the Appellant and her children were not hurt by the H family cannot be taken as proof that, if there is an active feud, they will not be hurt in the future.’ [page 12 of the Report]

43. Dr Tahiraj further states that ‘I cannot in good faith provide an opinion on whether there is a current blood feud between the G and H families. Documentation of being in blood feud released by reconciliation organisations, is often contested and with some validity. It is not clear to me what could constitute a valid documentation that can prove existence of an active blood feud, other than testimony from the families. A determination of the particular threat or risk or the existence of an historic feud is beyond the competence of a country expert. [page 13 of the Report]

44. Dr Tahiraj further states: ‘However if it is accepted that the feud was in place historically, I do consider there to be indicators of the continuance of the feud. For example, the fact that all the members of G family remain in diaspora in secret: the feuds of the family that killed the Appellant’s husband have been well documented in the media since its arising; a feud does not simply end with blood being taken by the other side. If forgiveness is granted or a life is taken in retaliation, the feud *may* be settled between the parties unless further blood is sought. Otherwise, the feud may continue indefinitely, with no semblance of being ‘active’. This would usually be assumed to be the case if the honour has not been mutually restored between the parties in a meeting in person.’

45. Dr Tahiraj provides the following Summary Opinion

1. There is acknowledgement in Albania that blood feuds exist, albeit there is no agreement on correct number of persons and families in blood feud.
2. Evidence of feud in the past. Future risk cannot be commented on, but there are resources that indicate possible continuation of the feud.
3. Accessing protection: It is of course possible for DG to seek assistance from police and state authorities in response to a specific evidential threat. However, given police resources and priorities, it is an unwarranted assumption to think that any threat might be investigated, especially as it would not be known when it may happen, where, and by whom and she would almost certainly not receive any meaningful form of protection beyond what she could obtain by her own means. In this regard, the Appellant’s testimony that she reported the previous threat to no avail is wholly credible.
4. Relocation is possible, yet, secrecy cannot be warranted.”

10. After that, the tribunal examined some background country material regarding blood feuds in Albania before turning its attention to its findings and conclusions. As to the latter, this is what it said:

“Findings and Reasons

56. In dealing with the question of the credibility of the Appellant I have taken into account and borne in mind, that asylum seekers may seek to exaggerate and embellish their case, but nevertheless the core of their account may be truthful. I have taken into account the principles set out in MM (DRC - plausibility) Democratic Republic of Congo [2005] UKIAT 00019 and in Gheisari v SSHD [2004] EWCA Civ 1441.

57. In the letter of refusal the Respondent notes that the Appellant did not claim asylum immediately upon her arrival in the UK and concludes that her credibility is potentially damaged under the provisions of s 8 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004.

58. I did not consider the comparatively short delay prior to a claim being lodged significantly damaged the Appellant’s credibility. I have taken into account the finding in SM (Section 8: Judge’s process) Iran [2005] UKAIT 0016 that ‘Even where section 8 applies, an Immigration Judge should look at the evidence as a whole and decide which parts are more important and which less. Section 8 does not require the behaviour to which it applies to be treated as the starting-point of the assessment of credibility.’

59. Taking account of the guidance in the case of EH and the Country Information provided by the parties I find that blood feuds do still exist in Albania. The statistical evidence provided suggests that they may be declining in number but when trying to establish whether an Appellant is involved in a blood feud I do not find statistics a great deal of assistance. The particular circumstances of an Appellant must be carefully considered to establish whether that Appellant is in a blood feud.

60. The evidence of the Appellant is that a conflict between the G and H families started in 1997. She said that to begin with 'everything started due to political reasons'. She said that her husband supported the Democratic Party and the H family supported Liberal Party.

61. There is no dispute that [AH], a politician of the Democratic Party was killed in Tirana in 1998 that the Appellant said that people wanted to protest, including her husband, who supported the Democratic Party. The Appellant stated that, at that time, [FH] was in charge as the chief of police in Bajram Curri. She said that he did not want problems in the city as he was one of the people who killed [AH].

