

## Notes on Albanian Refugee Claims

David Neale, Garden Court Chambers, March 2022

This note deals with the major case types which currently comprise the Albanian refugee claims.

### Blood feuds

- The starting point is *EH (blood feuds) Albania CG* [2012] UKUT 00348 (IAC): “*The Albanian state has taken steps to improve state protection, but in areas where Kanun law predominates (particularly in northern Albania) those steps do not yet provide sufficiency of protection from Kanun-related blood-taking if an active feud exists and affects the individual claimant... Where there is an active feud affecting an individual and self-confinement is the only option, that person will normally qualify for Refugee status.*”
- Although *EH* refers to a lack of sufficiency of protection “*particularly in northern Albania,*” the problem is not exclusive to the north.
- On internal relocation, *EH* says “*Internal relocation will be effective to protect an appellant only where the risk does not extend beyond the appellant’s local area and he is unlikely to be traced in the rest of Albania by the aggressor clan. A crucial factor in establishing whether internal relocation is a real possibility is the geographical and political reach of the aggressor clan: where that clan has government connections, locally or more widely, the requirement to transfer civil registration to a new area, [...] would appear to obviate the possibility of “disappearing” in another part of the country, and would be likely to drive the male members of a victim clan to self-confinement in the home area as an alternative.*”
- This has to be read together with the acceptance in *AM and BM (Trafficked women) Albania CG* [2010] UKUT 80 (IAC) at [186]-[187] of Dr Schwandner-Sievers’ evidence that “*Family relations are that strong in Albania, you have to live here to understand this is no fairy tale, how important family links are. A brother might even have trafficked his sister or killed her because she was trafficked, but the relationship is very strong. This is such a small country; it is not possible to live somewhere without being known. The family is so close. For us it is easier to identify everyone immediately.*” She gave similar evidence in the Asylos/ARC report (see below). Although this evidence was given in the context of trafficking, it can be used to support an argument that an aggressor family in a blood feud could locate their victim in another part of Albania.
- Therefore, on the basis of *EH* and *AM and BM*, a person who establishes that an active blood feud exists and affects them has a very strong argument for refugee status. Blood feud cases are unsuitable for certification, despite what the CPIN asserts.
- The modern definition of “blood feud” is flexible and the Kanun is not always followed – for example, women and children are sometimes targeted. See my general overview of Albanian claims at [24] <https://miclu.org/assets/uploads/2021/06/The-CPIN-and-assessing-merits-in-Albanian-claims.pdf>

- There are also cases that are not blood feuds per se but that involve a risk of revenge attacks (for example, attacks by loan sharks over an unpaid debt). In these cases, the country evidence relating to blood feud and trafficking can be used by analogy to argue that there is no sufficiency of protection against organised crime activity and no viable internal relocation alternative.
- The current and former Home Office CPINs do not provide any sufficient basis for departing from the findings in *EH* and *AM and BM*. See David Neale's analyses here <https://www.gardencourtchambers.co.uk/news/albanian-blood-feuds-and-certification-a-critical-view> and here <https://www.gardencourtchambers.co.uk/news/albanian-blood-feuds-an-update>
- See also his general overview of Albanian claims here <https://miclu.org/assets/uploads/2021/06/The-CPIN-and-assessing-merits-in-Albanian-claims.pdf>

## Trafficking

- The country guidance on trafficking, *TD and AD (Trafficked women) CG* [2016] UKUT 92 (IAC), sets out a list of factors relevant to whether a victim of trafficking will qualify for refugee status on the basis of a risk of re-trafficking:
  - 1) The social status and economic standing of her family
  - 2) The level of education of the victim of trafficking or her family
  - 3) The victim of trafficking's state of health, particularly her mental health
  - 4) The presence of an illegitimate child
  - 5) The area of origin
  - 6) Age
  - 7) What support network will be available.
- Although *TD and AD* is about girls and women, the same risk factors apply to boys and young men. See the 2019 report by Asylos and Asylum Research Centre on trafficked boys and young men <https://www.asylos.eu/Handlers/Download.ashx?IDMF=b49e66a6-a777-47da-90f7-b2fcc14946fa> See also David Neale's research and analysis of the Asylos/ARC report here <https://www.gardencourtchambers.co.uk/news/albanian-boys-and-young-men-the-risk-of-trafficking-and-re-trafficking-on-return>
- In fact the latest Home Office CPIN [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1026093/ALB\\_CPIN\\_Human\\_trafficking\\_002.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1026093/ALB_CPIN_Human_trafficking_002.pdf) accepts at 2.4.21 that many of the risk factors in *TD and AD* are relevant to male as well as female victims.
- So a trafficking victim who has poor mental and/or physical health, has no support network, comes from a poor family and/or was abused as a child, etc, is at high risk of re-trafficking on return and has a strong claim for refugee status. This is true of boys and young men as well as girls and women. In some cases the prospect of destitution and homelessness, due to the poor economic situation in Albania, drive boys and young men into the arms of traffickers.
- This can be relevant not only to cases with a trafficking background, but also to cases where a person has claimed asylum on another basis (such as blood feud or domestic

violence) but displays some or all of the factors that would make them vulnerable to trafficking on return.

- See also David Neale's general overview of Albanian claims here <https://miclu.org/assets/uploads/2021/06/The-CPIN-and-assessing-merits-in-Albanian-claims.pdf>

## Domestic violence

- The old Country Guidance case of *DM (Sufficiency of Protection, PSG, Women, Domestic Violence) Albania CG* [2004] UKIAT 00059 suggests there is a sufficiency of protection against domestic violence in Albania. But this is too simplistic. *DM* is a short determination and no expert evidence was heard. And the appellant in *DM* was facing harassment by her ex-boyfriend, which is distinguishable culturally from risk from one's own husband or father. See *AM and BM* at [182] where it was accepted that there would not be a sufficiency of protection if a victim of trafficking were victimised by their own family.
- The mechanisms for providing protection for victims of domestic violence, in particular the domestic violence protection order, may not be effective. See David's analysis of the country evidence on domestic violence here <https://miclu.org/assets/uploads/2021/02/Albania-victims-of-domestic-violence-paper.pdf>
- Further, some victims of domestic violence may display the *TD and AD* risk factors so that, even though they have not been trafficked in the past, they would be at risk of trafficking on return – see above.
- See also David's general overview of Albanian claims here <https://miclu.org/assets/uploads/2021/06/The-CPIN-and-assessing-merits-in-Albanian-claims.pdf>

## Credibility

- Many asylum-seekers are disbelieved because of inconsistencies in their account. This can be challenged, given that many asylum-seekers suffer from PTSD and depression which are well-known to affect autobiographical memory, and that human memory for many categories of information is very poor. See the summary at pages 40-43 of my report *Bridging a Protection Gap* (co-written with Jennifer Blair) <https://www.helenbamber.org/sites/default/files/2021-04/Bridging%20a%20Protection%20Gap%20-%20Disability%20and%20the%20Refugee%20Convention.pdf>
- Some Albanian asylum-seekers are disbelieved because of information obtained from the Albanian authorities via the British Embassy. For instance, the British Embassy will sometimes claim that an alleged blood feud does not exist. But this is also open to challenge, given the "code of silence" practised by many families in relation to blood feud (see David's general overview of asylum claims at [29] and footnote 30 <https://miclu.org/assets/uploads/2021/06/The-CPIN-and-assessing-merits-in-Albanian-claims.pdf>) Similarly, evidence obtained about border crossings from the Border and Migration Department may not be reliable. Country expert Steve Harvey can advise further on this.