



**Upper Tribunal  
(Immigration and Asylum Chamber) Appeal Number: PA/07321/2019 (P)**

**THE IMMIGRATION ACTS**

**Decided under rule 34  
On 7 September 2020**

**Decision & Reasons Promulgated  
On 10 September 2020**

**Before**

**UPPER TRIBUNAL JUDGE KEBEDE**

**Between**

**[R M]**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DECISION AND REASONS**

1. This decision has been made on the papers, under Rule 34 of The Tribunal Procedure (Upper Tribunal) Rules 2008, further to directions issued by the Upper Tribunal on 7 May 2020. No objection was made to the decision being made on the papers and written submissions have been produced by both parties, which have been considered.

2. The appellant is a national of Albania born on 31 August 1990. He arrived in the United Kingdom on 10 August 2017 and claimed asylum on 17 November 2017. His claim was refused on 19 July 2019.

3. The appellant claimed to fear return to Albania as a result of his active involvement with the Democratic Party which led to him being attacked and threatened on two occasions by members of the Socialist Party. The respondent accepted that the appellant was an active supporter of the Democratic Party but did not accept his account of having been attacked by

members of the Socialist Party and did not accept that he was at risk on return to Albania.

4. The appellant appealed against that decision. His appeal was heard by First-tier Tribunal Judge Paul on 27 January 2020. Judge Paul did not accept that the appellant feared persecution in Albania and he dismissed the appeal on all grounds, in a decision promulgated on 10 February 2020.

5. Permission to appeal to the Upper Tribunal was sought by the appellant on three grounds and permission was granted on the third of those grounds, which asserted that the judge had failed to make clear findings on whether the appellant's account of past persecution was credible.

6. In light of the need to take precautions against the spread of Covid-19, the matter was not immediately listed for a hearing but was first reviewed by the Upper Tribunal. In a Note and Directions sent out on 7 May 2020, Upper Tribunal Judge Smith indicated that she had reached the provisional view that the question of whether the First-tier Tribunal's decision involved the making of error of law and, if so, whether the decision should be set aside, could be made without a hearing. Submissions were invited from the parties, neither of whom objected to a decision being made without a hearing.

7. Having considered the submissions from both parties I have reached the view that the third ground has merit and that the judge erred in law in his credibility findings, which are not cogently reasoned and which lack clarity. At [23] the judge finds that he is prepared to accept that the appellant "may or may not have been involved in an act of violence" and that "he may have therefore had violent encounters with supporters of the Government", but he considered that that was "a long way short of him demonstrating a campaign of persecution". Although not at all clear, the judge's finding appears to be that he accepted that the appellant was a victim of violence, given the evidence of his injuries, but concluded that it was a single incident and was not evidence of targeted persecution. He did not elaborate on, or explain, that finding, aside from the observation at [24] that there had been only two incidents, which he took as an indication of a lack of interest in the appellant. However, as the appellant's submissions assert at [10], the appellant's evidence was not of two isolated incidents and the judge failed to address the other incidents and failed to explain whether or why he rejected the appellant's account of being abducted and threatened. The judge also made an adverse finding at [23], about the appellant's claim to have targeted because of accusations he made against the previous Minister of the Interior, on the basis of the respondent's information that Samir Tahiri was no longer a prominent figure at the time, but a proper reading of [51] of the respondent's refusal letter shows that the judge misunderstood the point being made by the respondent.

8. Other than the fact that the appellant's family members did not give evidence at the hearing, the judge gave no further reasons for rejecting the appellant's account of fearing persecution on return to Albania. It may well be that an overall reading of the judge's findings, particularly those at [25] and [26], suggests that the judge did not find the appellant's account credible, but

it is simply not clear from his earlier findings what he accepted and what he rejected by way of past persecution. In the circumstances, I find that the third ground is made out and I agree with Ms Rushe, for the appellant, that the judge's decision cannot stand and must be set aside and re-made, and that the appropriate course is for the case to be remitted to the First-tier Tribunal to be heard *de novo* before a different judge. I do not preserve any findings made by the judge.

## **DECISION**

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

Signed: S Kebede  
Upper Tribunal Judge Kebede

Dated: 7 September 2020