



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

EH (blood feuds) Albania CG [2012] UKUT 00348 (IAC)

THE IMMIGRATION ACTS

**Heard at Field House
On 7 December 2010,
30 June and 27 September 2011**

Determination Promulgated

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Before

**UPPER TRIBUNAL JUDGE GLEESON
UPPER TRIBUNAL JUDGE PETER LANE**

Between

EH

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Collins, instructed by Howe & Co, Solicitors

For the Respondent: Miss C Gough, Senior Home Office Presenting Officer

1. *While there remain a number of active blood feuds in Albania, they are few and declining. There are a small number of deaths annually arising from those feuds and a small number of adults and children living in self-confinement for protection. Government programmes to educate self-confined children exist but very few children are involved in them.*

2. *The existence of a 'modern blood feud' is not established: Kanun blood feuds have always allowed for the possibility of pre-emptive killing by a dominant clan.*
3. *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. Internal relocation to an area of Albania less dependent on the Kanun may provide sufficient protection, depending on the reach, influence, and commitment to prosecution of the feud by the aggressor clan.*
4. *International protection under the Refugee Convention, Qualification Directive or Articles 2 and 3 ECHR is not available to an appellant who is willing and intends to commit a revenge killing on return to his country of origin, by reference to that intention.*
5. *Where there is an active feud affecting an individual and self-confinement is the only option, that person will normally qualify for Refugee status.*
6. *In determining whether an active blood feud exists, the fact-finding Tribunal should consider:*
 - (i) *the history of the alleged feud, including the notoriety of the original killings, the numbers killed, and the degree of commitment by the aggressor clan toward the prosecution of the feud;*
 - (ii) *the length of time since the last death and the relationship of the last person killed to the appellant;*
 - (iii) *the ability of members of the aggressor clan to locate the appellant if returned to another part of Albania; and*
 - (iv) *the past and likely future attitude of the police and other authorities towards the feud and the protection of the family of the person claiming to be at risk, including any past attempts to seek prosecution of members of the aggressor clan, or to seek protection from the Albanian authorities.*
7. *In order to establish that there is an active blood feud affecting him personally, an appellant must produce satisfactory individual evidence of its existence in relation to him. In particular, the appellant must establish:*
 - (i) *his profile as a potential target of the feud identified and which family carried out the most recent killing; and*
 - (ii) *whether the appellant has been, or other members of his family have been, or are currently, in self-confinement within Albania.*
8. *Attestation letters from Albanian non-governmental organisations should not in general be regarded as reliable evidence of the existence of a feud.*
9. *Documents originating from the Albanian courts, police or prosecution service, if genuine, may assist in establishing the existence of a blood feud at the date of the document relied upon, subject to the test of reliability set out in A v Secretary of State for the Home Department (Pakistan) [2002] UKIAT 00439, [2002] Imm A R 318 (Tanveer Ahmed).*
10. *Unless factual, prompt and consistent, Albanian press reports will add little or no evidential weight in considering whether a feud exists.*

11. *Whether the feud continues and what the attitude of the aggressor clan to its pursuit may be will remain questions of fact to be determined by the fact-finding Tribunal.*
12. *This guidance replaces that contained in TB (Blood feuds – relevant risk factors) Albania CG [2004] UKIAT 000158.*

DETERMINATION AND REASONS

1. The appellant is an Albanian citizen, who entered the United Kingdom in January 2009 when he was just 17 years old. He is now 20 years old. He appeals against the respondent's decision to make removal directions to Albania after refusing him refugee recognition, humanitarian protection or leave to remain on human rights grounds. This decision is anonymised. For clarity, we have referred to the appellant's family as Clan H, and the opposing family as Clan G.

Country guidance issues

2. The Upper Tribunal has not so far issued country guidance on blood feuds in Albania. The question was last examined by the Immigration Appeal Tribunal (IAT) in TB (Blood feuds – relevant risk factors) Albania CG [2004] UKIAT 00158, in which the IAT held that the risk to an appellant should be assessed against the factual matrix of the particular case.
3. The issues identified for the present appeal were whether the list of likely risk factors in TB remained valid; whether there existed a separate, non-Kanun 'modern blood feud' leading to risks even for the males of the avenger family; and whether an attestation letter signed by Mr Gjin Marku the Chairman of the Commission for National Reconciliation (the CNR) should be regarded as determinative of an individual appellant's appeal, alternatively what weight should be given to such a document.
4. We have had an opportunity to hear from Mr Marku. The CNR is one of the largest and best known of the non-governmental organisations in Albania providing attestation letters in relation to individuals and their involvement in blood feuds.

Key concepts in Albanian blood feuds

5. The following definitions and concepts have been extracted from the evidence before us. For consistency, where there is more than one translation of a concept in use, we indicate the one which will be used in this determination.
 - (i) **Attestation letters.** Also known as 'blood feud certificates' and 'reconciliation certificates' (although in fact they are certificates of non-reconciliation). Many appellants rely on letters from one or other of the reconciliation organisations in Albania, certifying the existence of an active blood feud which may affect the person named in the letter.
 - (ii) **Albanian Foundation for Conflict Resolution and Reconciliation of Disputes**

(AFCR) www.mediationalb.org. Funded by international organisations and accepts no payment for attestation letters. Reconciled 130 criminal conflicts in the year to June 2010.

- (iii) **Besa (Forgiveness)**. A ceasefire in a *gjakmarrja* feud, during which those at risk may carry out urgent family business, or attend family events such as weddings or funerals. A *besa* may be time limited or may represent a permanent reconciliation and resolution of the feud, usually following a financial or land settlement.
- (iv) **Commission for National Reconciliation (CNR)** www.pajtimi.com. Sometimes translated as 'Campaign for National Reconciliation'. The CNR is a blood feud reconciliation organisation which has a national structure, and a significant international profile. The CNR does not accept international funding, relying on donations from those for whom it mediates. It has local offices all over Albania. The CNR Chairman, Gjin Marku, is solely responsible for issuing its attestation letters.
- (v) **Gjakmarrja ('Blood-taking')**. A vendetta, or blood feud, which may have lasted for decades, or may be recent in origin. It is closely linked to collectivist notions of family, or clan solidarity and reliability. A blood debt carries a related loss of honour which can only be restored by the taking of blood from the other family. It is generally borne by the males of the nuclear family, parents, grandparents, children and grandchildren.

Typically, a feud begins with a killing or offence by an individual from Clan A, which must be revenged by a senior male figure from Clan B. When revenge has been carried out by Clan B, Clan A is required to retaliate by killing a Clan B member, and so on, potentially to the extinction of all male members of both clans. Children under 15 and women are not usually required either to kill or be killed, except perhaps where a woman is the cause of the feud, or the last surviving member of the target clan.

- (vi) **Hakmarrja ('debt-taking')**. Revenge or honour killing in a broader context, or even killings between gangs and other criminal murders. The honour of a particular clan is not necessarily at stake. *Hakmarrja* killings can include those between members of the same family on 'honour' grounds, for example where a husband kills his wife or a father his son.
- (vii) **Kanun law**. Ancient Albanian system of local justice, thought to date back in oral form to the Bronze Age, first codified in the 15th century by Lekë Dukagjini. Its full title is the Kanun i Leke Dukagjinit and it has four pillars: *Nderi* (honour); *Mikpritja* (hospitality); *Sjellja* (right conduct) and *Fis* (kin loyalty). The Kanun was published for the first time, partially, in 1913, and in full in 1933, based on research by Shtjefën Gjeçovi. It has 12 books and 1252 articles, covering all aspects of conduct of family and business life.
- (viii) **Missionaries**. Village elders and other respected persons who will be

approached to reconcile a blood feud. Also known as 'peace missionaries'.

- (ix) **Self-confinement.** Also known as self-isolation, the practice of males in a target family staying indoors, sometimes for years, as a mark of respect and recognition of the feelings of the aggressor family. A self-confined person will not usually be at risk in their home, although that is not completely certain.

The appellant's account

6. The appellant's case on entry was that the risk to him arose from perceived or actual political opinion as a family member of his late father, due to his father's connection with the Albanian Socialist Party (the ASP). He used to attend meetings of the ASP with his father. A man was said to have warned the appellant's father to stop taking part in socialist politics. In June 2007, his father was shot and killed by a local police officer, a cousin of the person who was said to have warned his father to desist from politics. The appellant left Albania a year later, in July 2008, travelling via Kosovo, Italy, and France, finally arriving in the United Kingdom on 27 January 2009. He claimed asylum two days later, on the basis of perceived political opinion, based on his membership of his father's family.
7. There has been only one killing, the shooting of his father: however, both the man who warned his father to get out of socialist politics, and the policeman who shot him, were members of Clan G.
8. At the First-tier Tribunal hearing, the appellant modified his claim, formulating what had occurred as a blood feud. He now said that he had spent the year before leaving Albania in strict self-confinement and was at risk of killing on return by the aggressor clan or of social pressure to carry out a revenge killing himself. Since the next death is in the hands of Clan H, the appellant's family, the obvious solution would appear to be that he should not carry out a revenge killing. His father's brothers have not done so and have distanced themselves from the feud, if it exists.
9. The appellant contends that the traditional blood feud has been overtaken by a newer variant, the 'modern' blood feud, in which the aggressor family undertakes pre-emptive killings of a number of male members of the victim family, or even women or children, rather than waiting to see whether the victim family would retaliate in the traditional way for the original death. This is said to be the behaviour of dominant clans. His case is that Clan G are dominant and well-connected. On that analysis, the appellant contends that if he were to return to Albania he would have to go back into self-confinement indefinitely or face death at the hands of Clan G.

Refusal letter

10. The respondent disbelieved the appellant's original account of risk based on perceived political opinion and refused asylum. The letter of refusal criticised the appellant for having very limited, if any, knowledge of the ASP; and in particular, not knowing what 'socialism' meant. The respondent rejected any suggestion that the death of the

appellant's father, if it took place, was linked to his socialist politics as the appellant had claimed. The respondent considered that there was sufficiency of protection against a rogue police officer in Albania, even if the appellant's account were true, and she also placed weight on his failure to claim asylum in Italy or France. The respondent rejected the appellant's humanitarian protection claim for the same reason and, after consideration of paragraph 395C of the Rules, she did not consider that his removal to Albania would be disproportionate.

First-tier Tribunal decision

11. The appellant appealed to the Asylum and Immigration Tribunal, arguing that the risk should be considered as one of blood feud rather than political opinion, perceived or actual. In November 2009, the Tribunal dismissed his appeal. The Tribunal did not accept that the appellant's revised core account was credible, even to the lower standard applicable to the international protection Conventions, and in particular, the Immigration Judge rejected the claim that the appellant was at risk of pre-emptive killing by the aggressor family, Clan G.
12. In particular, the Tribunal noted that despite the appellant's claim to have been in self-confinement, he had told Mr Martin Heyward, a consultant treating him for a parasitic disease usually caught from sheep, that he had contact with sheep from the age of 15, until he left Albania. The Judge considered that to be incompatible with an account of having been self-confined and not leaving his house.
13. The First-tier Tribunal Judge considered that even if there were an active feud involving the appellant, there was now sufficiency of protection for him from the Albanian authorities. The humanitarian protection and human rights claims fell with the asylum claim.

Grounds of appeal

14. The appellant sought reconsideration of that decision, arguing that:
 - (a) he had not changed his account, rather, that it was the analysis of the claim which had been reappraised;
 - (b) the determination had been fatally flawed by bias on the part of the Immigration Judge who heard the appeal;
 - (c) the Tribunal had erred in failing to adjourn for the production of four critical original documents, which were in the respondent's possession;
 - (d) insufficient scrutiny had been given to the expert evidence of Dr Stephanie Schwandner-Sievers, which the respondent had not challenged at the hearing;
 - (e) insufficient weight was given to press reports of his father's death from *Shqip* and *Shekulli* newspapers, which Dr Schwandner-Sievers considered to be genuine, based on her research;
 - (f) too much weight was given to the evidence of Mr Martin Hayward that the appellant had a medical condition which was usually caught from sheep and

had told Mr Hayward that he had been 'working with sheep since the age of 15' as probative of his not having lived in self-confinement as claimed; and that

- (g) the Tribunal had erred in law in holding that a blood feud could not come within the ambit of the Refugee Convention, following, in particular, AN and NN (Albania) v Secretary of State for the Home Department [2007] UKAIT 00097.

Procedural matters

15. Reconsideration was granted by the Asylum and Immigration Tribunal in December 2009, on all grounds. Directions were given at a hearing on 22 July 2010, requiring the respondent to disclose the original documents, and any verification report relied upon. The grounds were accepted by the respondent as disclosing errors of law, such that the appeal would be reheard afresh. This appeal was identified as potentially suitable for country guidance on the present risks from blood feuds in Albania. A transfer order has been made, the effect of which is that this appeal falls to be re-made by this panel of the Upper Tribunal.
16. The Upper Tribunal heard the oral evidence of the appellant, his cousin Ms EN, and Dr Schwandner-Sievers on 7 December 2010, and received from Mr Marku on behalf of the CNR an attestation letter purporting to evidence the appellant's involvement in a blood feud.
17. Both parties were given leave to make written submissions. The respondent did so promptly, arguing that the appellant's evidence was totally lacking in credibility and that no weight should be placed on the attestation letter from the CNR or the written evidence of Mr Marku.
18. On 16 December 2010, Mr Collins applied to the Tribunal for permission to call oral evidence from Mr Marku regarding the process underlying CNR attestation letters, and whether the particular letter relied upon in these proceedings was genuine and/or probative of a relevant blood feud affecting the appellant, which he accepted would be very important in assessing the appellant's claim, given the difficulties with credibility identified in the respondent's submissions.
19. At a directions hearing on 14 January 2011, the Tribunal agreed to allow Mr Marku to be called, either by his attendance at a hearing in the United Kingdom or by video link from Albania. There was then considerable difficulty in obtaining dates suitable for Mr Marku to appear by either method. His evidence was eventually taken at a hearing on 27 September 2011 at which he was present. Mr Collins' final submissions were expected after the hearing, but there was then a further development.
20. In December 2011, Mr Marku was arrested and questioned by the Albanian authorities regarding the issue of false attestation letters by the CNR under his signature. Mr Marku was not detained, but our understanding is that the investigation continues. In January 2012, as soon as he became aware of it, Mr Collins drew the arrest and investigation to the attention of the Tribunal and sought a further oral hearing. We did

not consider that to be necessary but we gave the parties an opportunity to file further evidence and submissions dealing with the investigation of Mr Marku and the CNR.

21. The appellant's closing submissions were received on 13 February 2012, and the respondent's reply and further submissions were received on 21 April 2012. Although there has been considerable delay in the production of the determination after receipt of these submissions, that related only to the weight to be given to Mr Marku's evidence and whether it was affected by the criminal investigation. The appellant's evidence was unsatisfactory and we had concluded after the original hearing that, absent the CNR attestation letter evidencing the claimed blood feud in his family, we would not have found his account credible.

Evidence before the Upper Tribunal

22. The evidence before us is summarised in the following Appendices:

<u>Appendix</u>	<u>Contents</u>
Appendix A	<i>List of documents before the Tribunal</i>
Appendix B	<i>Evidence of appellant and his witnesses</i>
Appendix C	<i>Country experts' evidence:</i> <i>Dr Stephanie Schwandner-Sievers</i> <i>Professor Philip Alston</i> <i>Mr Gjin Marku</i>
Appendix D	<i>Other documents and country materials:</i> <i>Appellant's individual documents</i> <i>Country materials</i>

We have taken into account all the submissions and evidence we received, including that concerning Mr Marku's activities and the investigation in Albania.

Submissions

Respondent's submissions and evidence regarding Mr Marku

23. The respondent's closing submissions were submitted on 14 December 2010, after the original oral hearing. Ms Gough argued that K and Fornah did not apply to this appeal and that members of a family subject to a blood feud were not capable of

constituting a particular social group under the Refugee Convention. She relied on the decision of the Court of Appeal in Secretary of State for the Home Department v Skenderaj [2002] EWCA Civ 567, on dicta from an unidentified paragraph in the Asylum and Immigration Tribunal's determination in SB (PSG – Protection Regulations – Reg 6) Moldova CG [2008] UKAIT 0002, and on paragraphs 59-66 of the decision of the Refugee Review Tribunal of Australia (RRTA) in 0908334 [2010] RRTA 210 (30 March 2010). She sought to resile from the contrary position adopted by the Secretary of State in AN and NN (s.83 – asylum grounds only) Albania [2007] UKAIT 00097.