62. The Appellant claims that her husband was with his friends and family protesting. The protestors were not armed but violence broke out. She said that during the demonstrations, when the confrontations broke out FH 'slapped those who were protesting on the front row.' As a result, 'everything exploded' and from then on the conflict started.

63. The Appellant claims that there were around 150 people killed from the Democratic Party during the conflict though that was not all in the same demonstration.

64. The Appellant claims that between 1997 and 2002 the [H] family were 'killing constantly'. She further claims that from the [H] family there was only one brother left and two sisters.

65. The Appellant claims that on 2 April 2002 her husband was killed. As noted by Dr Tahiraj that event was widely reported in the media.

66. The Appellant has produced a document which it is said has been issued by Republic of Albania - Prosecution of County Court of Tropoja. This states:

From the investigation and the proved facts on the prosecution file results that on 02.04.2002, around 10.40 a.m. the citizens [RL, GB, IG, AR, HB and KD] have been sitting on the veranda outside the bar 'Bar Ervin', with owner [RK], in Bajram Curr, Tropoja. After being seated, the defendant [ZH], came and has taken out of the coat she was wearing, an automatic weapon and at a distance of 8(eight) feet from the table, fired the weapon in the direction of the above-mentioned persons who were sitting at the same table, where as a result citizens [RL and IG] have died whereas citizens [KD] and [HB] have been injured. The document records that [ZH] has been found guilty and sentenced to twenty-five years' imprisonment.

67. The Appellant has also produced an extract from the RD Democratic Renaissance newspaper from 3 April 2002 which reported:

"The last night victims are connected to politically persecuted people who have been supporting the democratic regime in order to change the past. However, among these years, many of them have been having trouble with the law and therefore been subject to police subject ... last night murder is a continuance of murdering series which has been ongoing for many years in Tropoja. The police 'justifies' these murdering series as a revenge or blood feud (which is very common in Albania referring to the 'KANUN'. Whilst Mr Bilbil Mema hasn't been able to confirm the author of the crime but according to him this murder might be related with the murder or as a consequence of the murdering of the democrat's party deputy, [AH]."

68. The Appellant claims that the person who killed her husband, ZH, is the sister of FH. On the basis of the newspaper reports and the other documentation produced I am satisfied that is the case.

69. The killing of the Appellant's husband was said to be an accident as he was not the intended victim. The Appellant does not claim that as a result of the killing of her husband a blood feud arose at that time.

70. The evidence of the Appellant is that, because the killing of her husband was said to be an accident the [H] family sent a representative to ask for forgiveness. She said that an agreement was made that the [H] family would send 24 people from different families to ask for forgiveness. However, they did not do that but only sent one person and asked for forgiveness 'in their own way'. The Appellant states that her family did not accept the apologies. She said that the [H] family refused to ask for forgiveness under Kanun. They asked for forty days break and the Appellant's family gave their word that they were free to move and nothing would happen from her side of the family.

71. The Appellant claims that during the forty days two members of the [H] family were killed: the uncle and son of [ZH]. The Appellant states that the killings were not 'made by my family' but the [H] family blamed them for the deaths.

72. It is not clear why the [H] family would blame the Appellant's family for the killings which took place in the forty days. The country information does not suggest that 'blood feud' killings are carried out in secrecy. The killings are said to be carried out to restore honour. Dr Tirhaj reports: 'In some areas, the tradition of 'coffee under the knee' still exists [whereby] on feast or wedding days, coffee is not served at the table but at the level of the feet for those who did not avenge their killed relative' [page 13] and a Report - Albania's modern-day blood feuds - Telegraph produced on behalf of the Appellant (see page 92 of the Appellant's bundle) states: 'As soon as a murderer has killed someone, he must inform the family of the victim, in order that there would be no confusion regarding his identity.'

73. The Appellant claims that following those deaths all of the men from the [G] family moved from Albania to different parts of Europe. There is no supporting evidence of that claim, for example statements from any of those who are said to have fled. In her Screening Interview the Appellant listed her family members which included two brothers, [FN and YN] who were both stated to be in Albania.

