

Albanian blood feuds: Yet another unconvincing CPIN

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1. This is a review and critique of the new Country Policy and Information Note (CPIN) on blood feuds in Albania, published in January 2023. Nothing in this document constitutes legal advice, and it is provided for information purposes only.
2. In my reviews of the previous October 2018 and February 2020 CPINs on blood feuds,¹ I argued that those CPINs were wholly unjustified in holding that an Albanian blood feud case could properly be certified as “clearly unfounded” under section 94 of the Nationality, Immigration and Asylum Act 2002.
3. I pointed out that *EH (blood feuds) Albania CG* [2012] UKUT 348 (IAC) accepts that a sufficiency of protection and an internal flight/relocation alternative will not always be available. In order to depart from this, a tribunal would need “*strong grounds supported by cogent evidence*” (*SG (Iraq)* [2012] EWCA Civ 940 at [47]). The previous CPINs failed to engage properly with that issue. I analysed the evidence relied upon in the previous CPINs, and argued that that evidence was insufficient to justify a departure from *EH*.
4. The Home Office published a new CPIN in September 2022,² which I reviewed in the same month.³ That CPIN explicitly argued that there were “*strong grounds supported by cogent evidence*” to justify a departure from *EH*. In my review, I pointed out numerous problems with the reasoning in that CPIN, and argued that the evidence contained in it was plainly insufficient to justify a departure from *EH*.

¹ See David Neale, “Albanian blood feuds and certification: a critical view,” 4 April 2019 <https://www.gardencourtchambers.co.uk/news/albanian-blood-feuds-and-certification-a-critical-view> David Neale, “Albanian blood feuds: an update,” 16 April 2020 <https://www.gardencourtchambers.co.uk/news/albanian-blood-feuds-an-update> For reference, the February 2020 CPIN is archived here <https://webarchive.nationalarchives.gov.uk/ukgwa/20210101153620/https://www.gov.uk/government/publications/albania-country-policy-and-information-notes>

² For reference, the September 2022 CPIN is archived here <https://webarchive.nationalarchives.gov.uk/ukgwa/20221011161418/https://www.gov.uk/government/publications/albania-country-policy-and-information-notes>

³ David Neale, “Albanian blood feuds: another unconvincing CPIN,” September 2022 <https://miclu.org/assets/uploads/2022/12/Albania-review-of-new-blood-feud-CPIN1.pdf>

5. In January 2023, the Home Office published another new CPIN. That CPIN is significantly different from its predecessor, and relies on a new Home Office Fact Finding Mission (FFM) report.⁴ Like its predecessor, it argues for a departure from *EH*, and asserts that claims based on blood feud are likely to be certifiable as clearly unfounded. This article reviews the new CPIN. Unless the context otherwise requires, references in this article to the “previous CPIN” refer to the September 2022 CPIN, which directly preceded the new CPIN.
6. It is important to understand that the CPIN is not binding on Tribunal judges. It is merely a statement of the Home Office’s position. As the Tribunal highlighted in *MST and Others (national service – risk categories) Eritrea CG* [2016] UKUT 443 (IAC) at [8], *“the Home Office has no legal competence to decide whether or not a UT country guidance case is to be followed or not... the production of “country guidance” is solely a matter for the Tribunal and the courts.”*
7. Further, even if the Secretary of State considers that the evidence is sufficient to justify a departure from *EH*, it does not follow that she can properly certify claims on the basis of the CPIN. A claim being “clearly unfounded” means “so clearly without substance that it was bound to fail”, *Thangarasa and Yogathas* [2002] UKHL 36. If any reasonable doubt exists as to whether the claim may succeed then it is not clearly unfounded, *ZT (Kosovo)* [2009] UKHL 6. Therefore, even if the Secretary of State considers that *EH* is outdated, she cannot certify unless she is satisfied that the contrary view could not reasonably be taken on appeal. As we will see, the evidence in the new CPIN falls far short of meeting that standard.

Prevalence of blood feuds

8. The first issue to examine is the CPIN’s claims about the prevalence of blood feuds. The Home Office places extensive reliance on the State Police “database of blood feuds”, including relying on it as an aspect of sufficiency of protection ([2.5.3]).
9. However, the State Police figures plainly cannot be relied on as a complete picture of the phenomenon of blood feud. It is well known that families and communities actively conceal blood feuds from the authorities. As a 2017 report by the Belgian Commissioner-General for Refugees and Stateless Persons (CEDOCA) states:

“...blood feuds in contemporary Albania are often not reported to the authorities by the persons who are involved and to the observation that these

⁴ Report of a fact-finding mission: blood feuds, Albania, January 2023
<https://www.gov.uk/government/publications/albania-country-policy-and-information-notes/report-of-a-fact-finding-mission-blood-feuds-albania-january-2023-accessible>

persons don't report consciously: According to the Office of the Prosecutor, blood feud affected families generally refuse to denounce, collaborate or to give information. A representative from the Prosecutor's General Office in Tirana even stated that there is "a problem of denunciation"... A representative of the OSCE stated that the functioning of the authorities is less problematic nowadays, but what is more problematic is the fact that blood feud cases are not reported, that they remain hidden...

One of the most cited reasons seems to be that it is part of the traditional mentality, that it is a cultural issue to keep away private conflicts out of sight of the authorities... A second reason that is given for the latency of the phenomenon is that there remains a general distrust of the authorities based on what has happened in the past...