24. In relation to internal relocation, the respondent did not dispute that there was still a blood feud problem in Albania, albeit following the evidence of Dr Schwandner-Sievers, she contended that the problem had improved in recent years. After setting out the relevant elements of the country materials, she argued that the situation had improved to such an extent that there now existed sufficient protection for those at risk and the international protection Conventions were therefore not engaged.
25. We considered that the respondent should have an opportunity to comment on the appellant's delayed closing submissions and the new evidence about Mr Marku and the CNR. Ms Gough was unwell in February and March 2012: her submissions were received on 21 April 2012. The RRTA had found that sufficiency of protection existed and she relied upon the analysis in their judgment.
26. Corruption remained an issue: Albania now had an anti-corruption task force, but the risk of corruption was still at a level which rendered unverified attestation letters unreliable. The Tribunal should not regard such documents as adding any weight to an otherwise unsatisfactory claim.
27. In relation to the availability of internal relocation as a solution to any risk which might exist, Ms Gough submitted that the power, reach and commitment of the aggressor clan must be shown to have nationwide presence in order to establish that internal relocation would be either ineffective or unreasonable in the sense that it would lead to self-confinement. She relied on paragraph 3.6.9 of the respondent's Albania OGN for 2010 in support of this proposition.
28. Turning to the appellant's individual account, Ms Gough submitted that it lacked credibility and that the supporting documentary evidence did not establish that the death of the appellant's father was feud-related, whether an old or a new feud. The appellant was not a witness of truth and had not established a risk on return engaging international protection. There had been no attack on other family members since he left Albania and even if the appellant had been recognised in France, as he claimed, he had been able to remain there for a further five months without coming to harm or any obvious interest by the aggressor clan. The expert evidence of Dr Schwandner-Sievers did not support anything other than local influence for the aggressor clan, such that internal relocation would be available if there were, indeed, any risk to the appellant on return.
29. The respondent was given an opportunity to respond to the appellant's late-submitted

final submissions, and in particular, to deal with the situation regarding Mr Marku. Ms Gough's further submissions indicated that the respondent had sought corroboration and/or clarification of the position regarding Mr Marku and the CIRB from government sources within Albania.

30. Ms Gough relied on the latest CIRB Response in relation to the difficulties Mr Marku had experienced in Albania, and on the submissions made by her in December 2010. In addition, Ms Gough submitted that the documents indicated:

“...an investigation being carried out on Mr Marku by the authorities in Albania, with support and assistance from the Belgian authorities. There is also reference to charges having been made. Mr Marku's oral evidence itself referred to the request from the Belgian authorities for record keeping information, which supports the above submission and those within the previous submissions on behalf of the Secretary of State, which is that the evidence generally provided by Mr Marku cannot be relied upon.

In the absence of comment from Mr Marku himself or evidence to the contrary, it is further submitted that [the appellant's] case is adversely affected in addition. The appellant sought to adduce very late evidence from Mr Marku to support what was otherwise a weak claim. No further support or evidence of records have been provided by the CNR, only Mr Marku's oral evidence and notes, which raises serious concerns, especially in light of the fresh evidence relating to Mr Marku's unreliability. The primary submission is that when viewed in the round, and in light of other significant inconsistencies with the claim, the principles within Tanveer Ahmed should apply and no weight be placed on this evidence.

I will forward any information received from the Albanian authorities as soon as I receive it.”

31. She argued that there was no reliable evidence such as passport copies or tickets to support Mr Marku's claim to have been in the United Kingdom at the time of the alleged arrest, nor any evidence from the Belgian authorities which supported his account. Mr Marku's evidence to the CIRB was inconsistent with that which he had given to the Upper Tribunal and should be regarded as fatally damaged by his admission to the CIRB that he was aware of occasions when false attestations bearing his signature had issued from the CNR, and also by the existence of a video, noted by the CIRB, in which he was seen coaching a family on a false blood feud claim, and charging a significant amount of money for a false attestation.
32. Ms Gough submitted that the Tribunal should find Mr Marku to be an unreliable witness and should dismiss the appeal.

Appellant's submissions

33. The appellant's closing submissions dated 13 February 2012 argued that persons subject to blood feuds within Albania were capable of constituting a particular social group. We have taken into account the lengthy submissions made by Mr Collins thereon: for the reasons set out below, we do not consider it necessary to rehearse them here.

34. The appellant accepted that there were difficulties with his account and that it was not entirely consistent, internally or with the other evidence before the Tribunal. However, he contended that the Tribunal should find his account at least partially credible, in that we should accept as a Chiver core that:

- (i) The Appellant was the son of SH and a member of Clan H;
- (ii) The Appellant's father was killed on 19th April 2007;
- (iii) The Appellant's father was killed by AG of Clan G;
- (iv) The aggressor AG is or was a police officer;
- (v) The Appellant self-confined for a period after his father's death;
- (vi) Having ventured out of the family home the Appellant was subsequently seen and threatened by AG;
- (vii) A blood feud exists between Clan G and Clan H and that such blood feud was of a pre-emptive nature;
- (viii) Attempts had been made by the CNR at reconciliation but had been unsuccessful;
- (ix) There existed no adequate sufficiency of protection for the Appellant in Albania;
- (x) The Appellant would be at risk in his home area if he did not self-confine; and that
- (xi) The Appellant would not be able to relocate for safety elsewhere within Albania.

35. Mr Collins asked the Tribunal to allow the appeal.

The evidence

36. We first considered the weight to be attached to the evidence from Dr Schwandner-Sievers and Mr Marku.

Dr Stephanie Schwandner-Sievers' evidence

37. Dr Schwandner-Sievers has assisted the IAT, the AIT, and the Upper Tribunal on many occasions as an expert witness. She has been undertaking research into the broader phenomenon of the blood feud in Albania and her evidence is set out more fully at Appendix C. She confirmed that there continued to be a problem with self-confined families and blood feuds in Albania. The risk was to those in the patrilineal blood line, with children being disregarded until they were old enough to be a threat. The risk to women was much less since they had a different bloodline.

38. Pre-emptive killing was not new: it had always been 'part of the game' and the prime targets were the deceased's brothers and sons. There were pressures to take revenge, but also pressures to keep the peace and to forgive. It was impossible to be certain of the level of self-confinement. The Albanian state was weak and the judiciary corrupt; many people trusted the Kanun more than they trusted the Albanian authorities. Internal relocation was not a solution in a small country like Albania.

39. The CNR was problematic and its attestation letters could be bought. Mr Marku had a

personal monopoly on the issuing of such letters by the CNR and, although she had no direct evidence, she considered it very possible that he was corrupt. She considered that the assessment by Special Rapporteur Philip Alston for the UNHCR was overoptimistic and that by Mr Marku exaggerated the levels and risks of blood feuds.

40. Dealing with the appellant's case, she had discovered reports of the killing of his father in the course of her research. There had been two national press reports and a press release immediately after his father was shot. They did not accord factually with the appellant's account of what had happened but she considered that as he had been relatively young at the time (15 years old) that might be capable of explanation. In her opinion, it was impossible to be certain, given the levels of corruption in Albania, that the press reports had not been faked.
41. However, she had also come across a District Prosecutor's Order from the right town in Albania, dated 16 May 2007, which she had traced herself from the newspaper reports and which confirmed the shooting of his father, and that the policeman who shot him had never been tried for that killing. Her opinion was that the appellant's father had indeed been shot by a policeman.

Special Rapporteur Alston's report

42. Professor Philip Alston's report on blood feuds in Albania for the UNHCR noted the 'deep discrepancies' in statistics regarding blood feuds, ranging between the government view that there were less than sixty killings a year, of which 29-45 were in Shkodra, with about 130 families in self-confinement nationally, and the view propounded by the CNR and other non-governmental organisations, that there were hundreds of deaths and thousands of self-confined children. The problem was partly one of language, with some analyses using a broader definition including any revenge killing between families and others a narrower, traditional definition of premeditated 'taking of blood' by the victim family at the other. Non-governmental organisations had an incentive to overstate the figures for funding purposes; rural Albanians probably underreported instances of crime in their area; and the records of government programmes might be incomplete. Overall, he tended to think that the lower government figures were likely to be more accurate and that blood feuds were a small and diminishing problem for the Albanian authorities.

Mr Gjin Marku's evidence

43. Mr Marku's evidence, and that of the CNR, underpins all the international press reports and many of the national reports too. Mr Marku's position was that the blood feud problem was widespread and serious. He stated that blood feuds were a continuing and growing problem, with very many deaths and thousands of self-confined families; that the Kanun system had broken down, with murders taking place on non-Kanun grounds treated as blood feuds, and that the CNR was the only NGO

authorised to provide blood feud attestation letters.

44. Mr Marku's evidence was unimpressive, as a reading of Appendix C makes plain. We heard a lengthy description of his network of contacts in every village (which Dr Schwandner-Sievers acknowledged to be the case), but he told us that his filing was chaotic with files only created for some blood feuds and most reconciliations being carried out informally over cigarettes, coffees, and long periods. That was inconsistent with what Mr Marku told the Canadian IRB about CNR's filing system and methods: the international sources record his stating that the CNR had a detailed filing system, with a file for every feud.
45. In his oral evidence it became clear that the figures he used were arrived at by adding up any records of violent deaths in newspapers, land disputes (based on information from the local Land Registries), and even the killing of unfaithful wives by their husbands. The definition of a blood feud used by Mr Marku was excessively wide and the resultant statistics dubious. At the end of Mr Marku's oral evidence in September 2011, we had formed the view that he was not a truthful or reliable witness and that rumours of attestation letters being available for payment from the CNR were likely to be correct. We were not disposed to place any weight on the attestation letter in this appeal.
46. We bore in mind that the CNR attestations were all signed personally by Mr Marku: the credibility of his account of their preparation and the basis on which they were issued was therefore very important in assigning weight to any individual letter from the CNR. A CIRB Research Response dated 1 February 2012 recorded Mr Marku as stating that he was aware of at least some occasions when his signature on attestation letters was forged. We also noted the existence a well-publicised hidden camera recording of Mr Marku offering to sell an attestation letter and coaching the family on the account to be given of their difficulties, without any investigation of the claimed feud at all.
47. The subsequent arrest and investigation of Mr Marku and the CNR by the Albanian authorities on charges of selling genuine CNR attestation letters for use abroad to support false asylum claims are compatible with our concerns about his credibility after hearing and seeing him give evidence; but we emphasize that we had already independently formed an adverse view of his general credibility and the ultimate outcome of the criminal charges is, therefore, not a matter that requires the finalisation of this determination to be further delayed.

The Canadian IRB Research Responses

48. The expressed view of the Albanian government is that the number of live blood feuds is small and diminishing, and that the deaths which can be attributed to such feuds are in single figures. That analysis is accepted and adopted in the Canadian IRB Research Responses, and in analyses published by both the Australian RRT and the UKBA Country of Origin unit. The Albanian government says that the Public Prosecutor, police and courts are the only sources of attestation of properly investigated blood feuds.

49. We had the benefit of a number of IRB Research Responses from Canada. They are cumulative and show, initially, confidence in Mr Marku's evidence, but increasingly, doubts about him, the CNR, and attestation letters generally, by the Albanian and Belgian authorities in particular.
50. The February 1 CIRB Research Response records the latest research position and supersedes any earlier responses in that it examines the latest concerns in the context of the information obtained and used in the previous responses. The CIRB noted that:

"Regarding the role of NGOs in mediating blood feuds, the Ministry of Interior official explained that NGOs operate in accordance with the Constitution and the 1999 Law on Mediation (Albania 4 Jan. 2012). The official specifically listed the Committee of Nationwide Reconciliation (CNR), the Mission of Feuds Reconciliation, the League of Missionaries of Peace, the AFCR and the Center for Justice and Peace as organizations active in blood feud mediation (ibid.). However, in response to a question about whether any NGOs are approved by the government to verify the authenticity of blood feuds, he noted that NGOs "do not duplicate the powers of the [c]ourt and the [p]rosecution [o]ffice" (ibid.)."

51. The Response continues:

"4. Purchase of False Attestation Letters

Various sources report that some NGOs have issued false documents about blood feuds (Albania 2 Dec. 2011; AFCR 16 Dec. 2011; Belgium 29 Nov. 2011, 4-8; *Balkan Insight* 5 Dec. 2011; ibid. 27 Oct. 2011; Kohajone.com n.d). In response to an increase in blood-feud related asylum claims in Belgium in September and October of 2011, the head of Belgium's Asylum and Migration Department reportedly claimed that behind the individual asylum seekers "is an entire organisation, networks that provide documents and fake papers in exchange for huge amounts of money" (qtd. in AFP 18 Oct. 2011). According to the Balkan Investigative Reporting Network's publication *Balkan Insight*, the Belgian official met with Albanian authorities to warn them about possible criminal networks (27 Oct. 2011).

Balkan Insight found that some NGOs that claim to work for blood feud reconciliation "routinely sell families documents and certificates saying they could become victims of a fatal vendetta if they do not receive asylum ...," even in cases in which no feud or murder exists (*Balkan Insight* 27 Oct. 2011). ...

A report by the Office of the Commissioner General for Refugees and Stateless Persons (Commissariat général aux réfugiés et aux apatrides) in Belgium cites information from the Albanian State Police report to the effect that the Association of Peace Reconciliation Missionaries of Albania had also issued fraudulent attestation letters to people who were not involved in any blood feuds (Belgium 29 Nov. 2011, 7). ...

In addition, the Office of the Commissioner General for Refugees and Stateless Persons in Belgium, in a report about falsified documents in Albania, notes that the Albanian television program "Fiks Fare," during a 27 October 2011 presentation, showed the president of the Peace Missionaries Union Albania, Pashko Toma, while being filmed with a hidden camera, accepting money for signing and stamping a document that was written by an "undercover" journalist (Belgium 29 Nov. 2011, 6). The president "explained to the journalist that he issues similar attestation letters to Albanians from all over the country

and that his secretary knows what to do when she writes these kinds of documents" (ibid.).

The same television program showed Gjin Marku, also being filmed with a hidden camera, accepting 300 Euros [392.144 CAD (XE 12 Jan. 2012)] in exchange for the issuance of an attestation letter and the creation of a "vendetta" file for a woman he met for the first time (Belgium 29 Nov. 2011, 6). ...

The Albanian Ministry of Interior has reportedly established a task force to address the problem of counterfeit documents about blood feuds used by asylum seekers (Sot.com 19 Dec. 2011). Both the Albanian police director (AFP 18 Oct. 2011; Belgium 29 Nov. 2011, 4) and the Minister of Interior (Sot.com 19 Dec. 2011) have vowed to prosecute those who prepare such counterfeit documents (ibid.).

According to the report of the Office of the Commissioner General for Refugees and Stateless Persons in Belgium, [translation] "considering ... the extent of corruption in Albania, it is impossible to be sure about the level of corruption of certain organizations. As a consequence, the attempt of examining the authenticity of an attestation letter can not be conclusive" (Belgium 29 Nov. 2011, 5). The report also notes that although some organizations have issued fake attestation letters, [translation] "it does not mean that all attestation letters issued by those organizations contain false information" (ibid.)."