74. The Appellant states that she had nowhere to go and so she moved to live in her parent's house Laprake and then they all moved to Tirana.

75. The Appellant claims that her problems started again, in December 2008, when she received a telephone call. The person said that they knew who she was and where she was living and how to find her. The Appellant said that she did not know who the person calling was. She said that the person calling said that her son would 'meet his father very soon'. The Appellant says that she was then afraid even to go to work and she missed work for a week or two.

76. According to the evidence of the Appellant there were no threats issued, 2002 and 2008. The Appellant's son was aged 5 in 2002 and 11 in 2008. The evidence does not suggest that there is anything significant in attaining 11 years.

77. The Appellant said that, after the threat, her son could not leave the house alone and had to be with someone the whole time: 'My dad or brother or whoever would stay with them'.

78. However, despite the Appellant's claim that her son could not leave the house alone the next incident which she claims took place did so when her son was out alone. The Appellant claims that, on 10 June 2013, her son was going to school with his friends. A man was on the bus and asked him if he was [IG]'s son. The man asked the Appellant's son to go with him if he wanted to see his dad. The Appellant said that other people intervened to help him. The man was trying to pull him out of the seat to get him off the bus. The Appellant states that her son was very scared and shaking. The Appellant claims that her son went straight to the Appellant's sister's house which is near to his school.

79. There is no mention in the Appellant's statement dated 1 June 2014, of the alleged incident with her son on the bus. In her asylum interview the Appellant suggested that the incident occurred in May 2013.

Q32 - 'You say that your father obtained the Reconciliation Certificate for you. Why did you obtain other documents in May 2013 - birth certificates of the

children your marriage certificate your family certificate before the threat of the 10-06-13 discussed at q 3?

Q33 - And why translation into English for example of the family certificate?

Response: I don't know. Probably I'm just remembering, maybe I was getting these documents because my son was threatened in May and I was preparing to leave.

80. The Appellant claims, in her statement dated 21 March 2017, that she was on her way to her sister's house following the incident on the bus to see her son when a man got out of a car and stepped in front of her. She claims that he asked her where her son was and where she had taken him. At that moment, she claims that she lost consciousness and fell on the floor. She claims that someone informed her sister what had happened and she came to help her.

81. However, in her statement dated 1 June 2014, the Appellant stated: 'in 10th June 2013 someone stopped his car next to me and told me that 'your son is grown up now and he should go to his dad as he is a threat to us now'. He then got into the car and run away. I went to the police and I reported the incident. From that day I kept my children indoors and I started preparing to leave Albania as it was no longer safe for us to reside there.'

82. The Appellant produced, at the time of her asylum interview, a Certificate which she claimed had been issued by the General Police Department of the State which states that it proves that on 10 June 2013 she pressed charges 'Because her family has been threatened.' The Certificate states that the police department has sent the file to the Prosecution of the District Court of Tirana for further investigation. That document did not form part of the Appellant's bundle for the hearing. There is no mention in that Certificate of the existence of a blood feud and it does not indicate that it was her son specifically who was threatened. I do not find that document to be a reliable piece of evidence.

83. I find that the inconsistencies in the evidence of the Appellant in the statements referred to above undermines her credibility.

84. The Appellant claims that, on 17 June 2013, she and her children went to Belgium. They were staying in a refugee camp there. She said that she found out that one of the sons and the brother of the men who were killed during the forty days after her husband's death, had a coffee shop near to the refugee camp. The Appellant said that she was invited by an Albanian lady to go for a coffee. The Appellant claims that when she was told who the shop belonged to she refused to go. She then got the tickets to return to Albania as she did not feel safe in Belgium any more.