Elsa Ballauri also mentioned the fact that people do not go to the police because in the past nothing had been done after they had filed a complaint. She remarked that people still have the idea that the institutions are not functioning. Regarding this she argued there is a possibility the police will take sides in a conflict because of corruption and bribery... She also stated that people may feel more insecure after filing a complaint because their enemies are more likely to be more angry with them. Liljana Luani explained that in most cases people do not go to the police because they do not want the situation to further deteriorate.

Another reason why people do not report a blood feud case to the authorities is that they fear to be prosecuted themselves. Liljana Luani stated that "they don't go to the police because they might be sentenced themselves." A representative of an international organization in Tirana stated that people sometimes do not go to the police because they have done something unlawfully themselves." This was confirmed by Mirela Arqimandriti, head of the Tirana based Gender Alliance for Development Center (GADC), who stated that sometimes people do not go to court to file a case because they have done something wrong themselves. They may want to keep the police out of their drugs business or property issues."⁵

10. Similarly, as a 2017 report by Operazione Colomba states:

⁵ CEDOCA, "Blood Feuds in contemporary Albania: Characterisation, Prevalence and Response by the State," 29 June 2017, pp 23-24
https://www.cgra.be/sites/default/files/rapporten/blood_feuds_in_contemporary_albania_characterisation_prevalence_and_response_by_the_state.pdf

“5. The lack of collaboration and the code of silence practised by the local population do not help the police with their investigations. Silence for reasons of self-interest, or more usually for fear of reprisals, slows the course of justice and prevents the reporting of vendettas.”⁶

11. Both of these sources were cited in the February 2020 CPIN, but are missing from the new CPIN, despite their obvious relevance. Regardless, the FFM report contains evidence to the same effect. Elona Prroj, the wife of a blood feud victim, told the FFM team:

“...the families never report if they are in a BF. If you go and ask the police, their statistics are only 60 families in all Albania. But we know that there are many more but they will not report to the police. It was the prosecutor who got the killer, we did not see the police.”⁷

12. The FFM report has solved one mystery I raised in my review of the previous CPIN. The previous CPIN relied on a December 2021 report by Global Initiative,⁸ which contained a table of families affected by blood feud, broken down by region. This data was attributed to an “NGO working with affected families in Shkodra”, but there was no citation and it was unclear where this data had come from, or how it had been compiled.

13. However, Liljana Luani told the FFM team:

“In 2017 I made a study in 6 counties including; Kukes, Diber [Dibra], Shkodër, Lezhe, Tirana and Durres. you will find this study here [study is not available online]. So the study looked at how many people are in a family affected by BF, how many are in isolation, how many children, how many children are in isolation, how many have no education, and how many migrated and where they have migrated. But this was in 2017 and the situation has changed, so since then there have been more killings and aggression, but I can’t give exact numbers now.

The study was supported by OSHEE (Electricity Distribution Operator), OSHEE have supported our project since 2017. During the Study and throughout the process we also had the support of the State Police for the realization of our

⁶ Operazione Colomba, “Descriptive document on the phenomenon of hakmarrja and gjakmarrja,” December 2017, p 17 https://www.operazionecolomba.it/docs/Report_ING-2017.pdf

⁷ FFM report, op. cit., p 67

⁸ Global Initiative, “Blood feuds in Albania exploited by criminal groups,” December 2021 <https://riskbulletins.globalinitiative.net/see-obs-011/03-blood-feuds-in-albania-exploited-by-criminal-groups.html>

mission. I want to highlight that for this study, we knocked door to door from Dibër to Durres. We started the study from the county of Kukes door to door where the phenomenon of blood feuds was present. We continued with the County of Dibër and then [onto] the county of Shkodër, and Lezha. Afterwards we extended our study to the county of Tirana where, like in all other counties, we also witnessed the support of the Police to go to every door affected by this phenomenon. These areas were covered by 8 Police Commissaries (the 9th Commissioner is the Road Police). All these Tirana County Commissioners were prepared to carry out our study as effectively as in all other counties where we conducted our study.

We finally continued our study in Durres County where we saw the state police's support and conducted an accurate study on blood feuds, looking at the economic- social and health status of families, as well as the educational and psycho-social level of children, the families of those who are affected by this phenomenon.

The situation has really changed. There have been cases of blood feuds, but not more to my knowledge [see study].

We started from Kukes district then Dibër, Shkodër to Lezha and to Tirana, we talked to 9 police stations in Tirana, we then went to Durres and we concluded that the problem of BF is still present in Albania and that there were 591 families in BF at that time. However, the problem is not as worrying as the "reconciliation" of different areas can present. During the study we counted many families who had left for outside of the country and migrated abroad, but there were also families leaving from Dukagjin (in the north) towards the south of Albania. Families have moved from the north where the situation is more problematic. I have not completed the mission. I now intend to travel to the south of Albania to obtain a full picture of the situation as it relates to BF."⁹

14. As Ms Luani cited the same number of families in blood feud – 591 families – as appears in Global Initiative's statistics, it can be assumed that Global Initiative obtained their data from Ms Luani's study. It would have been helpful if Global Initiative had cited its source, so as to allow readers of its report to identify where its data came from. It is significant that Ms Luani's study showed a much higher number of families in blood feud than the State Police data, which as of 2022 showed only 75 families in confinement ([5.1.10]). This supports the view that the State Police data is not a complete guide to the scale of the phenomenon.