Discussion

52. The evidence before us is that Albania had a problem with blood feuds before the Communist era, which ended after 47 years with the election of the Democratic Party's President Sali Berisha in 1992. Albania is not a large country. It has a population of 3.2 million, slightly over a third of the population of London (about 8.2 million)
53. There is a dichotomy between the evidence of the reconciliation organisations, and the CNR in particular, that there are a large number of active feuds, and many self-confined families and children, and that of the Albanian government and Professor Alston, that the problem is small and diminishing. The evidence of Dr Schwandner-Sievers was that the numbers were not particularly large, though perhaps not as small as Professor Alston and the Albanian government considered them to be.
54. We have considered what weight we should give to the contrary position of Mr Marku on behalf of the CNR. We were very concerned by a number of aspects of his oral evidence. In particular, his evidence that he never took notes, followed by the production of notes (untranslated) on this feud; his assertion that he worked in chaos, contrasted with his evidence to the Canadian IRB that he had a file on every blood feud and meticulous documentation; his inability to remember whether the appellant's family had approached him in 2007, 2008, or 2010; the mismatch between the letter about the appellant's circumstances and the account the appellant himself gave; and the international concerns, recorded by the Canadian IRB, and supported by the evidence of Dr Schwandner-Sievers, that the CNR letters were for sale, whether or not a feud existed, did not enhance his credibility. In certain areas of his evidence, Mr Marku had a prepared answer from which he did not deviate, even if it had no relevance to the questions asked by Counsel or the Tribunal, and despite being warned

of our concern and asked to address the question. Overall, by the end of the hearing, we had formed a strongly negative view of the credibility of his evidence and the value of any attestation letters from the CNR.

55. We reject the evidence of the CNR and Mr Marku that the blood feud problem is large and growing; international press reports before us are all traceable to his evidence and are tainted by its unreliability. We noted that Mr Marku admitted that at least some CNR letters had been forged by Mr Loci, and that the organisation would accept benefits in kind such as cars, as part of the mediation process. We consider that the organisation and Mr Marku are wholly unreliable and that no weight can be placed on the attestation letters they produce. We also reject Mr Marku's evidence that the CNR is the only body which can issue attestation letters: we note the position of the Albanian authorities that attestation is a matter for the prosecutors and the courts.
56. On the totality of the evidence before us, we consider that Mr Marku's claimed expertise is so damaged that an attestation letter from the CNR, or indeed from any of the mediation organisations now under investigation, adds no weight whatsoever to an otherwise unsatisfactory account of an alleged blood feud. We do not go so far as saying that an attestation letter ought to be regarded as detracting from such an account, although such a conclusion may be permissible on the individual facts of a particular case. But, as a general proposition, we consider that where an appellant relies on a CNR or other NGO attestation letter to prove the existence of a blood feud from which he would be at risk on return, that is unlikely to be determinative of the appeal in his favour. By contrast, documents found genuinely to originate from the Albanian courts, police or prosecution service may assist in establishing the existence of a blood feud at the date of the document relied upon. However, given the evidence regarding corruption in Albania, the fact that such a document comes from its asserted source will not necessarily be probative of the reliability of the information contained within that document. Judicial fact-finders may, therefore need to assess its reliability on Tanveer Ahmed principles.
57. In the light of the problems with corruption in the Albanian press, and the influence and involvement which Mr Marku has in all of the international press reports before us, we also do not consider that a press report concerning a death or feud will normally add much weight to an appellant's account of a blood feud. In some cases, however, consistent local or national press reports published promptly after the events relied upon may add weight to an oral account provided that they are factual. The involvement of Mr Marku or the CNR in a national or international press report will affect its weight because of the intensely problematic nature of his evidence. Albanian press reports will carry limited, if any, weight because the evidence is that stories can be freely inserted in both the national and local press, whether or not there is any substance to them.
58. We accept that there remain a number of active blood feuds in Albania, but we prefer the evidence of Professor Alston that they are few and declining. The reliable evidence before us supports a finding that there are a small number of deaths annually arising from ongoing feuds and that a small number of adults and children are in self-

confinement for protection. The Albanian government has residential programmes to educate self-confined children, but very few children are involved in them and those who are do not always take up the option of living away from home in residential units for this purpose.

59. The existence of a 'modern blood feud' is not established: we accept and prefer the evidence of Dr Schwandner-Sievers that true Kanun blood feuds have always allowed for the possibility of pre-emptive killing by a dominant clan.

Family as particular social group

60. In the respondent's December 2010 submissions, she argued that following the decision of the Asylum and Immigration Tribunal in SB, the Upper Tribunal should find that members of families or clans involved in blood feuds or vendettas were not capable of constituting a particular social group.
61. That position is inconsistent with the judgment of the House of Lords in 2006 in Secretary of State for the Home Department v. K, Fornah v Secretary of State for the Home Department [2006] UKHL 46 (K and Fornah), in which the respondent accepted that a family can constitute a particular social group for the purposes of Article 1A of the Refugee Convention. At paragraph 45 in the opinion of Lord Hope of Craighead in K and Fornah, he said this:

"45. It is universally accepted that the family is a socially cognisable group in society: *UNHCR position on claims for refugee status under the 1951 Convention relating to the Status of Refugees based on a fear of persecution due to an individual's membership of a family or clan engaged in a blood feud*, 17 March 2006, p 5. Article 23(1) of the 1966 International Covenant on Civil and Political Rights states that the family "is the natural and fundamental group unit of society and is entitled to protection by society and the State." The ties that bind members of a family together, whether by blood or by marriage, define the group. It is those ties that set it apart from the rest of society. Persecution of a person simply because he is a member of the same family as someone else is as arbitrary and capricious, and just as pernicious, as persecution for reasons of race or religion. As a social group the family falls naturally into the category of cases to which the Refugee Convention extends its protection."

62. It is settled therefore, that members of families or clans are capable of constituting a particular social group and that the Refugee Convention would be engaged where there existed a reasonable degree of likelihood that members of a particular family would be at risk of serious harm on return, subject of course to whether internal relocation was available, or whether the state provided sufficient protection against such risk.
63. The same level of risk would also be capable of engaging Articles 2 and 3 ECHR, depending on the level of certainty that the aggressor clan would kill the appellant, if the appellant were the next in line for killing.
64. However, in the blood feud cases which the Tribunal sees, very often, as here, the

claimed risk is of pressure to commit the next murder. The appellant in such a case can choose not to commit another murder. In AMM and others (conflict; humanitarian crisis; returnees; FGM) Somalia CG [2011] UKUT 445 (IAC), the Upper Tribunal considered whether a woman who, while opposed to female genital mutilation, might eventually give in to extreme societal pressure, lack of clan protection, and the risk of ruining their daughters' marriage prospects, and facilitate or carry out circumcision, could come within the ambit of the Refugee Convention.

65. The Tribunal in AMM accepted that in the light of the particular circumstances in Somalia, access to Refugee Convention protection in such circumstances might be possible, but that:

“562. As we stated in Part H, we do not consider that, notwithstanding its status as a “living instrument”, the Refugee Convention can be construed as affording refugee protection to a person who is in favour of inflicting harm on another, whether or not the societal and religious background of that person might be responsible for her having that wish, and whether the harm is inflicted by that person or by someone else, with her approval. ...

591. A person is not entitled to protection under the Refugee Convention, the Qualification Directive or Article 3 of the ECHR, on the basis of a risk of harm to another person, if that harm would be willingly inflicted by the person seeking such protection (paragraphs 238 – 240 and 561–567).”

66. The societal consequences of failure to murder in Albanian society are not on all fours with failure by a mother to facilitate genital mutilation of a female child in the desperate instability of a failing state such as Somalia was, when assessed in AMM. The evidence before us is that murder is unlawful in Albania, that blood feud killings carry long prison sentences, and that the local pressures are at the level of social disapproval and are not universal. We therefore adopt and rely on the general position taken by the Tribunal in AMM that the intention to inflict harm on return does not entitle an individual to access to international protection under the Refugee Convention, Qualification Directive, or Article 3 ECHR.

The Australian jurisprudence

67. The Australian case law on particular social group is affected by a statutory definition of particular social group in section 91S of the Migration Act 1958 (as amended):

“Membership of a particular social group

s.91S For the purposes of the application of this Act and the regulations to a particular person (the *first person*), in determining whether the first person has a well-founded fear of being persecuted for the reason of membership of a particular social group that consists of the first person's family:

- (a) disregard any fear of persecution, or any persecution, that any other member or former member (whether alive or dead) of the family has ever experienced, where the reason for the fear or persecution is not a reason mentioned in Article 1A(2) of the Refugees Convention as amended by the Refugees Protocol; and

(b) disregard any fear of persecution, or any persecution, that:

(i) the first person has ever experienced; or

(ii) any other member or former member (whether alive or dead) of the family has ever experienced;

where it is reasonable to conclude that the fear or persecution would not exist if it were assumed that the fear or persecution mentioned in paragraph (a) had never existed.”

68. That definition appears to us to be circular, and it is not surprising that the Australian authorities, while acknowledging the United Kingdom approach, arrive at a different position in relation to blood feuds and the existence of the family as a particular social group. The Australian authorities to which we were referred were a decision of the High Court of Australia in STCB v Minister for Immigration and Multicultural and Indigenous Affairs [2006] HCA 61; (2006) 231 ALR 556; (2006) 81 ALJR 485 which applies s.91S, and another, by the Refugee Review Tribunal of Australia in 0908334 [2010] RRTA, applying STCB. Both are unhelpful to us by reason of the different statutory definition which underlies the analysis and we decline to adopt the approach there taken.

Internal relocation

69. If there is a risk of persecution or serious harm on the particular facts of an appellant’s appeal, the next question is whether internal relocation is available affording effective protection, including whether it would be unreasonable to expect the appellant to avail himself of that protection. We remind ourselves how small the population of Albania is, just over 3 million with a land mass of about 10,000 square miles, roughly 15 times the size of London, much of it mountains. The respondent's current guidance on internal relocation in Albania is set out in her May 2012 Operational Guidance Note as follows:

“2.4.2 Very careful consideration must be given to whether internal relocation would be an effective way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents. If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of the country where they would not be at real risk, whether from state or non-state actors, and it would not be unduly harsh to expect them to do so, then asylum or humanitarian protection should be refused.

2.4.3 Albania covers a total area of 28,748 sq km and has an estimated population of 3,002,859. Tiranë (Tirana) is the capital and other principal cities are Korçë (Koritsa), Durrës (Durazzo), Berat, Elbasan, Lushnjë, Shkodër (Scutari), Kavajë, Vlorë (Vlonë or Valona), Pogradec and Fier.

2.4.4 The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation and the government generally respected these rights in practice. *Internal migrants must transfer their civil registration to their new community of residence to receive government services and must prove they are legally domiciled through property ownership, a property rental agreement, or utility bills.* Many persons could not provide this proof and therefore lacked access to essential services.

Other citizens lacked formal registration in the communities in which they resided, particularly Roma and Balkan Egyptians. The law did not prohibit their registration but it was often difficult in practice to complete. The law prohibits forced exile and the government did not employ it.

2.4.5 It may be practical for applicants in some categories who may have a well-founded fear of persecution in one area to relocate to other parts of Albania where they would not have a well founded fear and, taking into account their personal circumstances, it would not be unduly harsh to expect them to do so.

[Emphasis added]"

70. 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, as set out at 2.4.4 above, 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. Whether internal relocation is reasonable in any particular appeal will always be a question of fact for the fact-finding Tribunal.

Self-confinement

71. The conditions of self-confinement, where it is required, are that the male members of the threatened clan must remain within their homes permanently, unless a *besa* is given for a particular event, such as a family funeral or wedding, or the feud is reconciled. That is a position analogous to the 'living discreetly' requirement considered by the Supreme Court in HJ (Iran) and HT (Cameroon) v Secretary of State for the Home Department [2010] UKSC 31. The Supreme Court in that case found that, where a material reason for the claimant living discreetly (in this case in self-confinement) on return would be a fear of the persecution which would follow if he or she were to live openly, then international protection should be available. (Our interpolations are given in italics):

"...other things being equal, his application should be accepted. Such a person has a well-founded fear of persecution. To reject his application on the ground that he could avoid the persecution by living discreetly [*in self-confinement*] would be to defeat the very right which the Convention exists to protect - his right to live freely and openly as a [*member of his family*] without fear of persecution. By admitting him to asylum and allowing him to live freely and openly as a [*member of his family*] without fear of persecution, the receiving state gives effect to that right by affording the applicant a surrogate for the protection from persecution which his country of nationality should have afforded him."

72. It follows that where there is a genuine, active blood feud whose reach is so wide as to preclude any internal relocation option, such that self-confinement is the only protection against the risk of killing by the opposing clan, an appellant's claim will normally succeed.

Country guidance

73. In TB, the Immigration Appeal Tribunal set out a list of factors to be considered in determining whether there was an active blood feud which constituted a risk for a particular appellant:

“36. ... The] following matters will be relevant in determining the nature of the risk on return:

- (a) whether the dispute can be characterised as a 'blood feud' at all;
- (b) even if it can, the extent to which its origins and development (if any) are to be regarded by Albanian society as falling within the classic principles of the Kanun;
- (c) the history of the feud, including the notoriety of the original killings and numbers killed;
- (d) the past and likely future attitude of the police and other authorities towards the feud;
- (e) the degree of commitment shown by the aggressor clan towards prosecuting the feud;
- (f) the time that has elapsed since the last killing;
- (g) the ability of the aggressor clan to locate the alleged potential victim anywhere in Albania;
- (h) that person's profile as a potential target for the blood feud; and
- (i) the prospects for eliminating the feud, whether by recourse to the payment of money, a reconciliation organisation or otherwise.

37. ...The more one moves away from the paradigm situation, the more difficult it will become for a person to rely upon so much of the current objective evidence as indicates an inability or unwillingness on the part of the police and other authorities to take effective action to protect the possible victim.”

74. In the light of the evidence before the Tribunal now, the following guidance replaces that given in TB:

- (a) While there remain a number of active blood feuds in Albania, they are few and declining. There are a small number of deaths annually arising from those feuds and a small number of adults and children living in self-confinement for protection. Government programmes to educate self-confined children exist but very few children are involved in them.
- (b) The existence of a 'modern blood feud' is not established: Kanun blood feuds have always allowed for the possibility of pre-emptive killing by a dominant clan.
- (c) 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. Internal relocation to an area of Albania less dependent on the Kanun may provide sufficient protection, depending on the reach, influence, and commitment to prosecution of the feud by the aggressor clan.

- (d) International protection under the Refugee Convention, Qualification Directive or Articles 2 and 3 ECHR is not available to an appellant who is willing and intends to commit a revenge killing on return to his country of origin, by reference to that intention.
- (e) Where there is an active feud affecting an individual and self-confinement is the only option, that person will normally qualify for Refugee status.
- (f) In determining whether an active blood feud exists, the fact-finding Tribunal should consider:
 - (i) the history of the alleged feud, including the notoriety of the original killings, the numbers killed, and the degree of commitment by the aggressor clan toward the prosecution of the feud;
 - (ii) the length of time since the last death and the relationship of the last person killed to the appellant;
 - (v) the ability of members of the aggressor clan to locate the appellant if returned to another part of Albania; and
 - (vi) the past and likely future attitude of the police and other authorities towards the feud and the protection of the family of the person claiming to be at risk, including any past attempts to seek prosecution of members of the aggressor clan, or to seek protection from the Albanian authorities.
- (g) In order to establish that there is an active blood feud affecting him personally, an appellant must produce satisfactory *individual* evidence of its existence in relation to him. In particular, the appellant must establish:
 - (i) his profile as a potential target of the feud identified and which family carried out the most recent killing; and
 - (ii) whether the appellant has been, or other members of his family have been, or are currently, in self-confinement within Albania.
- (h) Attestation letters from Albanian non-governmental organisations should not in general be regarded as reliable evidence of the existence of a feud.
- (i) Documents originating from the Albanian courts, **police** or prosecution service, if genuine, may assist in establishing the existence of a blood feud at the date of the document relied upon, subject to the test of reliability set out in A v Secretary of State for the Home Department (Pakistan) [2002] UKIAT 00439, [2002] Imm A R 318 (Tanveer Ahmed).
- (j) Unless factual, prompt and consistent, Albanian press reports will add little or no evidential weight in considering whether a feud exists.
- (k) Whether the feud continues and what the attitude of the aggressor clan to its pursuit may be will remain questions of fact to be determined by the fact-finding Tribunal.
- (l) This guidance replaces that contained in TB (Blood feuds, Relevant Risk Factors) Albania CG [2004] UKIAT 000158.