85. I find that there was no reasonable explanation provided as to why, if she felt that her life was at risk in Albania, she would return to that country. The Appellant states that she had claimed asylum in Belgium and so could have reported her further concerns to the authorities to seek protection or relocation in Belgium, or alternatively if she felt that she had to flee Belgium she could have gone to another safe country and pursued an application for asylum there. She had received no direct threat whilst in Belgium. I find that the fact that she chose to return to Albania is a clear indication that she was not at risk in that country.

86. The Appellant says that when she and the children returned to Tirana she had to stop inside with her children. She said that she found out that people had been asking about her and her children, especially her son. She claims that her father was beaten by a stranger when he was asked where her son was. She said that by that point her father decided that they were not safe anymore. During that time the Appellant said that she and her children did not go out as we felt threatened and afraid.

87. I did not find it credible that the Appellant's whereabouts would not be easily found as she was staying with her father and on her own evidence had very few relatives in the country at that time. If her father could be found then there would be no great difficulty in locating the Appellant.

88. The Appellant claims that they left Albania again on 14 October 2013. She claims that her father made the arrangements with the agent and paid him.

89. The Appellant claims that the political situation has deteriorated in Albania since her first appeal hearing. She claims that the Democratic Party are currently protesting to overthrow the Communist Party. She says that the government who are in place at present are not looking after the people. There is no protection for the people. The Appellant claims that ‘My children and I face a bigger risk now than ever before should we be returned to Albania’.

90. The Appellant claims that her father passed away in Albania on 18 September 2016 and she was informed of his death by her sister, [MN].

91. The Appellant has produced a Certificate, dated 19 August 2013, which she states has been issued by the Nationwide Reconciliation Committee. The Certificate states that: ‘Reconciliation committee certifies that the blood feud between the family of [DSG] and [H] has been archived. The flood feud started after several clashes and series of murders within [H] family and also with [L and G] families in Tropoje. The series of killings which commenced with the boys of the [H] family have encouraged the unstoppable blood feud even between the women of the family. In 2002, Mrs [ZH] by knowing the relationship between families: [G, B and L] she starts tracking down each and every one of their movements until she murders inside a bar-café [IG], husband of [DG], and [RL], she also wounded [KD] and [GB] ... The Albanian police state, as in all cases of families involved in blood feuds, it is impossible to guarantee the life of [DG] and her children [I] and [XG].

92. The information provided in that Certificate is not consistent with the Appellant’s own evidence. Her evidence is that her husband was killed by mistake where the Certificate states that the murderer had deliberately tracked him down. Taking account of that inconsistency and the country guidance in the case of EH I do not find the certificate to be a reliable piece of evidence.

93. Taking account of all of the evidence produced I conclude that the Appellant is not a credible witness and I reject her claim that she would be a risk on return to Albania because of the existence of a blood feud. I conclude that the Appellant left Albania for economic betterment and because she wishes her children to be brought up in the UK. I find she is not in need of international protection.”

11. So that then is why the claimant’s appeal failed. But that was not the end of the matter because permission to appeal was sought by the claimant’s then representatives. The grounds of appeal, at that stage, were to the effect (I paraphrase) that the key issue was whether or not there was still an active blood feud between the respective families; the tribunal had not focused upon that but had simply focused upon its view as to the claimant’s credibility; and had, therefore, failed to properly determine the appeal. However, on 5 January 2018 a Judge of the First-tier Tribunal refused permission to appeal. The claimant appears to have changed representatives at that point and renewed written grounds were submitted. Whilst the contentions made in those grounds are not numbered or clearly delineated I would characterise them as follows:

- Ground 1 - The tribunal placed too much weight upon what it perceived as inconsistencies in the claimant’s account concerning the attempted abduction of her son.
- Ground 2 - The tribunal had either been wrong to find the certificate said to have been issued by the General Police Department of the State unreliable or had failed to adequately explain why it was so concluding (see paragraph 82 of the written reasons).
- Ground 3 - This effectively repeats the point made in the initial grounds.
- Ground 4 - The tribunal erred in attaching too much weight to the fact of the claimant having returned to Albania from Belgium.
- Ground 5 - The tribunal had looked at the evidence from a “Western European” perspective and had been wrong to do so.