⁹ FFM report, op. cit., pp 49-50

15. However, another mystery remains. The December 2021 Global Initiative report asserts that the problem of blood feud is *“mostly concentrated”* in Shkodra district, *“according to a report from 2018,”*¹⁰ and the CPIN cites this at [5.1.7]. As I highlighted in my review of the previous CPIN, Global Initiative appears to be misrepresenting its own source. This claim is footnoted to the 2017 (not 2018) Operazione Colomba report. But that report does not support the view that the problem of blood feud is mostly concentrated in Shkodra. It reports cases of blood feud (*gjakmarrja*) and vendetta (*hakmarrja*) in numerous districts of Albania. In fact it reports more *gjakmarrja* and *hakmarrja* events in Tirana than in Shkodra.¹¹ Indeed, as Global Initiative itself acknowledges, *“[t]he high number of families in areas where blood feud is not culturally entrenched (i.e., in Tirana and Durres) can be explained by the fact that families have moved to these areas from the north of the country, bringing the feuds with them.”*¹²
16. Interestingly, UNICEF also told the FFM team that *“[i]n 2015 I attended a meeting by the Peoples Advocate in Shkoder, and in that meeting the prosecutor stated that his office paid a visit to 200 families in Shkoder, who were known to be in a situation of BF and 25 families were in the classic example of domicile confinement. So it’s not just killing, it’s the potential that can hang on your head all the time. So although it is 200 families, in a region like that, where you do not have a typical-sized (nuclear) family, but larger families, you have to multiply that number not just by 4; 25 families can mean groups of relatives or tribes.”*¹³ Therefore, according to UNICEF, a prosecutor in 2015 was aware of 200 families affected by blood feud in Shkoder alone (it is unclear whether this means Shkoder city or Shkoder district). Even if the number has since declined, this is significantly higher than the numbers attributed by the State Police database.
17. Overall, the CPIN’s insistence that the number of blood feuds is *“absolutely and relatively low, and declining”* must be seen in context. It is unclear how many blood feuds exist or how many families are affected. The State Police database certainly undercounts the number of families affected by blood feud. Ms Luani’s study shows that at least 591 families were affected as of 2017, several times larger than the number provided by the State Police. It is also clear that blood feuds are widely distributed throughout the country and are not limited to Shkodra district.

Sufficiency of protection

¹⁰ Global Initiative, op. cit.

¹¹ Operazione Colomba, op. cit., pp 19-20

¹² Global Initiative, op. cit.

¹³ FFM report, op. cit., p 11

18. EH says *“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.”*

19. Like its immediate predecessor, the CPIN argues for a departure from this conclusion. In the section headed *“Consideration of issues,”* it states:

“2.5.3 The UT’s assessment of the availability of protection in EH was based on the country situation up to mid 2012. Since the promulgation of EH the state has taken a number of steps to strengthen its legal system for the detection, prosecution and punishment of acts constituting persecution, which is accessible to persons fearing harm generally (see Country Policy and Information Note: Actors of protection). These improvements, some specifically relating to blood feuds, include:

significant criminal justice reform in preparation for accession to the EU, with the country achieving EU candidate status in 2014 and commencing EU membership talks in July 2022 (see Country Policy and Information Note, Actors of protection)

developing an blood feud action plan, renewed in 2014 to address the issue and which continues to be in force (see Action and initiatives)

in 2013 amending the criminal code to specifically address blood feuds. A murder committed as part of a blood feud is punishable by up to 30 years or life imprisonment (Article 78a), while a threat of a blood feud or revenge, or inciting someone to take part in a blood feud, is punishable with up to 3 years imprisonment (Article 83a) (see Legal context)

a database compiled by the General Directorate of State Police of all families affected by blood feuds (see Prevalence and location)

since 2012 - in the context that there are few active blood feuds and these are declining (see Risk above) - the state has undertaken tens of investigations into blood-feud-related crime (many cases may go unreported to the police or cease before prosecution because the person decides to migrate). These have led to a number of convictions under Article 78/a (murder for blood feud) and

Article 83/a (serious threat to retaliation or blood revenge) of the Criminal Code (see Police and Judiciary).

measures to support reconciliation between families involved in blood feuds (see Conflict resolution, negotiation, mediation and education)

2.5.4 The Shkoder Regional Police Directorate considered that the strengthening of the law has contributed to the decline of blood feuds (see Protection).

2.5.5 The government has taken reasonable steps to prevent acts of persecution committed as part of an active blood feud by operating an effective legal system for the detection, prosecution and punishment of such acts throughout Albania. There are therefore very strong grounds supported by cogent evidence to depart from the UT's findings in EH. In general protection is available in all areas of the country for persons involved in an active blood feud."

20. I will consider each of the claims at [2.5.3] in turn.

21. [2.5.3] refers to *"developing an [sic] blood feud action plan, renewed in 2014 to address the issue and which continues to be in force"*. It links to section 6.1 of the CPIN, entitled "Action and initiatives". However, that section is overwhelmingly dominated by quotations from Albanian Government sources. These include Albania's report to the UN Human Rights Council Universal Periodic Review ([6.1.1]-[6.1.2]). Unlike the previous CPIN, this CPIN at least acknowledges that it is quoting the Albanian Government's submissions to the HRC Periodic Review, rather than an independent view of the HRC. However, that does not detract from the fact that these statements are the view of the Albanian Government, not those of a disinterested observer.

22. Similarly, at [6.1.3]-[6.1.4] the CPIN cites the Albanian Government's report to the UN Committee on the Elimination of Discrimination against Women (CEDAW), at [6.1.7] it cites the Government's report to the UN Committee on the Rights of the Child (CRC), and at [6.1.8] it cites the Government's report to the UN Committee against Torture (UNCAT). Conveniently, these are all recent reports submitted in 2022, and none of the relevant UN bodies have yet published their concluding observations on Albania's periodic reports.¹⁴ We do not therefore have the benefit of an impartial assessment by a UN body of the effectiveness of the measures taken by Albania.