The present appellant

75. The difficulties with the appellant's evidence have already been mentioned. Others are set out in the account of his evidence at Appendix B. The modifications made in the

appellant's account as it developed were self-serving and contradictory. He endeavoured to explain the problem of his contact with sheep, first by saying that the sheep were kept indoors, but when that appeared to cause difficulties, the appellant stated that his mother sold the family animals when he was 15 years old and went into self-confinement in 2007 after his father died. That is a different account from that given to his medical adviser who was told that the appellant began shepherding the family flock *from* the age of 15 (i.e. in 2007) until he left Albania. There were numerous other discrepancies which are set out at Appendix B, concerning the threats to the appellant (variously stated to have taken place in a car or in the corner of a café) and the way in which the documents he produced in this appeal were obtained and reached him.

76. We also noted that the appellant and his mother, on his own account, had sought the protection of the Albanian authorities after his father's death. They attended the police station on two occasions to complain about his father's death. The response was that his father was a known drug dealer who had drawn a gun after an altercation with the police officer. The incident had been investigated and they were told that no prosecution would be undertaken as the officer had been acting in the course of his duties.
77. The appellant's second cousin, Ms EN, gave evidence. She has not lived in Albania since 2003 and had no direct knowledge of the circumstances underlying this appeal. She knew the family well but lived in a different village. Her account did not provide any material assistance to the unsatisfactory account given by the appellant.
78. We find that the evidence set out in Appendices A-D is not sufficient to establish that a blood feud exists affecting the present appellant. There has been only one death, that of the appellant's father; his paternal uncles have suffered no retribution; there is no evidence that they are in self-confinement; and there is no reliable evidence of any pursuit of the appellant.
79. When assessing the credibility of the appellant's account, we bore in mind that the index events took place when he was younger, and that his knowledge of events and his recollection may well have been affected by that. However, we considered that the appellant had a propensity for altering his account in any way which might resolve difficulties which had occurred in his previous accounts, such that no reliance could be placed on his account of the index events. The discrepancies in his evidence were not such as to be connected with his young age at the time of the index events. We considered them to be self-serving fabrications to enable him to remain in the United Kingdom.
80. There remained, however, the documents discovered by Dr Schwandner-Sievers during her research, and the attestation certificate by Mr Marku from the CNR. In the light of our assessment of the weight which can be given to Mr Marku's blood feud attestation letters, the letter now produced adds nothing to the appellant's account.
81. The newspaper evidence discovered by Dr Schwandner-Sievers, and the prosecutor's

report, both confirm the death of a man bearing the name of the appellant's father, shot by a police officer in 2007. We accept that the newspaper reports before us are from the publications named and that they are evidence that this appellant's father was shot dead by a policeman in 2007. The reports say that the appellant's father went home to get his pistol and shot first. The account given was not that there was a feud between the families, rather, that there was a single 'road rage' shooting, following an unspecified recent personal history between the appellant's father and the policeman who shot him. The appellant's family have chosen not to retaliate, his uncles distancing themselves from the family, and the appellant travelling abroad. The prosecutor's report indicates that the policeman was not charged with any offence and there have been no subsequent killings by either clan.

Conclusions

The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. We set aside the decision.

We re-make the decision by dismissing this appeal on asylum and human rights grounds. The appellant is not entitled to the grant of humanitarian protection.

Signed:

Judith Gleeson
Judge of the Upper Tribunal
Immigration and Asylum Chamber

Date: 28 September 2012

Appendix A

Documents before the Upper Tribunal

<u>DATE</u>	<u>SOURCE</u>	<u>DOCUMENT</u>
<u>2002</u>		
7 MAY	UNHCR	Guidelines on “Membership of a particular social group”
<u>2004</u>		
7 APRIL	<i>Immigration and Refugee Board of Canada</i>	“Albania: Whether the Kanun law indicates that a widow is not permitted to marry outside her dead husband’s family if she has a child with that husband; whether this would be cause for a blood feud”
17 MAY	<i>Immigration and Refugee Board of Canada</i>	“Albania: Consequences of a family’s failure to retaliate against another family for murdering their family member when the two families are in a blood feud”
20 JULY	<i>Immigration and Refugee Board of Canada</i>	“Albania: Update to ALB33770 of 4 April 2000 on blood feud-vendettas and the level of protection available to victims through police, court and other avenues of recourse”
2 NOVEMBER	<i>Immigration and Refugee Board of Canada</i>	“Albania: Means by which reconciliation groups begin working on a case; steps normally taken by the groups to resolve a blood feud; status of the law on mediation; whether any individuals have been prosecuted for blood-feud related crimes”
<u>2005</u>		
3 NOVEMBER	<i>Immigration and Refugee Board of Canada</i>	“Albania: Means by which reconciliation groups begin working on a case; steps normally taken by the groups to resolve a blood feud; status of the law on mediation; whether any individuals have been prosecuted for blood-feud related crimes”
25 APRIL	<i>Immigration and Refugee Board of Canada</i>	“Albania: Information on the Committee of Nationwide Reconciliation; whether it oversees the work of blood feud reconciliation

committees; whether it can verify attestations from blood feud reconciliation committees”

26 APRIL	<i>Immigration and Refugee Board of Canada</i>	“Albania: List of Blood Feuds reconciliation committees; their structure and founding dates; authorised signatories of attestation letters; whether the committees keep records of blood feud cases they work on”
24 NOVEMBER	<i>European Parliament: Inter Parliamentary Meeting</i>	Speech of Mr Gjin Marku, CNR President

2006

17 TH MARCH	<i>UNHCR</i>	Position on claims for refugee status based on membership of a family engaged in a blood feud.
17 MARCH	<i>UNHCR</i>	Position on claims for refugee status under the 1951 Convention relating to the Status of Refugees based on a fear of persecution due to an individual’s membership of a family or clan engaged in a blood feud.
13 SEPTEMBER	<i>Immigration and Refugee Board of Canada,</i>	“Albania: Possibility for those targeted in blood feuds to relocate within Albania: whether avengers can locate targeted individuals who have relocated in other areas of Albania”.
22 SEPTEMBER	<i>Immigration and Refugee Board of Canada</i>	“Albania: Protection available to persons targeted in blood feuds from the government, police, judiciary and non-governmental organisations; effectiveness of protection measures (2005-2006)”.

2007

20 APRIL	<i>Shekulli Newspaper</i>	“Has, buildings protection policeman kills in self defence”.
20 APRIL	<i>Shqip Newspaper</i>	“Has, buildings protection policeman kills citizen”.
21 APRIL	<i>Shqip Newspaper</i>	“Has, policeman, premeditated murder”.
3 JUNE	<i>Telegraph Newspaper</i>	“Thousands fear as blood feuds sweep Albania”.

23 AUGUST	<i>Washington Post</i>	"Albania takes aim at a Deadly Tradition".
5 OCTOBER	<i>Immigration and Refugee Board of Canada</i>	"Albania: Procedures for registering a complaint against the police; effectiveness of such procedures; statistics on police abuse of authority".

2008

2008	<i>Arsovska and Verduyn</i>	'Culture Conflict' British Journal of Criminology 48: 226-248.
20 JANUARY	<i>The Times Online</i>	"Blood feuds trap 1,200 Albanian youths at home".
24 JANUARY	<i>National Reconciliation Committee</i>	Interview with Chairman Gjin Marku.
14 FEBRUARY	<i>Sunday Times (HJT Research)</i>	"Blood Feuds in Albania trap men and children at home".
1 MAY	<i>Immigration and Refugee Board of Canada</i>	"Albania: Blood Feuds".
24 JUNE	<i>Christian Science Monitor</i>	"Peacemaker breaks the ancient grip of Albania's blood feuds".
1 JULY	<i>Christian Science Monitor (HJT Research)</i>	"Correspondent reports on blood feuds in Albania".
10 JULY	<i>New York Times (HJT Research)</i>	"Families trapped by blood feuds in Albania".
7 AUGUST	<i>Spiegel Online</i>	"Breaking the Cycle: Albania Seeks Solutions to its Blood Feud problem".
10 NOVEMBER	<i>Albanian Helsinki Committee</i>	"End police use of violence".
18 NOVEMBER	<i>BBC News</i>	"Albania's young blood feud 'hostages'".
DECEMBER	<i>Mustafa and Young</i>	"Feud narratives", Anthropological Notebooks.
2 DECEMBER	<i>UK Border Agency</i>	"Operational Guidance Note: Albania".
31 DECEMBER	<i>Irish Times</i>	"Expert urges EU to act over Albanian 'blood feuds'".

2009

14 JUNE	<i>Southeast European Times,</i>	"DP supporter killed in political quarrel".
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26 JUNE	<i>Irish Times</i>	"Albania's deadly tradition of blood feuds as pervasive as ever".
17 JULY	<i>Refugee Documentation Centre Legal Aid Board, Ireland</i>	"Blood Feuds in Albania".
22 SEPTEMBER	<i>Immigration and Refugee Board of Canada</i>	"Albania: Protection available to persons targeted in blood feuds from the government, police, judiciary and non-governmental organisations; effectiveness of protection measures".
22 OCTOBER	<i>Immigration and Refugee Board of Canada</i>	"Albania: Attestation letters for blood feuds; issuing organisations; how letters are issued, processed and stored".
3 NOVEMBER	<i>Stephanie Schwandner-Sievers</i>	Expert report.
23 NOVEMBER	<i>UK Border Agency, Country of Origin Information Service</i>	"Albania COI Key Documents".
<u>2010</u>		
22 FEBRUARY	<i>Committee of Nationwide Reconciliation</i>	"About the Culture of law and rule of Justice in facing crimes against human life".
15-23 FEBRUARY	<i>UN General Assembly</i>	"Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions - Preliminary note on the mission to Albania".
23 FEBRUARY	<i>Office of the United Nations High Commissioner for Human Rights</i>	"UN Special Rapporteur on extrajudicial executions, Mr Philip Alston Mission to Albania".
23 FEBRUARY 2	<i>Office of the United Nations High Commissioner for Human Rights</i>	"Albania can do more to eliminate blood feuds and domestic violence, says UN expert on extrajudicial killings".
23 FEBRUARY	<i>Ishdpk.org</i>	"Peacemaker breaks the Ancient Grip of Albania's Blood Feuds".
11 MARCH	<i>US State Department</i>	"Country Reports on Human Rights Practices - Albania".
16 MARCH	<i>Refugee Review Tribunal of the Government of Australia (RRT)</i>	"Country Advice: Albania".

16 APRIL	<i>Committee of Nationwide Reconciliation (CNR)</i>	"Republic of Albania".
27 MAY	<i>Amnesty International</i>	"Report 2010: Albania".
1 JULY	<i>The Telegraph newspaper</i>	"Albania's Modern day blood feuds".
20 JULY	<i>UK Border Agency (UKBA)</i>	"Operational Guidance Note: Albania".
8 OCTOBER	<i>Immigration and Refugee Board of Canada (CIRB)</i>	"Albania: Means by which reconciliation groups begin working on a case; records kept by such groups to document their work; steps normally taken by groups to resolve blood feuds".
15 OCTOBER	<i>Immigration and Refugee Board of Canada (CIRB)</i>	"Albania: Statistics on blood feuds: state protection and support services available to those affected by blood feuds, including whether individuals have been prosecuted for blood-feud related crimes".
26 OCTOBER	<i>Southeast European Times</i>	"Mayor shot dead in northern Albania".
9 NOVEMBER	<i>European Commission</i>	"Analytical Report: Commission Opinion on Albania's application for membership of the European Union".
<u>2011</u>		
1 FEBRUARY	<i>Southeast European Times</i>	"Audio story: Blood feuds in Albania."
11 FEBRUARY	<i>Refugee Documentation Centre Legal Aid Board, Ireland</i>	"Albania: Information on effects on children of being sequestered indoors for four years in the context of blood feuds."
MARCH	<i>World Literature Today</i>	"But it was beautiful: an essay about blood feuds in Albania", Erwin Koch.
14 MARCH	<i>Office of the United Nations High Commissioner for Human Rights</i>	Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston.
8 APRIL	<i>US State Department</i>	2010 Human Rights Report: Albania.
18 MAY	<i>The World</i>	"The haunting persistence of Albanian blood feuds".
5 JULY	<i>The Guardian Newspaper</i>	"Ancient blood feuds cast long shadow over hopes for a modern Albania".
24 JULY	<i>The Guardian newspaper (HJT Research)</i>	"Blood feuds still very much alive in Albania".

11 AUGUST	<i>BBC News Online</i>	"Country profile: Albania".
11 AUGUST	<i>The Telegraph newspaper</i>	"Albania's modern-day blood feuds".
2 DECEMBER	<i>Shqiptarja.com</i>	"Asylum seekers in the EU, the head of the Blood feud Reconciliation Organisation is put under investigation."
2 DECEMBER	<i>Albanian Screen TV</i>	"Investigation begins, giving false proof for asylum".
5 DECEMBER	<i>Balkan Insight</i>	"Albanians Charged Over Fake Asylum Claims" (Besar Likmeta).

2012

23 JANUARY	<i>British Embassy, Tirana</i>	Summary email.
1 FEBRUARY	<i>Immigration and Refugee Board of Canada (CIRB)</i>	"Albania: Attestation letters for blood feuds; issuing organizations; how letters are issued, processed and stored; whether issuing organizations are recognized by the government; whether the Committee of Nationwide Reconciliation (CNR) has the full authority, approved by the government and recognized by international organizations and institutions, to verify the authenticity of blood feuds; fees for mediation services; issuance of false attestation letters".

Appendix B

Evidence of appellant and his witnesses

1. The appellant was born on 16 September 1991, a year after the fall of communism in Albania. His father joined the Albanian Socialist Party (ASP) in 1997, and, from about 13 years old (in or about 2004), the appellant attended ASP meetings with his father. In late 2005, AG, a member of the aggressor clan threatened the appellant's father, telling him to stop his ASP activities. There was an altercation, during which the father's colleagues intervened, and AG left. Although the appellant's family reported the incident to the police, they took no action. AG's brother BG was a high-ranking police officer. The appellant's initial claim was that he was at risk for political reasons, as a member of his father's family. There was no mention of blood feud, either modern or historic.
2. In April 2007, the police officer, BG, stopped the appellant's father's car: his father was shot and killed. The appellant's family again reported the matter to the police. The appellant, now 16 years old, accompanied his widowed mother to the police station. This time, they were told after a few days that his father was a drug dealer and had been killed for failure to stop at the request of a police officer. The police would not take any further action. Six weeks later, while the appellant was out shopping, BG approached him, saying that he would kill the appellant because the appellant had registered a complaint against him.
3. The appellant went home and, he says, into self-confinement. A year later he left Albania, in July 2008. Nothing had happened in between. He travelled openly on his own passport, first to Kosovo. His mother accompanied him on that leg of the journey, and then returned to her home area. The appellant travelled on to Montenegro, then to France, where he was arrested and sent back to Italy. He was released after a short period, tried again to enter France with the same result, but on the third attempt he reached France and entered the United Kingdom via Calais, after spending six months in a camp outside Calais.
4. The appellant claimed to have telephoned his family from the camp and been told that the police officer, BG, had arranged for someone to kill him in France. He thought that there were Albanians in the camp who had recognised him and he was afraid. In January 2009 he entered the United Kingdom clandestinely in a lorry, and claimed asylum two days after he arrived. Once here, he made contact with his cousin, Mrs EN and he has been living with her family since then.

Evidence at the AIT hearing

5. The appellant gave oral evidence at the AIT hearing, and produced four documents at that hearing which had not previously been considered: his birth certificate; his father's death certificate giving the cause of death as 'killing by firearm'; a letter from the village chief in the appellant's home village, stating that his father was involved in a blood feud and the appellant also, because 'they' had killed his father; and a certificate setting out the members of the appellant's family group. He produced three newspaper reports, to which we will return, giving contemporaneous accounts of his father's death.
6. All of these documents had been recently obtained by the appellant's mother, who gave them to someone who took them to France, to give to the appellant in the Calais camp from which he was trying to reach the United Kingdom. The appellant's evidence was that these documents had to be obtained from various different public offices and courts, which his mother attended,

in order to obtain the documents and send them to him. The appellant made no use of the documents while in France. When asked to explain why he had not gone to the French authorities with these documents to claim asylum, he replied that he did not have an interpreter and could not speak French; also, he was in danger, as the aggressor clan had discovered where he was. His family wanted justice against the policeman who killed his father, which was why he was still at risk.