- Ground 6 - The tribunal had attached too little weight to the expert report of Dr. Tahiraj.
- Ground 7 - The tribunal had failed to make any proper findings with respect to what was said to be its view that the claimant could take advantage of an internal flight alternative.

12. The granting judge commented as follows:

“There is arguable merit in the assertion in the grounds that the judge failed to make any findings as whether or not a blood feud still existed and arguably failed to take into consideration the totality of the appellant’s case. The grounds are arguable.”

13. At the hearing before me the claimant was represented by Mr Holt of Counsel and the respondent by Mr Diwnycz, a Senior Home Office Presenting Officer. I am grateful to each of them. At the hearing I heard submissions as to whether or not the tribunal had erred in law and, if so, what should flow from that.

14. It was agreed that both sets of grounds were, as it was put at the hearing, “in play”. Mr Holt, however, focused largely upon the contention that the tribunal had erred through failing to actually decide whether there was an ongoing blood feud or not. He pointed out that the killing of AH was accepted as a historical fact and that the tribunal had accepted that the husband had been killed by ZH. There had, at the time of that killing, been a feud though there was an attempted pause with a view to a possible reconciliation but that had failed. In view of that the tribunal ought to have asked itself whether, under Kanun Law, the blood feud had continued to exist up until current times. It had failed to do that. The tribunal had only focused upon specific credibility concerns concerning the claimant. Further, it was entirely plausible, whoever had been responsible for the killings of two members of the H family, that the H family themselves would assume that the perpetrators belonged to the claimant and her deceased’s husband’s family and would act accordingly with the result that there would be an ongoing blood feud. That would be a sensible conclusion to reach. Paragraph 93 could not be read as the tribunal rejecting the claim that there was an ongoing blood feud or, at least, not clearly so. If there was still an ongoing blood feud the claimant would still be at risk. Mr Holt also queried why the tribunal had thought the killing of the husband (see paragraph 69 of the written reasons) to be accidental. Mr Diwnycz accepted the tribunal had found that the husband had been killed by ZH. But he stressed it had also found that the killing was accidental and that a blood feud had not arisen at that time. He argued that that was a “very important finding”. The tribunal had explained at paragraph 72 why no blood feud had in fact arisen and its conclusion at paragraph 93 that there was no risk stemmed from its finding that there was no blood feud. So, it had not erred.

15. I have concluded that the tribunal did not err in law. I shall, first of all, deal with the bulk of the grounds which had been advanced after the initial refusal of permission to appeal. I hope I shall be forgiven for doing so relatively briefly bearing in mind that the bulk of what was said therein was not the subject of any specific submissions made to me by Mr Holt and bearing in mind Mr Holt’s indication that the main plank of his argument related to the alleged failure of the tribunal to make a finding or at least clear one regarding the existence or otherwise of a blood feud.

16. As to what I have characterised as Ground 1, the tribunal did, at paragraphs 80 and 81 of its written reasons, identify inconsistency in the claim concerning what seems to have been said to have been an attempted abduction of her son or, at least, a threat made with respect to his safety. Different versions were given in two different statements about this and the tribunal was entitled to have regard to that as an aspect of its investigation into the claimant’s credibility. That is all it did. It did not, for example, treat the inconsistency as determinative of the claimant’s credibility or anything like that. Accordingly, no such error on the part of the tribunal is made out.

17. As to what I have characterised as Ground 2, the tribunal addressed the reliability or otherwise of the certificate at paragraph 82 of its written reasons. It was for the tribunal to assess the evidence before it and to decide what evidence it did or did not find to be reliable. It was entitled to attach weight to the lack of any mention of a blood feud in the certificate in circumstances where it seems that, had there been such a feud, it would have found mention. It was entitled to attach weight to the failure to refer to the son as the intended victim. It was entitled to conclude that the document was not a reliable item of evidence and it gave adequate reasons for so concluding. What is said in Ground 2 is really no more than an attempted disagreement with its finding as to that.