¹⁴ At the time of writing (3 February 2022). Concluding observations can be found in the UN Treaty bodies database: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/TBSearch.aspx?Lang=en

23. The Government sources highlight various steps that have been taken by the Government against blood feud:
- a. The strengthening of sentences for blood feud ([6.1.1]);
 - b. The adoption of an action plan ([6.1.2]-[6.1.4] and [6.1.10]);
 - c. The compilation of a “database of all families affected by blood feud” ([6.1.2], considered further below);
 - d. The holding of “awareness meetings” ([6.1.8]).
24. What is conspicuously missing, however, is an appraisal of whether these measures are actually effective. When one reviews the sources that are independent of the Albanian Government, it is apparent that there is little reason for confidence in the action taken by the Government against blood feuds.
25. This CPIN, like the previous CPIN, includes reference to an unpublished report by Global Initiative, which the Home Office has not chosen to make publicly available. However, this CPIN has conspicuously omitted a passage from that report which was quoted at [6.1.8] of the previous CPIN:

“Our interviewees confirmed that the steps taken by the government since 2015 are insufficient to address blood feuds. Greater action is needed, for example, to strengthen measures against judicial corruption and corruption of public officials because corrupt judges may refrain from imposing the proper sentencing for blood feud murders. Furthermore, while the justice reform is having some positive effects, there is still room for improvement when it comes to dealing with blood feuds. For example, interviewees suggested that the justice reform should be thorough to strengthen the rule of law and more should be done to improve economic and education status of families in blood feud, especially given that beyond monitoring and some home schooling, the action plan seems to be having little effect.”¹⁵

26. Given that this report is unpublished, it is particularly concerning that the new CPIN quotes it selectively, and omits reference to a passage which fundamentally undermines the new CPIN’s argument that the Albanian state provides adequate protection.

¹⁵ See the archived September 2022 CPIN <https://webarchive.nationalarchives.gov.uk/ukgwa/20221011161418/https://www.gov.uk/government/publications/albania-country-policy-and-information-notes>

27. Nor do the independent sources interviewed in the FFM report give reason for confidence in the effectiveness of the “action plan”. UNICEF told the FFM team (in a passage which is quoted in part, but not in whole, at [6.2.1] of the CPIN):

“A. If the justice system was working properly every time, then yes, they would differentiate, but as the system is struggling with corruption, lack of efficiency, and insufficient capacity of professionals, then sometimes things get twisted and if certain officials are willing to take a bribe, then it is possible that the aggravating circumstances will not be properly applied. Also, it is not just about the murder and criminal responsibility; sometimes social norms are so ingrained that people are willing to be imprisoned to supposedly restore the honour of their family. So the murder isn’t the only dimension of the problem. The judiciary can do something, reactively, but it’s also about the family that is isolated, and the fear of a potential BF chain starting or fear of becoming a victim. You have to consider, how does the government interfere in these cases? It’s a violation of human rights on all those affected, yes. But if the murder is just a potential, how does the government proactively interfere or intervene to tackle it? It is that fear of retaliation. People are confined (to their homes) or leave the country. Sometimes, the latter is the only way they can see as escape from that suffocating situation.”¹⁶

28. This is a critically important point. The effectiveness of state protection is to be judged normally by its systemic ability to deter and/or to prevent the form of persecution of which there is a risk, not just punishment of it after the event (see *inter alia* AW (sufficiency of protection) Pakistan [2011] UKUT 31 (IAC)). So it is not sufficient that the state sometimes prosecutes and imprisons those who commit blood feud murders. The question is one of ability to deter and/or prevent those murders. UNICEF’s evidence casts serious doubt on whether the Albanian state is capable of doing so.

29. Similarly, Rasim Gjoka, Executive Director of the Albanian Foundation for Conflict Resolution and Reconciliation of Disputes, told the FFM team:

“A. The law is harsh to this phenomenon and police have an important role to play when it comes to protection. Nevertheless there are problems with the implementation of the law, not the law itself but with implementing it. Another problem is the capacity of the police to intervene and to prevent. It could also be related to how professional the police are.”¹⁷

¹⁶ FFM report, op. cit., p 10

¹⁷ Ibid., p 25

30. As I highlighted in my reviews of earlier CPINs, other sources also give little reason for confidence in the ability of the Albanian authorities to provide protection. I considered the CEDOCA and Operazione Colomba reports at length in my reviews of the previous CPINs. In summary, the CEDOCA report reveals that its interviewees did not have a unanimous view about the effectiveness of the police in tackling blood feuds, and that there were disagreements between the interviewees. Two experts, Elsa Ballauri and Operazione Colomba, expressed *“strong doubt that the police is capable of controlling, monitoring, preventing and prosecuting the contemporary blood feud phenomenon.”*¹⁸ Much of what was said by the interviewees, both positive and negative, was in general and anecdotal terms, with few specific examples. This evidence plainly does not justify a departure from *EH*. Nor does the Operazione Colomba report, which notes that *“police investigations have not always produced the desired results,”* giving a specific example of the murder of a 70-year old man and his 17-year old granddaughter on 14 June 2012 in connection with a blood feud. At the date of the report in 2017, that killing *“had yet to lead to justice being done”* and the feud had continued with another attempted murder.¹⁹