7. The appellant said he had not been approached at his father's funeral, which took place the day after his father died. He was surrounded by cousins and family members. He had not mentioned blood feud in his initial statement, or at his asylum interview, although he was aware of the expression. The appellant said he knew that the source of the argument between his father and the policeman who killed him was political.

Oral evidence

8. The appellant adopted his asylum interview and his February 2009 witness statement, with some amendments. He confirmed that the witness statement had been read back to him in Albanian. He wished to amend the stated ages for his sisters: the elder one was 15, not 11, and the younger one was 11 or thereabouts. He had also given a screening interview on arrival.
9. The appellant confirmed his account of his father's death, in 2007 when he was only 15. He had helped his mother attend the police station but the police declined to help them, telling them that his father was a known drug dealer. The appellant had undergone a lot of stress. He did go out occasionally for three or four months after his father's death. However, on one occasion, when the appellant was out shopping in the town of Krum, he stated that BG, the police officer, had forced him into a van (his witness statement said into 'a corner') and told the appellant not to pursue the matter further, or he would kill him as he had killed his father. The appellant could not explain why, in his witness statement, he said the threat was made in a corner, and now he was saying it happened in a van. Nor could the appellant explain why BG did not kill him or harm him at the time; perhaps, he thought, at 15 he was not yet old enough.
10. After that event, his mother did not allow him to leave the house, and the appellant was too afraid to do so. He only ever went as far as the courtyard of the family home after that. His paternal uncle and his cousin GH distanced themselves from the situation and refused to help. The appellant has a disease caught from working with sheep. The medical evidence indicated that he had told his consultant that he worked with sheep in the 18 months before coming to the United Kingdom. When asked how that was possible, he first said that the sheep were kept inside the family home, and then that they were kept indoors, in a sheep house near the family home. He had attended to them there before his self-confinement in June 2007. He had also ceased schooling after 8 years and been unable to do any higher education: he was too afraid to go to school.
11. The appellant did not begin trying to leave Albania until July 2009 but claimed to have been self-confined during that period, spending most of his time at home. He confirmed that he had travelled on a genuine Albanian passport, obtained in June 2007 by his maternal uncle, using the appellant's genuine birth certificate and some passport photographs which he possessed because he had needed to have some taken for his school graduation. The appellant's mother had travelled with him as far as Montenegro. The agent took him on to Italy. He did not claim asylum there, because he was unable to speak the language.
12. The appellant made three attempts to reach the United Kingdom via France, but did not seek

asylum in France, although he lived for a time with other Albanians in France. He was afraid to say anything about his situation during that time. He thought they were probably all in a similar situation to his own. The appellant did have a contact number for his mother in Albania but did not use it often because he could not afford to do so. His mother did not tell him anything, not wanting to upset him. His brother, who had now finished school, was also self-confined. He had used an Albanian mobile with a French SIM card while in France, and his mother had contacted him on that number to say that he was at risk in France. In England, the appellant had bought a United Kingdom mobile phone to contact his mother. He had last contacted her two months before the Upper Tribunal hearing.

13. In relation to the letters and documents about the blood feud, the appellant said he had brought them with him to the United Kingdom. He had them sent to him in France but did not consider taking them to the French authorities when he received them. The reason was that the appellant's mother had told him that BG knew where he was in France and was going to send people there to kill him. This part of the appellant's evidence required several repetitions of the question. His second, inconsistent, response was that when the French police arrested him, they did not ask him whether he was a refugee but simply took him to the camp. There were many Albanians in the camp, some of whom knew BG as well as the appellant. There were also many Albanians in London, but he personally only knew his cousin and her husband. Asked what BG had to fear from the appellant, who could not harm him while in France, the appellant said that as a policeman, BG still feared the case which he and his mother had pursued regarding his father's death. He agreed that he had never threatened BG and that the authorities in Albania had shown no interest in pursuing BG.
14. The CNR attestation letter had been received by his present solicitors in London on 3 December 2010. The CNR had been involved for 'a while', since shortly after his father died, but had been unable to make any progress in reconciling the feud. His maternal uncle was the one who had taken the case to the CNR and who had requested the document to be prepared, after the appellant's solicitor asked for a document to support the blood feud claim, about three weeks before the Upper Tribunal hearing. The appellant had not sought to produce such a document himself, as he had not known that was possible, but his uncle had asked for a fax number and the CNR had faxed the document through directly through to the appellant's representatives. His uncle had the original document, which was still in Albania. The same uncle had provided the other documents while the appellant was in France. When asked why in his screening interview, asylum interview and witness statement he did not mention the existence of a blood feud, the appellant stated that he thought it was 'understood' that in making reference to politics he meant *gjakmarrja*.
15. The appellant said that his mother was still living in the family home, with his younger brother and his two sisters. Her brother, the appellant's maternal uncle, lived separately with his two sons and two daughters. His father still had living siblings, two brothers and two sisters, but they had not lived with the appellant's family for fifteen years. His paternal uncles lived, respectively, an hour, and half an hour away by car. His father's brothers had 5 daughters and three sons between them; his sisters had three daughters and one son. All the children were still under 12 years old. No threats had been made to his paternal uncles and they had not threatened BG. He did not know why his father's brothers had not sought revenge for his death. The appellant's understanding now was that this was an old feud, but that when he was younger, the adults in his life had not told him about it, even when he spent a year self-confined in the family home.
16. In cross-examination, the appellant was asked to clarify how his mother had been able to

obtain the documents required without leaving the house. He said the registry office in his village was very close to their home, just a minute's walk away. The document from the local elders (what Mr Marku called the 'missionaries') was obtained from the same office. He had received these documents in France at the end of 2008, or thereabouts, when he had been there for six months. His mother had been aware of the threats in August 2008, and the document from the local elders had been sought at that time. 'They' (his mother and uncle) had just sent it to him because he might need it, although the threats were not communicated to the appellant until the following year, prompting his onward travel to the United Kingdom. He had been required to make a personal request for the CNR document: that was the only way of getting it.

17. It was the appellant's cousin who had told him of his father's death. The cousin was with his father when it happened. He confirmed that when they reported the death to the police station in Krum, about 40 minutes' drive from his family home, the police refused to act on the basis that they considered the appellant's father to be a drug dealer. As the Krum police refused to help, the appellant also reported it in Kukës. Both occasions were shortly after the death, about two or three weeks later. When they got no satisfaction, the appellant reported the death to more senior police.
18. The appellant was asked why he now stated that his father had been threatened in 2005 and killed in 2007, when previously his account was simply that his father was killed in 2007. When amending his account and the witness statement he had prepared in February 2010, he had not also amended that part of the account, nor was it one of the matters he corrected at the beginning of his oral evidence to the Upper Tribunal. The discrepancy between his witness statement, when he said the threat from BG occurred in a corner of a café, and his present evidence, that it had taken place in a van, was put to the appellant.
19. In answer to questions from the Tribunal, the appellant stated that his family had cows and sheep at the time but had stopped keeping them, because they needed to be let out and taken to the fields. They only had a dog now. They had sold the sheep after only a short time, about a month, after keeping them indoors for that period. A man came and took them away. The cows had been sold around, or just before, the death of his father. The family owned the house and received some help from the local authority now they could no longer farm. The whole of the appellant's extended family had attended his father's funeral. BG had not threatened the appellant's paternal uncles because they had not threatened him; the appellant was nevertheless sure that he remained in personal danger, because he had tried to take BG to court. Dealing with the threat incident, the appellant was asked why it was worth BG threatening to kill him, if he had already been to the police in at least two districts, but he was unable to answer that question. The appellant corrected his account of when he had last spoken to his mother, which he now said was two to three weeks before the hearing, to obtain the CNR attestation letter, not two months earlier as he had originally told us.
20. In re-examination, the appellant stated that he had trouble with dates. When it was put to him that there were many discrepancies in his account and that the respondent would say that he was lying, there was a very long pause. The appellant then said again that he had difficulty with dates. He confirmed that his mother was also living in self-confinement in Albania, despite her sex. His evidence was that no family member of the victim clan was entirely safe: the other family could come to the house to kill, but in this case, they had not done so. It was his solicitors' interpreter who had prepared a translation of the documents received in France.

Mrs EN

21. The Tribunal heard evidence from Mrs EN, the appellant's paternal cousin, with whom he lives in the United Kingdom, and who had given evidence at the last hearing. At the First-tier Tribunal hearing, Mrs EN provided a witness statement and gave oral evidence. In her witness statement, she said the appellant was her second cousin: they shared great-grandparents, and their paternal grandmother and grandfather were brother and sister. Their home villages were about half an hour apart in Albania and she knew his family well. She came to the United Kingdom in 2003, long before the events in the appellant's account.
22. Mrs EN is not from the same village and has no direct knowledge of the feud, though she stated that Clan G had a reputation. She could not help on the origin of the documents the appellant said he received in France; she was aware of threats in 2008, because when she returned to visit Albania, she heard about them there from friends and relatives, but she had been unaware that the appellant was on his way to the United Kingdom until he arrived and made contact.

Appendix C

Country expert evidence

Dr Stephanie Schwandner-Sievers

1. Dr Stephanie Schwandner-Sievers is an honorary research affiliate at the School of Slavonic and East European Studies, UCL and consultant for the International Criminal Tribunal of Yugoslavia. At the 6 December 2010 hearing, we heard evidence from Dr Stephanie Schwandner-Sievers, who had prepared an expert report, with a supplement prepared immediately before the hearing. In her main report, dated 3 November 2009, she identified two principal reconciliation organisations in Albania, the Foundation of Conflict Resolution and Reconciliation of Disputes [AFRCR] and the Commission for National Reconciliation [CNR], headed by Gjin Marku. Her main report set out the historical context, confirming that families affiliated with the current Democratic Party government (the DP), such as (presumably) [Clan G], might have better access to authorities, judiciary, police support and protection, including possible cover ups, than those affiliated with the ASP. She had conducted a literature search on the appellant's account. She found evidence of the shooting of his father by BG and a police press release blaming the appellant's father for drawing his gun first. There were only two reports and a press release, all immediately following the father's death. She regarded the appellant's self-confinement and that of his family as 'culture consistent' and suggesting a deep internalisation of that culture. It appeared to her that the local people had expected the appellant's family to declare a blood feud. She noted difficulties in the evidence as to how many families were involved in blood feuds. There was a vast discrepancy in the figures for those who were self-confined. Some analysts discounted the first death, whereas others counted it. 'Given the informal character of feuding...many feuds, revenge threats and ritual revenge killings may not be registered at all in contemporary Albania'.
2. The Albanian government was addressing the problem: blood feud murders now carried sentences of up to 25 years. However, there was no nationally coordinated strategy to deal with it, despite legislation to establish a Coordinating Council, it was not functioning.
3. She did not consider that the problem of blood feuds would soon cease to exist in Albania. Many Albanians did not perceive Kanun law as 'criminal', but rather, as 'contributing to local security and their (informal) economic benefit'. Among ordinary Albanians, there remained a lack of confidence in the authorities, particularly in rural areas, and Kanun-based resolution of disputes had revived after the collapse of communism in 1990. Kanun law incorporated a system of reconciliation by local elders, who might or might not be affiliated either to the CNR or to the AFRCR, another non-governmental organisation which worked to reconcile feuds.
4. Nor did she accept that there was a modern phenomenon of pre-emptive killings. Such killings had always occurred. Self-confinement was a strong indicator of a genuine blood feud threat: a family threatened with revenge killing had to keep a low profile in order not to provoke reaction from the family of the person killed. Flight was another alternative, but both flight and self-confinement destroyed the affected family's local economic and social basis, and helped to satisfy the desire for revenge of the other family. Sometimes they were enough to become an end in themselves.
5. The number of permanently sequestered children was unclear: the Ministry of the Interior estimated there were 20 nationally, while other non-governmental organisations thought the number might be as high as a few hundred. The CNR had the highest estimate, of almost 1000.

In September 2009, the Albanian government had begun to offer home schooling support for 52 children in the Shkoder area. The figures for the number of live feuds and sequestered children were unreliable :

“... NGOs dealing with feuding matters, often dependent on international donorship and interested in maintaining their object of 'business', have been accused of a tendency to exaggerate the extent of the phenomenon; however, they also appear to be the only agency that factually deals with the problem of feuding on the grounds. Various sources offer lists of Albanian NGOs dealing with blood feuds in the country; however, of these many appear not to be active at all, perhaps have been created and disappeared in response to chances of funding available.

From my interviews with activists of the AFCR, ...including the much-cited Aleksander Kola, I understand, for example, that the Peace Missionaries Union ...is identical with, or rather, has been absorbed in, the [CNR], after peace missionary, Ermin Spahiju was murdered amidst allegations of embezzlement of compensation monies and abuse of women seeking his support in 2004.

In 2005, it was my impression that the AFCR and the [CNR] competed for both international and governmental attention and recognition...their activities on the ground in the villages also seemed mainly concentrated on recording conflicts and issuing certificates for which these organisations appear to hold a monopoly and for which they have formalised procedures. Thereby they contribute, de facto, to a semi-parallel institutionalisation process of *Kanun* procedures, which have been noted to undermine the state and its institutions notoriously (there are payments or 'fees' due for such certificates, and mediation certificates have to be rewarded with 'gifts', despite confirmation to the contrary that are sometimes disseminated to the press). ... It is my impression that apart from offering home schooling, issuing certificates for payment, and engaging in reconciliation work (only where there is *deshire* on both involved sides), no other form of support is available from these NGOs.”

6. Reconciliation was difficult and required the will to reconcile on both sides. The local mediators to whom she had spoken usually recommended self-confinement or flight. Post-communist feuds which were still 'hot' were regarded as harder to reconcile, as were those where the intention to carry out a feud had been announced locally, where there was thus far no balance of bloodshed, or where other interests continued to fuel the conflict. She did not consider that internal relocation would be of any assistance, or that there was sufficiency of protection from the Albanian authorities.
7. In her updated report, dated 6 December 2010, Dr Schwandner-Sievers set out fresh research opportunities which had come to her from various international conferences. Her overall opinion had not changed substantially. If anything, 'the risks and limits of protection chances described have become even more pronounced'. She was aware of the February 2010 report of UNHCR Special Rapporteur Alston, but did not uncritically agree either with his conclusions, which she considered to be too close to that of the Albanian government, or with Mr Marku's view of Mr Alston's report.
8. In relation to the appellant's specific case, she was now able to say for certain that BG had never stood trial for his father's death. She had discovered a District Prosecutor's Order from Kukës on 16 May 2007, which she had traced from the existing newspaper reports, during her broader general research into the contemporary blood feud phenomenon in Albania, with the help of one of her established and very reliable research collaborators in Tirana, whose name she asked us to withhold from this decision.