18. As to what I have characterised as Ground 4, the tribunal was, in my judgment, very clearly entitled to attach weight to the claimant's decision to return from Belgium to Albania bearing in mind that it was her assertion that, by that time, she was at risk of persecution or serious harm in Albania. The ground does not go beyond assertion and disagreement.

19. As to Ground 5, it is not explained why it is thought that the tribunal was looking at matters from a Western perspective. It is not explained which specific findings were or may have been made as a result of the tribunal looking at matters in such a way. It is not explained why it is thought that the tribunal was looking at matters in such a way. The ground is simply too undeveloped (and there was realistically I think no attempt to develop it before me) to establish error of law.

20. As to Ground 6, the tribunal, as is apparent from what it said in its written reasons, gave very careful consideration to the expert report of Dr. Tahiraj. It clearly accepted that she was an appropriate expert. But the report did not say that the claimant was actually at risk nor did it say that there was actually an ongoing blood feud. Against that background it is difficult to be sure what is meant by the contention that it was wrong to attach "only little weight" to it. Certainly, the ground as pleaded does not demonstrate an error of law on the part of the tribunal and, again I think realistically, it was not developed before me.

21. As to Ground 7, I cannot see that the tribunal did make a finding that the claimant could take advantage of an internal flight alternative within Albania. It did not have to do because of its primary finding and conclusion that she was not at risk in that country.

22. So, matters boil down to what was said in the original grounds of appeal, what was said in Ground 3 of the second set of grounds (which is similar though briefer) and what was said about all of that and related matters by Mr Holt as noted above.

23. The tribunal's written reasons do have to be read as a whole. Paragraph 72 of its written reasons is of some importance. There the tribunal explained why it took the view that the appellant's claim that the H family had continued a feud because of the claimed killings of two of that family's members, was not to be accepted. Its disbelief of that part of the claimant's account (which does not rest upon accepted facts) was buttressed by the various other adverse credibility concerns which it identified. To that extent it is, to my mind, somewhat artificial to seek to separate the credibility assessment from the question of whether or not there was an ongoing blood feud. But anyway, if what it said at paragraph 72 was right, it followed that there was not an ongoing feud as claimed.

24. Mr Holt did not put it this way but some of his arguments to the Upper Tribunal might be interpreted as a contention that it was simply not open to the tribunal to conclude, for the reasons it gave at paragraph 72, that the H family would not have thought the claimant's family to be responsible for the killings. I appreciate that another tribunal might have taken a different view. But in my judgment the view the tribunal did take was one which was properly open to it for the reasons it gave.

25. So, on a proper reading of the tribunal's written reasons, it was, although it did not actually say so in stark terms, finding that there was no ongoing blood feud. It did not forget to or omit to determine

that matter. That deals with the main point taken by Mr Holt and taken in the initial written grounds and Ground 3 of the second written grounds. It might be that the tribunal could have stated its conclusion as to that more clearly but what it was deciding is sufficiently clear when its written reasons are read properly and as a whole. Mr Holt queried why the tribunal had taken the view that the killing was accidental. But in so far as that might now be relevant, it had done so, as it pointed out, because that is what had been said in the expert report advanced on behalf of the claimant.

26. In the circumstances then I have concluded that the tribunal did not make an error of law. It follows that its decision must stand.

Decision

The decision of the First-tier Tribunal did not involve the making of an error of law. That decision shall, therefore, stand.

Anonymity

The claimant was previously granted anonymity by the First-tier Tribunal. I continue that grant under rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008. This applies both to the appellant and to the respondent. No report of these proceedings shall identify the appellant or any member of her family. Failure to comply may result in contempt of court proceedings.

Signed: Date: 21 August 2018
Upper Tribunal Judge Hemingway

TO THE RESPONDENT FEE AWARD

Since no fee has been paid and since no fee is payable there can be no fee award.

Signed: Date: 21 August 2018
Upper Tribunal Judge Hemingway