31. [2.5.3] relies on the harsher sentences for blood feuds introduced in 2013. However, this is of no value without an appraisal of whether these sentences are effective in practice. This has to be contextualised in light of the endemic corruption and inefficiency in the Albanian justice system. As set out above, UNICEF highlighted to the FFM report that *“the system is struggling with corruption, lack of efficiency, and insufficient capacity of professionals, then sometimes things get twisted and if certain officials are willing to take a bribe, then it is possible that the aggravating circumstances will not be properly applied.”*²⁰ Elona Prroj, the wife of a victim of blood feud, similarly said *“BF are kept alive by poverty, lack of education, lack of power in the justice system and lack of law being implemented. Even if in a public case like this, the guy can be out after a short sentence, so imagine how long they might be punished for other cases that are not so public. Short sentences are due to corruption.”*²¹

32. This accords with evidence from other sources. The CEDOCA report states:

“Multiple interlocutors stated that the judiciary remains the weak point and they especially stressed the issue of corruption at the level of the judiciary. Liljana Luani believed that families “pay to avoid heavy sentences”. She claimed that she has knowledge of many perpetrators who live freely because lawyers,

¹⁸ CEDOCA, op. cit, pp 33 and 35

¹⁹ Operazione Colomba, op. cit., pp 28-29

²⁰ FFM report, op. cit., p 10

²¹ Ibid., p 54

*judges and prosecutors were bribed to avoid heavy sentences. She hoped that the reforms of the judiciary and the vetting system will solve the problem. A representative from Operazione Colomba also said that judges can be bribed, although she acknowledged that a lot has been done to counter this in recent years. She also claimed that judges can be bribed in order to release convicted blood feud murderers before they have served their sentence. Large sums of money are collected abroad or via the criminal circuits for this purpose. Mila claimed that there is a lot of "dirty money from prostitution and drugs business" and that judges can be bribed."*²²

33. This passage, which was quoted in the February 2020 CPIN, is conspicuously absent from this CPIN, despite being obviously relevant.
34. [2.5.3] relies on *"a database compiled by the General Directorate of State Police of all families affected by blood feuds"*. As set out above, however, there are strong reasons to think that this database does not provide a complete picture of which families are affected by blood feud, and that many families conceal blood feuds from the authorities.
35. [2.5.3] also states *"since 2012 - in the context that there are few active blood feuds and these are declining (see Risk above) - the state has undertaken tens of investigations into blood-feud-related crime (many cases may go unreported to the police or cease before prosecution because the person decides to migrate). These have led to a number of convictions under Article 78/a (murder for blood feud) and Article 83/a (serious threat to retaliation or blood revenge) of the Criminal Code."* However, as I noted in my review of the previous CPIN, the numbers of convictions are very small (only one person convicted in 2020, none in 2019, 2 in 2018, 3 in 2017 and 1 in 2016: see [7.1.3]) and only a minority of cases investigated result in a guilty verdict. These numbers do not reveal what proportion of blood feud perpetrators are effectively brought to justice. As set out above, we cannot be confident that blood feuds are as few in number as the CPIN asserts. According to the best available data, there were at least 591 families in blood feud as of 2017. In any event, what matters is the systemic ability of the state to deter and/or to prevent the form of persecution of which there is a risk, not just punishment of it after the event: *AW (Pakistan) supra*.
36. Finally, [2.5.3] relies on *"measures to support reconciliation between families involved in blood feuds"*. But it conspicuously fails to note that the Albanian Helsinki Committee told the FFM team:

²² CEDOCA, op. cit., pp 38-39

“Q. About mediation, do the state provide this?”

A. There is a law, but we did a study and we found no website or no actual work although it is stipulated in law. There is a reconciliation council [different to the one mentioned above]. So even though there is a law, no mediation/reconciliation is provided.

Q. So you have not seen reconciliation at work?

A. No, not seen.”²³

37. UNICEF also told the FFM team (in a passage quoted at [10.1.1] of the CPIN):

“Q. Do any of the families/tribes/extended families, do they engage in mediation?”

A. Certainly that is potentially a good way to curb BF. As justice for children specialist, I must say that for children involved in criminality and sometimes victims, it is crucial to explore what mediation can offer and unfortunately this (mediation) is not maximised as a potential. At least for children under 18 this type of service should be offered free of charge but government have not materialised their response in working out a mechanism to offer free mediation or offer it at any stage of the process and as part of the diversion. In Shkoder we had a programme implemented by the Albanian Foundation for Conflict Resolution (AFRC) and we had to beg prosecutors to recommend to children and families mediation and restorative justice. But prosecutors are pressed for time and understaffed, they want to finish with a case as quickly as possible, thus they rarely refer for mediation and restorative justice interventions. Predominantly, prosecutors just give a warning to juveniles, instead of prescribing additional measures, such as mediation, and that is quite a missed opportunity. Had they recommended children/young people for mediation, for example, I believe many instances of BF could have been prevented. Another opportunity is to include restorative justice principles in the education system, either in curricular or extra-curricular activities. Instead of quarrels and fights between adolescents deteriorating to a killing and then leading to a BF, why not try mediation? It needs to be invested in, in order to turn mediation into a substitute culture and take the place of a BF. Customary law in Albania even offers the opportunity of mediation. In order for them to invest in strengthening the restorative justice mechanisms, the first precondition is to state it in a policy

²³ FFM report, op. cit., p 18

document, to cost it and to turn it into a public commitment to tackle conflicts, including BF, through this route. But many things affecting juveniles could have been helped early on with mediation and restorative justice.”²⁴