Oral evidence

9. In her oral evidence at the hearing, Dr Schwandner-Sievers adopted her reports of 3 November 2009 and 6 December 2010.
10. She was aware that it was possible to plant stories in the Albanian media, by making payments. In general, everything was for sale in Albania, which was riddled with corruption, but that did not mean that this particular story was untrue, just that it was impossible to be certain whether it was or not. Every murder relied upon should be considered individually to see whether it should be classified as part of a feud. The examples which carried more weight, in her opinion, were those where the newspapers mentioned 'blood feud' (*gjakmarrja*).
11. Dr Schwandner-Sievers' professional opinion was that attestation letters could also be bought. That was the opinion of many of her colleagues. She spoke about the CNR, and another widely known reconciliation commission, the Albanian Foundation for Conflict Resolution and Reconciliation of Disputes (AFCR) to whom she had talked. The AFCR did not accept money from individuals, accepting support only from international donors.
12. Dr Schwandner-Sievers produced a letter and business card given to her by Gjin Marku of the CNR when she talked to him. The CNR was a problematic organisation, but it was the best source available. There were different opinions as to how highly organised CNR was, and whether it had ever been formally registered, but she considered that the CNR had good access to information about cases of blood feud, through its local networks. In her opinion, Mr Marku romanticised the Kanun as the solution to contemporary problems and was still very much part of the collectivist culture. The CNR refused international donations, relying on charging for attestation documents. Mr Marku had built up a personal monopoly on attestation letters. There were persistent rumours that false letters from him could be bought, despite what Mr Marku said to the contrary in his evidence.
13. She had been shown the attestation letter relied upon by the appellant, and the paragraph therein listing a selection of recent blood feud cases was typical of such letters. The cases mentioned had been reported in the Albanian media, but the overall figures were simply unknown. It was entirely possible that the appellant's parents had not told him everything, because of his young age. Sometimes, also, it was a deliberate avoidance strategy. If the next generation was unaware of a feud or its origins, what had been forgotten could not be brought to the fore in that generation. There were social pressures to take blood, and also pressures to forgive, for the sake of community peace.
14. On the subject of pre-emptive killing, Dr Schwandner-Sievers rejected the idea of a separate category of 'modern blood feud' but considered that Mr Marku would disagree with her about pre-emption, since he believed strongly in the codified Kanun. The weakness of the Albanian state, and the corrupt judiciary, were fertile conditions for customary law, as set out in the Canadian IRB response, which had identified the concept of a 'modern blood feud'. The practice of Kanun, with its notions of social honour, had to be differentiated from the prescriptive historical text: the printed Kanun attempted to deal with and contain pre-emptive killing by a more important family, but in practice, pre-emption had always occurred and it made sense, where there was an unequal power balance between the two families.
15. Where a potential victim, including a pre-emptive victim, submitted to the other family by self-confinement, that action could suspend revenge-taking, perhaps for generations. Fleeing

abroad might have the same effect, but the aggressor would continue to be concerned that on return, the senior male from the attacked clan might revive the feud or seek criminal prosecution of the killer. The patrilineal line was at the core of blood feud practice.

16. After reconsidering the press reports on which she had relied in her main report, Dr Schwandner-Sievers retracted her assertion that BG had used an unauthorised weapon. She had researched the case by reading reports of the death of the appellant's father which had been published in Albanian national newspapers. Despite her overall concerns about corruption in the Albanian press, she considered that such national news sources were less likely to be open to the planting of false stories, although she could not exclude the possibility of someone having faked the story. The accounts did not appear to have been planted by a single source, since they varied in their approach and (slightly) in the facts reported. Most of the reports were supportive of the actions of the police officer and of Clan G, but one report was on the side of the appellant's family, Clan H. In her opinion, the reports were genuine and the appellant's father had indeed been murdered. It was quite possible that BG had enjoyed some protection from the police by reason of his family connections. The DP, the current ruling party, would be on the side of Clan G.
17. Traffic accidents were now a common cause of blood feud, both in the rural areas in the north, and in cities. Those at highest risk were men of reproductive age, who were still in the labour force. The aggressor clan would hit where it hurt most. Resolution could be brokered by local mayors, or teachers, based on intense social linkages. As far as the CNR was concerned, she considered that the main work of Mr Marku was financial, and that it was run as a business. She had seen Mr Marku's response to the report of Professor Alston, the UNHCR Rapporteur. Their views were irreconcilable.
18. Dr Schwandner-Sievers was asked to comment on the TB (Albania) guidance. She stated that the theory and practice of Kanun varied. Feuds went in cycles: some had already lasted hundreds of years and led to the death of fifty people, while others could be just beginning. Feuding had not been permitted during Albania's communist period, which lasted almost 50 years. In a few cases, pre-communist feuds had revived with the return of democracy and a weaker government grip on the rule of law, particularly in northern Albania.
19. There was often local pressure to begin or continue the feud: at the funeral, the dead man's widow and the funeral singer would put the eldest son's hand on his late father's forehead and instruct him to kill. Families who were socially marginalised would become involved in feuding in order to obtain social recognition, and to increase the family's status. The chances of successful reconciliation were higher when the original offence was a long time in the past.
20. The debate about Kanun blood feuds had been in progress for many years, and bore a close relationship to debates about social honour. It was very like the Italian approach to family honour. The concepts of *hakmarrja* (taking debt) and *gjakmarrja* (taking blood) should be distinguished. *Gjakmarrja* was linked to collectivist (that is to say, old-style communist) notions of solidarity and reliability. While there was more rhetoric in the north about recourse to the Kanun, that did not mean that a southern feud was necessarily out of the question.
21. In each case, the real dispute always concerned local politics, status, and which families could impose their superiority. Feuds occurred in circumstances where power was under negotiation.
22. Internal relocation was of no use; self-confinement could delay retribution, but leaving the

country was the only way in the long term. Pursuit would only follow the potential victim after flight abroad where there was a particularly powerful motive, based either on revenge or pre-emption. Witness protection relied on expatriation for protection, but the difficulty was that foreign countries did not accept witnesses as entitled to international protection. Internally within Albania, wherever a person went they would be asked about their family and where they were from. You could not hide your accent. Albania was not like the United Kingdom, where you could live for years in a street without your neighbours knowing who you were.

23. In cross-examination, Dr Schwandner-Sievers said that family sizes in Albania were decreasing. She had checked court records when investigating this particular allegation but was not surprised that the document purporting to be from the Prosecutor's Office was not then discovered, since it was not a court document. She had read that not all such reports were published online, and district court decisions were not available online either. A Soros survey showed that half of Albanians thought that in the last five years the Albanian government had improved its grip on the running of the country, but the other half were dismally disappointed by its performance. There was legislation, which could be regarded as a first step towards improvement, but the government had yet to implement the steps there set out.
24. In answer to questions from the Tribunal, Dr Schwandner-Sievers said that although traditionally, women and young boys were not at risk, there had been killings of both. People self-confined themselves to contain any risk: it showed respect for the other family, by keeping a low profile. There had been plenty of events where the sanctity of the home was not respected and the community had punished the offenders. The risk passed traditionally from father to son. If the deceased had a brother, he would be a very important target. The deceased's adult brothers and younger son were prime targets.
25. In re-examination, Dr Schwandner-Sievers said that patrilineage was very important. A woman who married into another clan would have children of a different bloodline, and would have a different name, and therefore would not be at risk in relation to her birth family. It was unusual for a widow to self-confine, because she did not share a bloodline with the deceased. It was not culturally impossible if she were an inciter of the feud, or the only remaining possible victim. Self-confined Albanians could leave their homes in safety only by negotiation with the aggressor clan, with a time-limited *besa*, for urgent family matters such as a funeral, or for a wedding, or the presence of a foreign visitor. She did not know whether it would be possible for an entire family in self-confinement to have access to local authority money; to her knowledge, support initiatives were targeted at children and schooling.

The Alston report

26. The February 2010 report of Philip Alston, UNCHR Special Rapporteur on extrajudicial, summary or arbitrary executions, expressed concern at the resumption of blood feuds after the Communist era, in a country with a population of over 3.2 million people at that time. Whilst recognising that blood feuds did occur, often over property or personal insults, that there was a lack of confidence in state resolution, and that the family of the killer would then confine itself in self-confinement, as a mark of respect, often for years, he was concerned as to the reliability of the evidence as to how many such feuds there were:

“8. There are deep discrepancies in the statistics concerning blood feuds and related killings. At one extreme, media reports have referred to hundreds of blood feud killings per year and thousands of children living in isolation. At the other extreme, according to government statistics, such killings fell steadily from 45 in 1998 to one in 2009, while the number of confined children ranges from 36 to

57 countrywide, of which 29 to 45 are in Shkodra. The variation depended on whether the sources were police, education or ministry officials. Families in isolation were estimated to be from 124 and 133 countrywide.

9. The figures used by civil society groups also vary widely. One organization with extensive field operations notes that there have been significant reductions over the last five years and that there are currently only a few blood feud killings per year. They estimate not more than 350 families and between 80 and 100 children to be in isolation nationally. However, another prominent organization estimates some 9,800 blood feud killings since 1991, dropping to a figure still in excess of 30 in 2009. By its calculations, there are 1,450 families and 800 children in isolation.

10. My own carefully considered view is that the correct numbers are much closer to those provided by the government, especially in relation to killings. The figures for isolation seem more likely to be an underestimation, but again, not by a large margin. This is not to say that the government statistics are definitive. Their accuracy is qualified by inadequate data-gathering and recording techniques, and insufficient coordination. These problems were underscored by the inconsistency of various official figures provided to me. I am also not aware of any sustained government effort to reconcile the competing statistics. Four factors account for the discrepancies among the various figures: definitional differences; under-reporting; limited coverage of issues; and incentives to overstate.

12. In terms of definitions, different actors tend to use different meanings of the term “blood feud” and of “blood feud killings”. The narrowest (“traditional”) understanding is that a blood feud killing is a premeditated familial avenging of lost blood – that is, where the family of a murdered victim kills a member of the perpetrator’s family to restore the honour and blood lost as a result of the initial murder. A less strict interpretation classifies any revenge killing between families as a blood feud regardless of any reference to the need to restore blood and honour or of guidance by any Kanun-related considerations. Both of these understandings are reflected in most police and court statistics, especially since it is difficult to prove any specific cultural motivation for a killing. In broader definitions, any premeditated murder motivated by any reason of revenge (*hakmarrja*) between families could be a blood feud killing (*gjakmarrja*). In still broader understandings, even a revenge killing without a familial dimension (e.g. killings between gangs) could be counted as blood feuds. The broadest and most questionable definition would count any killing because it may, at some point, lead the victim’s family to seek revenge against the perpetrator’s family. An equally questionable approach is to count among families characterized as self-confined “due to blood feud” cases in which no killing had occurred and without any strong or formal element of self-confinement, but where a physical assault, a threat or some intense dispute had created a family or neighbourly feud.

13. A second factor is under-reporting. Killings in remote areas might not be systematically reported. Moreover, in some instances, the families might want to avoid all State involvement in order to pursue traditional remedies. In addition, statistics based on court judgements may be a poor indicator of blood feud killings because the perpetrator of a premeditated blood feud killing may be found guilty of a lesser charge, whether because of insufficient evidence, a family refusal to testify or corruption leading to a conviction for a lesser offence.

14. Thirdly, the coverage of government programmes may be incomplete. For example, government figures on children in isolation are based on its “Second Chance” home-schooling programme, which goes only through ninth grade. Older children are thus not covered. Similarly, a combined focus on those killed and the number of self-confined children will go only part of the way towards capturing the overall number of people whose lives are seriously affected by blood feuds.

15. A fourth factor is the existence of incentives for some groups to overstate the magnitude of the problem in order to get funding. While various non-governmental organizations do extremely

good work on these issues, many officials and independent observers expressed concern that a small number of groups deliberately exaggerate for fund-raising purposes. International donors do not help the situation when they provide funding for blood feud-related programmes without adequate scrutiny.”

27. Mr Alston considers that the corruption which runs deep in Albanian society has infected the provision of attestation certificates and that many of the non-governmental organisations exist in order to milk the international community for funding, thus giving them an interest in exaggerating the real level of live feuds. The linguistic confusion between genuine ‘blood-taking’ and any death at all renders the various statistics almost impossible to compare. His view overall is that there remain very few feuds and very few families in self-confinement.

Mr Gjin Marku and the CNR

28. The appellant relied on an attestation letter, signed by Mr Marku, CNR Chairman, confirming his involvement in a blood feud and that he would be at risk on return. There were two letters. The first, dated 12 December 2008 consisted of only three lines, asserting the existence of the feud.
29. The second, dated 3 December 2010, is typical of those produced by the CNR and relied upon by appellants. It reads as follows:

“Confirmation

Tirana 3 December 2010

[CNR] confirms that it has archived and pursued the blood feud matter between the family of [the appellant] and [Clan G]. The blood feud has arisen because the old times rivalry between the clans and later political quarrels, with the latter event leading to the insult and infringement of dignity between the parties and reaching the climax three years ago with the bloodshed; whereas [the appellant's father] fell dead, the father of [the appellant].

[Clan G], which has connection with the government and gangs has continually threatened the life of [the appellant] even after the killing of [his father]. The most threatened person has been [the appellant] who has attempted to pursue his father's murder case with the state police and the Public Prosecution Office.

We have contacted [Clan G] but they confirm that they had reasons and still have reasons to kill and also still have to take blood because the matters are deeper from what they seem.

The blood feuds during the year 2010 have increased even leading to terrorist acts. At the end of July there were 7 killings involving the blood feud and honour. On the 12th, 13th and 14th of August 2010, media published sensational killings for blood feud; the well known wrestler Leonard Bilal in Tirane, Ndue Lleshi in Mirdite because of 70 years old feud and Mario Curri in Durres, whom the father, nephew, and a friend were killed for the same feud. Some time ago there was TNT (bomb) placed at the family of Petrit Brahaj in Tropoje and policeman Kol Ndreshaj from Malsia e Madhe was executed during the night, both of them were in blood feud. On 3rd October in Vlore, a 27 year old was killed in front of his 12 year old nephew, whereas on the 8th October 2010, pastor D Prroni was killed in Shkodra, who had come out of the besiegement in order to spread out the word of God. On 17th October 2010 a policeman was killed because of blood feud; whereas on 23rd and 25th of October 2010 was killed Bujar Zebi in Diber and chairman of Terthor Commune in Kukës Remzi Veseli. On the 9th of November 2010, because of property disputes, was killed 55 years old Rifat Sula and his 25 years old Izmir Sula was killed in the town of Shijak; whereas on 21st of November 2010 in the centre of Tirana because of blood feud was killed 45 years old Mirash Pali; who had just returned from emigration; this killing was followed by three other killings between young men because of blood feud; whereas on 29th of November, another emigrant, Dritan Skenderaj was killed after returning to Albania.

[CNR] confirms that [the appellant] and his family are threatened by this blood feud at any moment and in any part of Albanian territory.

For [CNR]
Chairman
Gjin Marku"

[Emphasis added]

The parts of the letter in italics, dealing with the appellant's blood feud, lack detail. The long paragraph dealing with 2010 deaths simply asserts that each of these various deaths was caused by a blood feud. The deaths there mentioned have no nexus with the appellant's circumstances.

30. Mr Marku's witness statement, prepared in February 2011, was in fairly broad terms. He stated that the CNR was a non-governmental organisation, providing assistance to those involved in blood feuds, and their families, by mediating the conflicts. He referred us to www.pajtimi.com, the CNR's public website. At paragraph 3 of the statement, Mr Marku set out the philosophy of the CNR:

"3. The goal of the [CNR] is to cultivate humane standards and preserve fine customs so that citizens and their families can live happily in their community and in their brotherhood knowing that the rule of law is the norm and have no fear that their families, their economy would be adversely affected by anyone. The Committee aims to inculcate the culture of reconciliation contrary to hatred and revenge; to promote dialogue between opposing parties as a sign of mutual tolerance in search of truth and justice that are the essential elements of a genuine reconciliation. The [CNR] requires of every Albanian and every human to take the responsibility of making this place a better world. The magazine 'Law and Justice' published by the CNR with the goal of spreading the culture of law in all levels of the society has been highly valued by common readers and intellectuals alike."

31. It was the view of the CNR that the Albanian state did not have a proper or effective blood feud strategy. Such a strategy had been drafted by the CNR and presented to all levels of government, following the CNR's most recent conference, held in Tirana in October 2010. One resolution in particular, resolution 6, is worth reproducing in full:

"6. The Conference urges the High Council of Justice to bring an end to the practice of submission of 'Reconciliation Certificates' to the Courts; attestation letters of this kind are issued by fraudulent 'associations' for the purpose of reducing killers' convictions and this practice has caused tragic incidents because of killers' early release and short sentencing. The CNR has made several requests to the Courts not to allow such practice with serious implications and has informed the Albanian government that such practice undermines justice and the rule of law."

32. Mr Marku stressed that resolution of blood feuds required the cooperation of all parties. He had checked that the appellant's blood feud attestation letter was a genuine one, issued by the CNR and signed by him. Attestation letters produced by the CNR were signed only by Mr Marku. They were not for sale.

Mr Marku's oral evidence

33. Mr Marku gave oral evidence over a period of two days, the first being spent on additional evidence-in-chief and the second day on cross-examination, Tribunal questions and re-examination. His evidence covered the history and present structure of the CNR; his own and the CNR's interactions with other actors of protection and international experts; the records kept by the CNR and the validity of its statistical evidence in relation to those of the Albanian government and other actors; the types of murders taking place in Albania; and the origin and

validity of blood feud attestation letters issued by the CNR. He was invited to comment on the report for the OHCHR of Special Rapporteur Peter Alston.

