



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/06851/2019**

THE IMMIGRATION ACTS

**Heard at Field House
On 1 March 2021**

**Decision & Reasons Promulgated:
On 09 March 2021**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**ARDIT MAZRREKU
[NO ANONYMITY ORDER]**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Pokhunduth V Thoree, solicitor with Thoree & Co solicitors

For the respondent: Ms Alexandra Everett, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission from the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision on 23 June 2016 to refuse his further submissions of 15 November 2015 on international protection and human rights grounds and to certify the further submissions as clearly unfounded pursuant to section 94(1) of the Nationality, Immigration and Asylum Act 2002 (as amended).

2. The appellant is a citizen of Albania. He came to the United Kingdom age 15 as an unaccompanied asylum-seeking child. The basis of his claim is that there is a blood feud between his family and the Bardhoshi family, and that the Bardhoshis murdered his uncle Skender Mazrreku.
3. This appeal has an unfortunate history. For the reasons I now set out, the Upper Tribunal has no jurisdiction in this appeal and nor did the First-tier Tribunal. It was only at today's hearing that this was recognised and accordingly, the appeal must be dismissed.

Background

4. The appellant was born in Albania on 21 May 1998. He came to the United Kingdom on 23 April 2014, age 15, having left Albania three days earlier. He claimed asylum on arrival, but on 11 December 2014, the respondent refused his protection claim. As the appellant was a minor, the respondent granted him discretionary leave until 21 November 2015 as an unaccompanied asylum-seeking child. On 15 November 2015, before that leave had run out, the appellant applied for further leave to remain.
5. On 14 January 2016, the respondent made certain enquiries of the British Embassy in Tirana concerning the factual matrix relied upon, and the Embassy replied on 8 February 2016, dealing with the appellant's family circumstances. The most significant point in the Embassy letter is that the appellant's uncle, Skender Mazrreku, who on his account had been murdered, was recorded as resident in Durres and alive. The Embassy confirmed that Skender Mazrreku had not murdered anyone from the Bardhoshi family, with whom the appellant claims there is a blood feud, and also that according to their records, there was no problem between the appellant's family and the Bardhoshis.
6. On 23 June 2016, the respondent refused to grant any further leave and certified the claim as clearly unfounded. The appellant should then have made a judicial review application to challenge the lawfulness of the certificate, if he considered that he ought to be granted an in-country right of appeal. He did not do so and instead he launched an in-country appeal before the First-tier Tribunal.
7. The respondent's bundle which was supplied to the First-tier Tribunal and the Upper Tribunal contains two copies of the 11 December 2014 decision, which carried a right of appeal which the appellant did not need to exercise, as discretionary leave had been granted. It contained no copy of the decision of 23 June 2016, which was the decision under challenge.
8. Neither the appellant's solicitors nor the First-tier Tribunal noticed the omission or the section 94 certificate. The First-tier Judge proceeded to give a full in-country decision on the appeal, of which he was not lawfully seised.

9. I have found a mini-bundle on the file which comprises copies of the appellant's family record in Albania, extracted on 19 January 2016; his personal certificate, bearing the same date; a letter in Albanian dated 20 January 2016 from the Ministry of Internal Affairs, General Directorate of Civil Status (not translated into English); and, crucially, the 23 June 2016 refusal letter. There is no index, but the mini-bundle bears a pencilled date of 31 January 2020, the date of the First-tier Tribunal hearing. It seems likely that this mini-bundle was handed up at the hearing.
10. The appellant appealed to the Upper Tribunal. He did so significantly out of time, partly by reason of the Covid-19 pandemic in 2020. Upper Tribunal Judge Stephen Smith, who granted permission, did not notice the section 94 certificate and granted permission on all grounds.
11. When the appeal came before me today, I asked Ms Everett if the decision of 23 June 2016 on the Upper Tribunal file was the correct one. She agreed that it was and that the decision was certified clearly unfounded. That being the case, the Upper Tribunal has no jurisdiction to hear an appeal from the decision of the First-tier Judge, who also had no jurisdiction to hear an appeal from the respondent's decision.
12. It remains open to the appellant to seek to challenge by judicial review out of time the section 94 certificate in the respondent's 23 June 2016 decision. If a judicial review is to be considered, the appellant will need to satisfy an Upper Tribunal Judge that there is a proper reason to extend time. In considering that, any judge would have to take account of the error in the Secretary of State's bundle and the effect of the Covid-19 pandemic as to delay.
13. This appeal is dismissed.

DECISION

14. For the foregoing reasons, my decision is as follows:

The First-tier Tribunal had no jurisdiction and neither does the Upper Tribunal. This appeal is therefore dismissed.

Signed [Judith AJC Gleeson](#)
Upper Tribunal Judge Gleeson

Date: 1 March 2021