38. The CPIN at [10.1.3] refers to the existence of councils of elders, which are not under the oversight of the police. These would not appear to be State bodies, and therefore are not actors of protection for the purposes of the Refugee Convention (see section 34(1) of the Nationality and Borders Act 2022).
39. In any event, mediation will only afford sufficient protection if the other family is willing to mediate the conflict. Whether an aggressor family is willing to engage in mediation will of course be a question of fact for decision-makers on the facts of each case.
40. As regards the purported improvement in Albania’s institutions generally, the CPIN, like the previous CPIN, sometimes quotes sources selectively. For example, at [8.1.2] it cites Bertelsmann Stiftung’s 2022 Albania Country Report on the subject of Albania’s ongoing judicial reform. But it fails to quote passages from that report which are less complimentary about Albania’s efforts. The passage quoted by the CPIN is immediately followed by the following:

“Nevertheless, several of the key structures of the new system – the Constitutional Court and the High Court – are not fully operational because of the blockage or malfunctioning of the new appointment rules. Throughout the process, moreover, both the people and structures in charge of vetting have been subject to intense pressure, including defamation. With less than half of the judiciary vetted, many appointment rules having been contested, various active political actors working against substantial reform and the poor record of the internationally led reform effort, the full results of the reform are yet to be seen.

Officeholders who break the law and engage in corruption are not adequately prosecuted. A set of new rules associated with the judicial reform have increased capacities to investigate complicated cases of corruption. In particular, the establishment of the Anti-Corruption Task Force and the dedicated Anti-Corruption Directorate is expected to improve the investigation and prosecution of high-level corruption cases. The creation of a network of anti-corruption coordinators in public agencies has also improved the effectiveness of the fight against corruption.

²⁴ Ibid., p 12

However, institutional progress alone is an insufficient measure to assess prosecution of corruption in reality. The formal institutional framework to prosecute corruption has always been a key target for the European Union and other international actors. Continuous changes of the institutional framework, which the supervising international structure have traditionally used as a measure of progress, have failed to establish a solid track record of investigations over the long term. The EU 2020 annual report assesses that investigations have not resulted in a substantial number of final convictions of high-ranking state officials. This fosters a culture of impunity within the higher levels of the state. Importantly, many of the judges vetted out of the system, including eight out of nine Constitutional Court judges and 15 out of 18 High Court judges who were dismissed or resigned, have not been investigated for their misdoings. Many of the key members of the political class and state institutions who have been the subject of various media reports and cases of corruption have randomly slipped through political, legal or procedural loopholes.”²⁵

41. Similarly, at [8.1.3] the CPIN makes reference to the United States Department of State Human Rights Report for 2021, but does not note the numerous passages in that report which suggest continued systemic weaknesses, including a corrupt and politicised judiciary and police force, and failure to enforce the law effectively:

“Although the constitution provides for an independent judiciary, political pressure, intimidation, corruption, and limited resources prevented the judiciary from functioning fully, independently, and efficiently...

In many cases, authorities did not enforce ECHR rulings....

The law provides criminal penalties for corruption by public officials and prohibits individuals with criminal convictions from serving as mayors, parliamentarians, or in government or state positions, but the government did not implement the law effectively. Corruption was pervasive in all branches of government, and officials frequently engaged in corrupt practices with impunity...

Several government agencies investigated corruption cases, but limited resources, investigative leaks, real and perceived political pressure, and a haphazard reassignment system hampered investigations...

²⁵ Bertelsmann Stiftung, BTI 2022 Country Report, Albania, pp 13-14 https://bti-project.org/fileadmin/api/content/en/downloads/reports/country_report_2022_ALB.pdf

Police did not always enforce the law equitably. Personal associations, political or criminal connections, deficient infrastructure, lack of equipment, and inadequate supervision often influenced law enforcement...

Rape, including spousal rape, is a crime; the law also includes provisions on sexual assault. Penalties for rape and sexual assault depend on the age of the victim. For rape of an adult, the penalty is three to 10 years in prison. The government did not enforce the law effectively. Authorities did not disaggregate data on prosecutions for spousal rape. The concept of spousal rape was not well understood, and authorities often did not consider it a crime...

The law prohibits sexual harassment, but officials rarely enforced it...

Although the legal minimum age for marriage is 18, authorities did not always enforce the law...

The law prohibits discrimination based on sexual orientation, including in employment. Enforcement of the law was generally weak...

The law prohibits all forms of forced or compulsory labor, but the government did not always effectively enforce the law.”²⁶

42. Overall, therefore, there is certainly no consensus among the available sources that the Albanian authorities are able and willing to provide adequate protection against an active blood feud. While some measures have been taken by the authorities since 2012, that does not mean that those measures are yet effective in providing protection. It is plainly realistically open to a First-tier Tribunal Judge to hold that the Home Office has not demonstrated “*strong grounds supported by cogent evidence*” for departing from *EH*. Against this backdrop, certification is plainly inappropriate.

Internal relocation

43. In respect of internal relocation, the CPIN asserts that “*In general internal relocation is likely to be viable but depends on the facts of the case*” ([2.6.1]). It conspicuously omits important evidence which undercuts this conclusion.
44. As I have previously highlighted, *EH* should not be read in isolation. Other Country Guidance case law clearly highlights that internal relocation is not a realistic option in

²⁶ United States Department of State Country Reports on Human Rights Practices 2021 – Albania
<https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/albania>

many cases. The Tribunal held in *AM and BM (Trafficked women) Albania CG* [2010] UKUT 80 (IAC):

“186. We consider that that test, with its emphasis on the particular characteristics of the individual is particularly apposite when considering the position of victims of trafficking who might face internal relocation at a time when they would be suffering the trauma about which Dr Agnew-Davis spoke in her report and at the hearing. We emphasise the terms of the intervention of UNHCR quoted by Baroness Hale in her paragraph 20 above. Moreover we would emphasise that, as stated above, Albania is a country with a relatively small population. Dr Schwandner-Sievers refers to common socio-cultural conduct in which every person was socially positioned. We note the comment that the Director of the Anti-Government Unit, Ms Irena Targa, made to Dr Schwandner-Sievers 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. As soon as someone says their surname we know – the police scan the population. Once the name is mentioned, it depends on the family, but they come here from anywhere they can”.