Structure of the CNR

34. Mr Marku said that the CNR's work had begun in about 1990 on a charitable basis, and in 2000 it was legally registered pursuant to specific legislation. The head office of the CNR was based in Tirana, with Mr Marku himself as its chairman, supported by a Founding Board with five members. Below that Board was an Advisory Committee with 30 members. The same structure was repeated in the north and south of Albania, in Pukë in the north and Luzhna in the south. Each had a local chairman, two Board members, and about 12 Advisory Committee members. The Boards and Committees worked together under the leadership of the chairman. The Board Members were senior people: retired judges and solicitors, professional historians, and politicians, some of whom still worked in local government. Advisory Committee members were people who knew the area and some of them also were current government employees.
35. There were 32 sub-branches covering most of Albania's 37 districts. All CNR workers were volunteers. The same structure was replicated in many villages, although people moved around, and some of the structures functioned better than others. It was a traditional structure, pre-dating the present legal structure and was as old as the blood feud tradition itself: they went together. Reconciliation could not be achieved by payment. Those who worked in the CNR brought to it their goodwill and desire to help reconcile feuds, with the will of those involved, and by consent.
36. Mr Marku was the grandson of a well-known mediator with a national reputation; he was honorary chairman of the CNR Founding Board and as such responsible for administrative matters overall. He did not take a salary: there were no funds for salaries. He worked for the CNR full time, along with his wife. Fortunately they were both well off. Mr Marku had worked in the Albanian security services. He and his wife had a farm and two hotels in their village. His wife worked as a teacher and also contributed to the work of several NGOs.
37. From time to time, when funding was available, the CNR held national conferences to discuss matters of general interest, the outcome of which was published on its website. There had been one such in Pukë in June 2001 where members from the principal offices in Tirana, Luzhna, and Pukë as well as one or two members from all the district offices, met to discuss the organisation's structure. It was decided then that there should be at least three CNR members in every village, typically the school headmaster, the most respected local elder and a representative of local government. These people were together described as reconciliation 'missionaries'. The structure had the support of the judges and Courts in Albania. He stated categorically that the CNR did not accept money for reconciliation. They might accept a car, or a car might be made available.
38. The village chairman would be the oldest person in the first clan in the village. Such people deserved and got respect. If they decided something, a man would go and do it. Mediation took place by chatting over coffee and cigarettes, and often no notes at all would be taken for fear of disturbing the delicate social balance. The spoken word and the spoken promise were all-important; once a man's word was given, it would be kept as a matter of honour, and that was how reconciliation worked. The reconciliation process could take years: many feuds had lasted 70 years, and there were many examples of reconciliation after periods of 70 years also, given the interruption of all blood feuds for the 50-year communist period. The Communist

Party dictatorship had been very repressive, but it took care of the blood feuds during that time. He was only aware of two blood feuds, both dating back to his childhood, which had continued to function in the communist period. Schoolchildren during communism were taught that value was very important.

Blood feuds and honour killings

39. The Albanian word for a traditional blood feud was '*gjakmarrja*' (terms used in international reports include 'vendetta' and 'vigilante killings' for the same concept) and for an honour killing was '*hakmarrja*' (revenge). Confusion in the use of the two terms led to confused actions. The classic, traditional blood feuds generated over the years were based on the thinking in the Kanun, but applied by those who did not properly understand Kanun. This resulted in what he described as a 'twisted and deformed psychology' in some feuds, with the combatants respecting Kanun without properly knowing its laws. There was a lack of state power or regulation by the Albanian government. *Hakmarrja* disputes could be solved without a blood feud and they were usually related to land disputes, but *gjakmarrja* (blood feud) included the concept of revenge. *Gjakmarrja* was the traditional Kanun way and could be ended only by *besa* (forgiveness) after sometimes years of patient negotiation. Feuds and reconciliations lasting 70 years were not unknown.
40. The blood feud system had been interrupted for 50 years during the communist era. The Communist Party government had been repressive, and it simply had not permitted blood feuds to proceed. Even so, Mr Marku was aware of two feuds which had continued, at least to some extent, during that period: the murders dated back to his childhood.
41. Mr Marku considered that the government data understated the prevalence of blood feuds. He asserted that the CNR data was more accurate because of the direct involvement it had at district level and that the CNR had no interest in inflating the figures for blood feud. Albanian government figures had always been lower than the real levels for blood feuds. The government's response to criminality overall was inadequate, which tended to drive Albanians back to using the Kanun law system to achieve justice. The government had covered up and been silent and now had no credibility in the debate. In this part of Mr Marku's evidence, he tended to answer questions with a prepared answer, rather than dealing with the question direct.
42. Mr Marku accepted that some important steps had been taken in the last five years. There was a coordinating commission, created by statute, headed by the President of the Republic of Albania. It was not supported financially by the Albanian government and had only met once in the five years since it was formed. The President had attended the third Congress of the Reconciliation Missionaries and Observers, and had been critical of what was achieved so far. He considered that the missionaries should have achieved more than they had, and that it was bad and serious for Albania, as a member of NATO, to have this kind of problem. He had expressed the highest appreciation for the work done by the missionaries and observers. The position was impossible: the government had produced no results itself.
43. Dealing with *hakmarrja*, Mr Marku said that describing property motives as 'weak' was a communist term. Murders could arise from riots, a person's dignity or honour, or as a result of thefts. It was completely unclear how the division fell between *gjakmarrja* and *hakmarrja*, both in the communist period and after it. In his view, most murders happened due to honour and should be so recorded. Sometimes a vendetta could be sparked by someone refusing to give way on a single lane highway, and such road rage incidents could lead on to murder. It was

very difficult for the Albanian police to treat and tackle the problem, although they were aware of the difficulties.

44. Overall, Mr Marku considered that government support for his own organisation and for reconciliation generally was more apparent than real. The government wanted to look good to the outside world. The CNR had expressed its support for the government and the police in public and would continue to do so. Ambassadors from other countries had observed that the police officers changed and reacted when government chased them up, but not otherwise. The former Minister of the Economy had stated publicly that he had been afraid to report six years of official corruption, of which he had been aware at the time, for fear of being killed. 300 people had been killed after prisoners were released without serving all of their sentences.
45. Mr Marku stated that his paperwork was a case of working 'in chaos'. Some cases had no files or notes at all; others might only have three pieces of paper in them. He had successfully reconciled the case of a girl whose leg was accidentally amputated, and in that case he had not taken a single note.
46. Mr Marku was asked how he could be sure of the figures given for blood feuds by the CNR, given that he kept no records of many of them. He said that the figures fluctuated from month to month, and were based partly on reports from the missionaries in the local areas, which he had no way of checking. They only reported conflicts considered to be 'serious': he insisted that the CNR figures were exact as to 'conflicts going to blood feuds, or new possible blood feuds'. They also contacted local land registries and included any ongoing land disputes, which were reported by a liaison officer for land registries, appointed six or seven years earlier. They classified that link as 'gratitude of the government towards our serious work'. The land registry liaison officer was paid by the Albanian government and reported the number of land disputes to the government. In addition, they monitored information in the media. Murders were reported as having taken place, and in some cases, the family itself did not know they had a conflict. The media reported murders which had taken place, giving figures obtained from the police and also from the CNR. He gave examples of some recent feuds: a father in Malesi e Malde had killed his son for breaking up with his fiancée; a newly-married wife was killed by her Mafioso husband, who doubted that the child she carried was his.
47. The CNR figures included cases reported from the field, including figures for self-judgment arising from prostitution, honour, property, murders, rows and fights. The CNR would then provide a total figure for conflicts, and how they needed to be resolved before they ended in murder. He did not accept that there had been any reduction in conflicts over the last five years: rather, he considered that there had been a 30-40% increase over the last two years, and that police figures were significantly under-reported. He assured us that the CNR figures were based on the reality in Albania and that there was no link between international funding and the number of conflicts reported. On the contrary, it was in the government's interest to deflate the figures. Others in government were lobbying to prepare corrupt figures for favours.
48. Over the last 20 years, of 5000 families in conflict, the CNR had made it possible for 800 of them to go into reconciliations. The local missionaries and authorised representatives would verify the existence of the feud. The communication was oral and there were no letters or documents to support such verification. An attestation letter was issued when the CNR had been unable to reconcile the parties. When the CNR had participated in the two national Congresses (the Exemplary Conferences of Peace Missionaries on 13 March 2009 and 8 October 2010) the point had been made that keeping files would be good practice. The resultant resolution appeared on the CNR's website. It was put to Mr Marku that the system, as it stood, was open to abuse

and false information. He stated that a man who was no longer associated with the CNR, Mr Loci, had produced false letters on more than one occasion. Abuse could not be excluded, but from the CNR's side, they did not wish to associate with anyone like that.

49. The CNR had good but serious relations with the Albanian government: successive prime ministers had been appreciative of their efforts, but the CNR felt free to criticise the government. The current prime minister had stated in the Albanian parliament that the missionaries undertook work which the government could not. However, in general, the ministers did not concentrate on this aspect or react well to criticism from the CNR. Reconciling blood feuds was not a matter for the state, but for tradition. Deputies faced with blood feud problems in their own family would telephone Mr Marku directly.
50. Of course, the CNR encouraged parties to use the legal system and avoid future tragedy. The intervention or mediation alternative was a good one which sometimes worked; the CNR had supported and defended the police in public, even though they were not involved in reconciliation. There were situations where they needed police cooperation and the CNR was aware of the need to keep good relations. One obstacle was the level of police corruption. Once it became a blood feud, it had never happened that the state had been able to resolve the situation. Such matters would be clearer for Albanians: the state had expressed non-involvement. The Albanian state was not efficient and the public, although it wanted assistance, had no confidence that the state would provide it. Deaths of women and children did occur, but rarely, and the death of a child was always a tragedy.
51. In cross-examination Mr Marku was given an opportunity to comment on Dr Schwandner-Sievers' evidence and Professor Alston's report. Mr Marku was dismissive of the expertise of both of them. He considered that Professor Alston was mistaken in his assessment of the prevalence of blood feuds and in accepting broadly the Albanian government figures. He characterised Professor Alston's opinion as 'outside reality', although he noted that Professor Alston had visited the self-confined policeman, Pjetr Tabakaj, and the Tabakaj family. The CNR had responded to Professor Alston on the Pajtimi website. He stood by what was there said. He was seeking support for Albania as a country, not for himself or his organisation. He did not consider it appropriate to seek international funding for the organisation. The magazine it published, 'Law and Life' was UN-funded and in addition, the CNR made profits on the conference. In a few cases, those whom the CNR helped also made contributions, which were used for the confined families, or to help with transport for the missionaries to attend a mission. The CNR central recommended a fixed contribution from the relatives of Lek 1500 (about \$15) per day in such cases. Gifts from relatives were not common: it was difficult for the reconciliation missionaries to ask for a contribution, but if it was offered, they could accept it. The missionaries and the central office gave up their time, paid their own expenses, and recorded all contributions on the website.
52. Mr Marku believed he had met Dr Schwandner-Sievers, and if it was the same person he remembered, she had given him a document in English which he had not read. Based on a quick glance, he did not consider that it looked very professional. He remembered that she was well-respected, but considered that the work had been done rather quickly. He preferred either the views of Antonia Young or Colin Freeman, both of whom had spent time with Mr Marku. The appellant did not call either Ms Young or Mr Freeman as a witness or provide expert reports from them.
53. The Albanian government's data was inadequate: the government had always given lower figures compared to the reality, and the CNR's figures were more accurate. The inadequate

government response led Albanians to use the Kanun to obtain justice; it was impossible for the government to be involved, since it had covered up and been silent. He accepted that there were structures in place, but the government had only financed one meeting of the coordinating commission in the last five years; they then expressed the highest appreciation of the work done by peace missionaries and observers. It was very serious for the Albanian government, a member of NATO, to have such a problem on its shoulders. The police were reluctant to become involved; they knew the difficulties.

54. Mr Marku expanded on the system of reconciliation. It was carried out over coffee and cigarettes, or by telephone, as often and for as long as was necessary. The initial conversation with family members of the self-confined person could last up to two hours, and sometimes (but not always) he took notes. He needed to know the people and the situation really well in order to find a way through for reconciliation. He would talk to peace missionaries in the region, and with the CNR board representative for the area. It was very important to get the correct information. Mr Marku received about three or four such complaints a day, and his organisation issued 5-6 attestation letters monthly, all of which he signed personally.
55. In answer to questions from the Tribunal, Mr Marku acknowledged that until the introduction of the numbering system after October 2010, it had been relatively easy to forge CNR attestation letters. He was asked to comment on the Canadian IRB and Caritas assertions that the CNR was the only organisation with systematic and competent records: Mr Marku said that he continued to assert that CNR worked in chaos, but that in asylum cases, they had the records. The Canadian Embassy in Rome had come to inspect their files. They had done so regularly and been grateful for the information and for inspecting the files. The CNR cooperated, through emails, and replied to specific questions when asked.
56. The Ministry of Social Work in Albania recommended that every person in blood feud had to approach the CNR. He had the recommendation at the Tirana office of the CNR, sealed with both of the Ministry's secure seals. He referred to an audio report in the Southeast European Times (www.setimes.com) by Linda Karadaku, based on an interview with Mr Marku. His office issued between two and six attestation letters a month, and in some months, none at all. Half of those went overseas, the rest being used to obtain Social Services' support locally. Attestation letters almost always included paragraphs containing recent unrelated incidents, to give examples of the type of killing and make sure the information was local. The Foundation for Conflict Resolution, an organisation of the Catholic Church in Shkoder, supported by Caritas, and Caritas itself, cooperated well with CNR. The Institute of Free Will, supported by US funds, was a project in Shkoder and had concluded that the CNR figures were close to reality, but perhaps under-stated.

The appellant's case and the CNR attestation letters

57. Mr Marku gave evidence of his knowledge of the situation of this particular appellant, on which he had based the attestation letters before us. He had brought with him what he said was a copy of the original attestation letter from the CNR files.
58. Mr Marku produced two other documents, to which we permitted him to refer as an aide memoire, the first being a note he claimed to have taken as part of a general discussion of blood feud with the local Chief of Police in Has, in which the subject of this feud had arisen, and he had placed a copy in the blood feud file because he was aware that the appellant was making an asylum claim in the United Kingdom; and the second, a chronology of the history of this particular feud. Mr Marku said that before coming to the United Kingdom to give

evidence, he had jotted down his recollection of the people he had contacted, because he had inadequate notes on the blood feud file. In each case, the notes were previously undisclosed and written in untranslated Albanian.

59. Mr Marku's opinion was that the feud here was not a classic Kanun blood feud. His organisation had kept records of it, denoting it as relatively intensive, although the only killing had been in 2007. Mr Marku accepted that it was the appellant's turn to kill but considered that, even though he was a peaceful person, he would not dare fail to carry out the next killing. His relatives would urge him to do it. Mr Marku accepted that the appellant's paternal uncles had distanced themselves, but others within the Clan H would 'throw words' and urge the appellant to act. Mr Marku had not met the appellant. Although the death had been in 2007, it was not until 2010 that the family had considered it necessary to seek an attestation letter from CNR. He agreed this was not a standard blood feud but asserted that in the north of Albania, such feuds as this did occur.
60. Asked about CNR's record keeping system, Mr Marku's evidence was that there was no official procedure similar to that of the state administration or the courts. Where very deep matters were concerned, where the family was unable to pursue it elsewhere, the CNR would register the blood feuds and keep some records, following them up with conversational communication. His evidence was that there were no records, but that the organisation sometimes took notes and filed those. Not many notes were taken, for fear of offending the dignity of the person who was seeking their help. He personally took no notes in reconciliations, but his reconciliations were successful. (However, his evidence was that he had taken some notes in relation to the present claimed feud).
61. The appellant's family had approached the CNR on 16 October 2007, according to Mr Marku's aide mémoire. He stated that sometimes he forgot and put the wrong date on notes. Mr Marku was asked to explain why the attestation letter referred to a longstanding rivalry between the two families before the present issue: Mr Marku said that was his clear recollection of conversations that he had with the missionaries in this case. It was a typical North Albanian situation. Every clan wanted to be the top clan. The murder had not been committed in the heat of the moment; there were deep problems and he usually preferred not to go into deep matters, as it might reveal something which the mediators did not want to know, in this case, a previous rivalry or conflict which had not come to light. He was asked how this answer fitted with his assertion in his evidence-in-chief that each case was considered deeply, to understand the exact issue. Mr Marku replied that there was no conflict: the CNR would look deeply into the issue, but not behind it. One had to be careful not to touch on an explosive underlying problem.
62. AG, the eldest brother of Clan G, had put pressure on the appellant's father in 2005 not to challenge them for the Socialist Party; Clan G was a dangerous family. The appellant's father did not accept the pressure. Mr Marku understood that insults had been exchanged which Clan G did not accept. That was the reason for the killing of the appellant's father, and the appellant's complaint to the police had made Clan G more aggressive. The appellant's late father had reported the threat to the police himself. Clan G had not cooperated with the missionaries: they told them not to approach again as Clan G 'knew how to deal with it'.
63. AG was the person of authority within Clan G. He had heard that they were a 'cocky' family, who thought the best of themselves. He had not attempted to verify the account of the 2005 incident with the police. The missionaries had told him that the deceased had verbal conflicts with people, and his death resulted from the report to the police. The missionaries went to

Clan G on several occasions and were finally told not to come there again. The police in such cases were often involved with the powerful clan themselves; there was no point in checking police records. Clan G came from an area near Tropoja, and Tropoja ruled the police.