187. We consider therefore that Albania is a country where there is a real fear that traffickers might well be able to trace those who have escaped from them or indeed those whom they fear might expose them. Whether such persons would be motivated to do so is, of course, another matter, as we have discussed above. It is therefore a country where, at least, internal relocation is problematical for the victim of trafficking. To that should be added the difficulties for a single woman to reintegrate into a society where the family is the principal unit for welfare and mutual support as well as, it appears, the channel through which employment is most often obtained. We have therefore concluded that internal relocation is unlikely to be effective for most victims of trafficking who have a well founded fear of persecution in their home area, although once again we consider that it is important to consider each case on an individual basis.”

45. Similarly, it accepted in *BF (Tirana - gay men) Albania CG* [2019] UKUT 93 (IAC):

“We accept Ms Young's evidence that a person's whereabouts may become known in Tirana by word of mouth. Albania is a relatively small country and we accept as entirely plausible that a person might be traced via family or other connections being made on enquiry in Tirana. Whether that would occur would depend on the family being motivated to make such enquiries (which motivation would probably depend on an awareness that the person may be living there) and the extent of its hostility. That is a question for determination on the evidence in each case.

46. Stephanie Schwandner-Sievers, whose evidence was accepted in *AM and BM*, elaborated on the same view in a report by Asylos and Asylum Research Centre on trafficked boys and young men:

“...no, you can't anonymously live in Albania—that is very different from London or from Bristol or any UK city—because it's such a small country and because also for cultural reasons, the ways in which people situate you socially. You encounter somebody and you meet somebody, and any social contact you make you are defined as a person through where you are from and who your family is. It is almost a ritual; it is a ritual rhetoric. When you meet someone, you ask “How's your father? How's your mother?” And you ask that if you know the father and mother. There also is this very big trope of a good or a bad family. It's very common in Middle Eastern societies, and prevalent in Albania as well, where it was reinforced during the Communist rule in particular. Albania is an incredibly small society. Also, you have very clear social organization with rules such as post-marital virilocal residence still very common. Society is organised patrilineally. This means that you can relate always somebody through their patrilineage. “Who's your father?” Mother's family now matters as well, but you are always judged in terms of whether you are from a good or bad family through your parents' lineages...

There is no anonymous living such as in Europe's large cities. What chance do you have to reintegrate into a society, without your family, where everything is reliant on family? Just being given a rented flat in a city without pre-existing social contacts would make you very conspicuous and attract attention and suspicion.”²⁷

47. Although the above cases do not relate to blood feuds, the previous CPIN contained sources which directly and clearly demonstrated that internal relocation is not a viable option for those at risk of blood feud:

²⁷ Asylos and Asylum Research Centre, “Albania: Trafficked boys and young men,” May 2019, pp 159-160 <https://www.asylos.eu/albania-report>

“11.1.1 The Cedoca 2017 report stated:

‘According to multiple sources, some of the affected families are not particularly safer after having moved away from where they were living. The Director of the Prosecutor’s Office stated that for the affected families “the fear can be everywhere”. Also a representative of the Albanian Helsinki Committee warned that in the case of a contemporary blood feud situation, a potential victim will not necessarily be safe after having moved inside Albania. He explained that “each country is a village” nowadays. Mentor Kikia claimed that some of the isolated families cannot even dream of moving to Tirana either because they are either too poor to move outside or because nowhere is safe for them. Elsa Ballauri confirmed that there are situations where moving is not an option because the potential targets will surely be followed, even abroad if necessary. Luigj Mila, Alfred Koçobashi and a representative of the OSCE likewise claimed that the blood feud mentality, insofar as it still prevails, does not know any limits of time and place.’

11.1.2 In its report of December 2017, Operazione Colomba stated:

‘The feuding families monitored by Operazione Colomba in Shkodra and Tirana belong mainly to clans from Dukagjin and Tropoja (7 clans in Dukagjin and 4 in Tropoja). More than half have moved within Albania to city suburbs from their mountain areas of origin, often to escape the possible consequences and risks of a blood feud. Movement within the country reduces tension between parties but does not unfortunately guarantee safety as traditional Albanian society is based on relations between extremely extended families that can easily get information on the location of other people. Often the family surname alone is an indication of where it and its members come from, making it easy to find people who move out of a district.

11.1.3 In its commissioned report of December 2021, Global Initiative noted:

‘All interviewees confirmed that no person is safe from blood feud in any city in Albania. Albania is a small country and people can be easily traced. There is a significant internal emigration flow of people from the north of the country to other regions but these networks can (and will) identify individuals who try to escape and hide...

‘As mentioned above it is very easy to track someone and find people via family connections across the country. Due to the wave of internal migration from the

north of the country to central and southern Albania, families that are originally from the north are now present in all in communities of Albania. It is also comparably easy to identify and trace people from the north because of their distinctive customs, accents as well as their names and surnames.'

11.1.4 The Freedom in the World 2022 report, covering 2021 events, noted that 'Albanians generally enjoy freedom of movement, though criminal activity and practices related to historically predominant honor codes limit these rights in some areas. People are generally free to change their place of residence or employment.'"

48. These sources have been omitted, without explanation, from [12] of the new CPIN. The omission of these sources is difficult to explain or justify, given that they are plainly relevant, are plainly known to the Home Office, and directly undermine the argument of the new CPIN.

49. In fact, the FFM report also provides yet further evidence that internal relocation is not a viable option. UNICEF told the FFM team:

"Q. With regard people moving away from areas affected by BF, can you advise if it is possible for someone to relocate safely within Albania

A. Some have already done it, so perhaps they feel less affected by BF, but the example I gave to you about the move to one village in the south, again semi-isolated from the rest of the host community, leads me to believe that they don't feel completely safe, despite the relocation. As a small country, where everybody knows everybody, this information tends to leak, plus the country is struggling with corruption of officials. But potentially yes, one could relocate safely if everyone kept the confidentiality, but we know this country is not good at this. Even with victims of organised crime and trafficking I wouldn't be entirely sure if they are kept confidential. I don't know if the government would venture to come up with a relocation programme and it could be a sensitive political issue."²⁸

50. The Albanian Helsinki Committee told the FFM team:

"Q. What about relocating to different area, is this an option?"

²⁸ FFM report, op. cit., p 14

A. I don't think that is a solution as Albania is small and BF families will find these people in other places in Albania. The 17 year old referred to was not in a remote place where the crime was committed but the police didn't have the capacity to protect the family.”²⁹

51. Elana Prroj told the FFM team (in a passage quoted in the CPIN at [12.1.13]):

“A. In this country it is easy to find anyone. We moved to Vlore and then elsewhere, and still they found us there, so no, it's not enough.”³⁰

52. It is therefore clear, beyond any doubt, that a sufficiently motivated aggressor family will be able to track down their victim in any part of Albania. This is supported by the Country Guidance case law, and by many of the CPIN's own sources. The CPIN is wrong to suggest that internal relocation will generally be a viable option.

Other issues relevant to risk

53. There is other key information relevant to risk, which was contained in the February 2020 CPIN but is missing, without explanation, from this CPIN.

54. First, there is the time span of blood feuds. The Operazione Colomba report states that *“vendetta incubation times can differ significantly. It can either explode very fast or several years after the injury or first murder. Although feud stories tend to be passed down, the reason for their origin can be forgotten as time passes.”³¹* This is often significant in asylum cases because, where a long time has passed since the last attack, the Home Office often relies on this fact to indicate a lack of current risk. It is clear that a long delay since the last attack does not mean there is no current risk.

55. Second, there is the fact that some families are semi-isolated. The CEDOCA report states that *“there are also blood feud affected families who are semi-isolated, which means they come out of their houses occasionally or even regularly.”³²* This is important because the Home Office sometimes wrongly alleges that a blood feud claim is not credible on the ground that a male family member was able to leave their home.

56. Conversely, the new CPIN also contains other useful background information on the dynamics of blood feud. This includes:

²⁹ Ibid., p p 17

³⁰ Ibid., p 56

³¹ Operazione Colomba, op. cit., p 16

³² CEDOCA, op. cit., p 15

- a. The fact that the entire tribe can be affected, including extended family members, and that the opposing family may take the life of *“a person who is the best in the family or tribe, the one that is the more intelligent, the one who has the most power or reputation in the family”* ([5.2.2]).
- b. The fact that the opposing family may choose the *“youngest and the best”* to target, so may choose to target a young man in preference to an older man ([5.2.8]).

57. A further issue is the extent to which women and children are the victims of blood feud. The CEDOCA and Operazione Colomba reports both confirm that there have been instances of women and children being the targets of blood feud violence.³³ UNICEF confirmed to the FFM team that *“during the past 30 years, whether by accident or will, women and girls have been the direct subject too. What worries UNICEF is that many children are becoming both the direct and indirect victims of blood feuds. Even those whose lives are not taken, are nevertheless threatened, and they are confined to their homes or isolated from everything going on in the outside world.”*³⁴ However, the Helsinki Committee said *“[i]t is not possible to take revenge blood from women or minors so they are excluded,”*³⁵ and the journalist Bledian Koka said *“...women and children are affected [by isolation]. However, I don’t remember the last time a woman or child was killed because of a blood feud.”*³⁶

58. Although not mentioned in the CPIN, it is also important to understand that the Kanun is generally patrilineal (see *EH* at [15], [25] and [37]). This is important because the Home Office often alleges that a claim is not credible because, for example, male members of the family on the maternal side were not targeted. Such objections are misconceived, because maternal relatives are not part of the patrilineage of the family.

59. In short, it is clear that the blood feud phenomenon is varied. Women and children are not usually direct targets, but there have been instances of women and children being targeted. Some children are forced into self-isolation. Blood feuds may erupt even after a delay of several years, and they may target not only close family members but also extended family members of the original perpetrator. In some feuds, the *“youngest and the best”* in the family will be targeted, not necessarily the closest relative.

³³ CEDOCA, op. cit., p 11; Operazione Colomba, op. cit., p 11

³⁴ FFM report, op. cit., pp 9-10.

³⁵ Ibid., p 16

³⁶ Ibid., p 62

Conclusion

60. The new CPIN presents a partisan and inaccurate picture of the risks from blood feud in Albania. Its claim that the Albanian authorities now provide a sufficiency of protection against blood feuds is open to doubt. The sources cited do not provide the *“strong grounds supported by cogent evidence”* required to depart from the Country Guidance case of *EH*. It would be wholly wrong for cases to be certified as clearly unfounded on this basis. The CPIN also presents an inaccurate picture of the availability of internal relocation, and omits sources contained in the previous CPIN which directly undermine the new CPIN’s argument.