64. Mr Marku gave an example: DD, a large-scale drug dealer, killed four police officers when he was captured. The relevance of that case to blood feud or this appeal is unclear. In the present case, as so often, there had been no need for him to look for information: it came to him. One member of Clan G, BG, was a police officer. He was aware of the Police Corruption Ombudsman: the CNR had links with him and he was one of the CNR's best partners and collaborators. The previous ombudsman had been very interested in blood feuds and was the only state institution which had thanked western countries such as Germany for their contributions and for giving international protection to those whose life was in danger. The ombudsman's attitude was that western support was of great help in early conciliation. Avenues of redress against police officials did not solve the problem. The ombudsman found for the claimants in 1/3 of the complaints to him. The other northern clans in Kukas, Tropoje and Has, were so strong that 11 people had self-confined.
65. He understood from the missionaries that the appellant had been close to his father and had reported his death to the police station. Asked why no attack had occurred against the deceased's other male family members, Mr Marku observed that the uncles had distanced themselves, and that Clan G were not much interested in attacking the appellant's uncles. He did not wish to speak about the internal relations of the appellant's family, because the aggressors could benefit. The first person in danger was the son of the murdered father, who would remain at risk, even if he behaved like an angel.
66. Mr Marku had received signals that the rest of Clan H felt the danger, and he was concerned that other evil mechanisms might come into play to eliminate the parties. Clan H could be wiped out, because Clan G was powerful. The appellant was still a child; the family had approached CNR without telling him they were doing so, to try to distance him from the problem. The rest of the family would, of course, be fully aware of the involvement of the CNR.
67. Mr Marku was asked what the reference to matters 'deeper than what they seem' in the attestation letter meant. He said that would have come from the missionaries on the ground. He acknowledged that the next killing should be by Clan H, but that his information was that they dared not take on Clan G. However, although the appellant was a peaceful person, Mr Marku remained convinced that he would be urged by relatives to retaliate. He accepted that the appellant's uncles on his father's side had distanced themselves, but other members of the clan would throw words at the appellant and urge him to act. He did not accept that the final sentence of his letter, stating that the appellant's family were in danger at any moment, was an exaggeration.
68. The geographical reach of Clan G was mainly in Has. However, they had businesses in Tirana and elsewhere in Albania. Even if the appellant temporarily relocated, he would not be safe. In other cases of which Mr Marku was aware, those in hiding elsewhere in Albania had been found and killed. An ambush was easy to organise and the perpetrator would never be found. Even if the appellant told Clan G, through the CNR, that he would not kill in return, Mr Marku did not consider that without a public *besa* or forgiveness, Clan G could be trusted to respect that.
69. Ms Gough had no further questions arising out of our questions. In re-examination, Mr

Marku confirmed that, within the CNR, he was the only person who signed attestation letters. The CNR board had decided that no one else would be permitted to do so. If asked by the respondent, the CNR would cooperate respectfully with any request for verification of a particular attestation letter. He now said that he had many notes, here, there and everywhere, but his notes were unsystematic. He would prefer to file them systematically, since he could not remember everything. There was a lot to improve. Such information as he did keep was entirely accurate. He tried to keep a record of the essential matters to give the CNR an orientation. The lack of records had not been an obstacle in verifying attestation letters.

70. The information on the attestation letters generally came to Mr Marku over the phone, from local missionaries. He kept a note of who gave him the information. His notes were often not dated: he did not have the time or the attention to do so. He forgot the technicalities. Sometimes, he did record the date, but when someone came to one's office with such a problem, it was impossible not to feel emotional about it. The government was concerned when people in confinement moved to the city, that the rural feuds might begin to spread to metropolitan areas. The government was well aware of the blood feud difficulty but was also aware that it would not be wise to publicise it.
71. Mr Marku never issued an attestation letter if there was no blood feud. There had to be notes, and he had to be aware of the facts. Difficult cases, for which the CNR opened a file, were followed up. The CNR worked to resolve as many blood feuds as possible, but where there was a file, bureaucracy was required. For example, the Luxembourg Immigration Ministry had concerns and wanted to verify a blood feud. He had sent verifications, but the local committee member in the area had passed away and the work had not been finished. He trusted the missionaries and would not have come to London to give evidence if he were not telling the truth. Where a matter such as this was involved, it was necessary for the information to be correct. One of his concerns was that there should be more information. It was impossible to exclude a risk to the appellant's family, even if Clan G were to promise to take no further action: they might break that promise.

The Marku investigation

72. On 22 February 2012, the appellant's representatives produced a further witness statement for Mr Marku. No leave had been sought to introduce this additional evidence but, in the interests of justice, we considered it. The statement indicated that Mr Marku had been re-interviewed by the Albanian police in Tirana on 8 February 2012. The police told him that a claim had been made that he had provided false documents relating to blood feuds and accepted money for doing so. They had not told him who made the claim. He was told that the investigation was routine, and was asked to provide documents to the police 'so that they could ascertain the way in which the CNR operated and how documents relating to blood feuds were issued and verified'.
73. Mr Marku told the police that the allegation was nonsense, but he had cooperated. He offered them the opportunity to inspect the CNR premises; his account was that the police indicated that copies of the documents would suffice, and that he would be contacted again with a date to bring them in to the Tirana police station. Mr Marku stated that neither he, nor the CNR, had yet been charged with any offence. He asserted at paragraph 5 of his statement that:

'5. ...any claim that either myself or the CNR have acted in an unlawful manner is unfounded and simply wrong. I can also confirm that if any charge or charges were ever to be brought against myself or the CNR that we had acted unlawfully in providing documents relating to blood feuds

both I and the Committee would fight any such charge vigorously until vindicated.'

74. Mr Collins also provided the following online press report dated 5 December 2011, by Besar Likmeta reporting from Tirana in 'Balkan Insight':

"Albanians Charged Over Fake Asylum Claims

Police pressed charges on Friday against two NGO officials accused of selling fake documents about deadly vendettas to Albanians seeking asylum in Western Europe.

Gjin Marku, head of Albania's National Reconciliation Committee, and Pashko Popaj, are charged with selling would-be asylum seekers documents to back up their claims. The papers asserted that they were victims of dead blood feuds in Albania. "The documents have no legal basis and the citizens that received them are not involved in blood feuds," police spokeswoman Laura Totraku said in a statement. Marku and Popaj were not reachable for a comment on Friday.

An investigation by Balkan Insight in October, found that several NGOs were involved in the scheme, selling fake documents claiming that feuds with other families put potential migrant's lives at risk. According to Fredy Rosemont, head of Belgium's Asylum and Migration Department, who recently visited Tirana, none of the applicants met the conditions for asylum under the Geneva Convention.

"We are convinced that the Albanians who have arrived in Belgium did not come here spontaneously," Rosemont said in a joint press conference in Tirana last week. "Behind these people that are falling prey to lies is an entire organisation - networks that provide documents and fake papers in exchange for huge amounts of money," he added.

Visa-free travel to the EU took effect for Albania on December 15, 2010, allowing Albanian citizens to travel to Europe's borderless Schengen zone. Before the visa liberalization process there were few applications for asylum from Albanians in the EU and the recent spike in applications has become a matter of concern for the authorities there."

75. After contacting the British Embassy in Tirana, Ms Gough responded by letter of 23 January 2012. There had been no official response from the Albanian government but she did have available a number of extracts from emails, which had been sent to her in one composite email. The sender's name for the summary email has been redacted. The summary email on 5 January 2012 said this:

"Sorry for not responding sooner. The latest we have from post:

"Please find the following details of the persons and non-governmental organisations involved in providing certificates to support false blood feud asylum claims in Belgium:

- Gjin Marku, 55 years old, Chairman of the Committee of Nationwide Reconciliation [address and telephone numbers given] Website: www.pajtimi.com, www.reconciliation-al.com
- Pashko Popaj, member of the Association of the Peace Missionaries and Blood Feud Reconciliations of Albania, resident in Bajze, Malesi e Madhe, Albania
- Faz Shabal, Mayor of Koplik, 62 years old
- Ramadan Likaj, Chairman of Postribe commune, 45 years old.

The above persons are all currently under investigation from the Prosecution Office for issuing false documents."

“...would like to clarify that the document in itself is not forged but it contains false information. The persons under investigation for issuing these documents have really issued, signed and stamped these documents (with genuine stamps and signatures) but the information they have provided is not genuine as *most of the asylum claimants were not really in a blood feud.*”

“...to obtain a copy of this document is really difficult as the case is under investigation and the persons involved are under prosecution.”

This information just in the form of emails. I am not sure what further information can be obtained at this stage or indeed is available but will approach post.” *[Emphasis added]*

76. Ms Gough relied on three further documents: the Balkan Insight report, an informally translated document from the website www.shqiptarja.com, and an article on the Albanian Screen TV website dated 2 December 2011 entitled, ‘Investigation begins, giving false proof for asylum’:

“Tirana - Investigations for the head of the County Committee of Reconciliation, Gjin Marku and Pashko Popaj, missionary in Malesia e Madhe. Police suspect that they are responsible for issuing false certificates for different citizens, being used for asylum purposes. Investigations showed that they have used their position and have issued falsified certificates that benefit these citizens unfairly asylum in different European countries. Forged certificates and no legal basis to persons who are not represented to be in enmity or vengeance. This phenomenon raises the concern a few weeks ago, the Belgian authorities, who also recorded the highest number of Albanian citizens, who sought asylum for revenge, who then returned to Albania.”

77. The article in Shqiptarja newspaper appeared on its website, www.shqiptarja.com, on 2 December 2011:

“Asylum seekers in the EU, the head of the Blood feud Reconciliation Organisation is put under investigation.

The Department of the Fight against Financial Crime has started an investigation against the Tirana based chairman of the Blood feud Reconciliation Organisation, Gjin Marku and the Shkodra-based member of the Peace Missionaries Organisation, Tom Popaj.

It is suspected the above persons have issued fake certificates to various individuals in order to enable them to claim asylum unjustly in various EU countries. He is charged with “Document Forgery” as provided by article 186 of the Penal Code.

The State Police will follow with the verification of all similar cases.”

78. The investigation of Mr Marku is continuing but we have no further details about it.

Appendix D

Other documents and country materials

Appellant's individual documents

1. Articles with translations from both Shqiptarja and Shekulli newspapers are provided. The article in Shekulli, dated Friday 20 April 2007, speaks of the appellant's father attacking a 'buildings protection policeman' (a security guard), and the guard shooting back five times. The appellant's father is described as 40 years old. In the middle of Thursday 19 April 2007, there was an argument between the appellant's father and the 'buildings policeman', who had overtaken the appellant's father in his car. The appellant's father went home to get his pistol, then drove around town looking for the 'buildings policeman' and when he found him, shot at him, breaking the glass on the policeman's car. The guard pulled out his service pistol and shot back, killing the appellant's father. He then informed his colleagues and required them to arrest him. An investigation had been opened, by Has Public Prosecutor's Office and the Police Interior Service Control.
2. The victim's family had not indicated whether they would revenge the killing. The policeman had an unblemished professional record, whereas the appellant's father was a 'problematic person' who, several years earlier, had 'wonderfully survived an armed attentat'. Police protection was being provided for the killer's family: other police had been to the scene and seized both pistols, and the police vehicle with windows shattered by a bullet. Witnesses had been interviewed at the time.
3. The next day, on 21 April 2007, the Public Prosecutor's Office rejected a claim by the policeman that he killed in self-defence, since 'they had old conflicts between each other'. The policeman risked 10-20 years imprisonment. There had been a quarrel a few days earlier which resulted in hand-to-hand fighting between the two men:

"...On the meantime confidential sources for Shqiptarja newspaper said that these two persons who shot each other two day ago in one of the main streets of Krume have had other conflicts before this time.

According to a resident of Krume who knew both persons involved on the exchange of fire, the policeman and the victim have had a quarrel few days ago, where they had hand-to-hand fighting. While the reasons of the conflict between the building's protection policeman and the resident of [the appellant's village] are unclear, the Public Prosecutor's Office has signed the arrest of [the policeman], keeping him at the custody until the end of the investigation. There will be no requirement for arrest warrant from the court as the policeman has already been arrested in flagrant circumstances. In any event, the local police are anxious of a new blood feud that may occur during the following days."

4. A Certificate from the Village Elders dated 2 December 2008 certified that the appellant was at risk:

"With this document we certify that [the appellant] is in a blood feud because his father [name] was killed. His stay in Albania could cause his death because of this blood feud. We issue this certificate as a document."
5. Family records evidence the appellant's membership of his father's family. A certificate from Antonia Young authenticates the certificates as bearing the correct stamps, notations, and in

three cases, watermarks and holograms, in line with the 1974 Albanian state requirements and the updated requirement arising from a ministerial ruling of 11 December 2003, which came into force on 1 April 2004.

Country materials:

A. European Commission opinion on Albania's application for membership of the EU (9 November 2010)

6. The European Commission considered that Albania's legal framework on human rights and respect for and protection of minorities broadly corresponded to European standards but that there remained concerns about the transparency of the media, corruption, which was endemic, and respect for and protection of minorities.

B. US State Department Reports

7. The 2010 human rights report prepared by the US State Department Report remains the most up-to-date. The report stated that:

"During the year there were continuing reports of societal killings, including both generational "blood feud" and revenge killings. Such killings sometimes involved criminal gangs. According to the Interior Ministry, there were five blood feud-related killings during the year. However, NGOs reported 55 blood feud-related killings during the year. According to NGOs, fear of blood feud reprisals effectively imprisoned approximately 1,490 families their homes. The Court of Serious Crimes tried blood feud cases. The law punishes premeditated murder, when committed for revenge or a blood feud, with 20 years' or life imprisonment."

8. There was no other reference to blood feuds in the report.

C. BBC News Country Profile: Albania

9. The version of this document in the bundle was downloaded on 11 August 2011. The Republic of Albania has a tiny population, just 3.2 million. It became a Stalinist state after World War II and remained so until its transition to democracy in 1990, followed by democratic elections in 1992. In 1999, it absorbed nearly half a million Kosovo Albanian refugees from the Kosovo conflict; many Albanians have left Albania in search of work and their remittances are an important part of the country's economy. There is no mention of the Kanun or of blood feuds.

D. UKBA Country of Origin Material

10. **Key Documents Albania (23 November 2009)** This source draws heavily on the Canadian IRB and US State Department Report reports, which will be considered separately.
11. **Operational Guidance Note (July 2010).** At paragraph 3.6 the Guidance Note set out the blood feud information available. Some feuds were carried out by paid assassins. Government efforts had focused on prevention rather than assistance to affected families. There had been an increase in investigations, according to the Albanian government, resulting in reduction of the number of blood feud murders to two (out of 96 murders nationally overall) in 2007.

12. At paragraph 3.6.8, the Guidance note states that there was no evidence to indicate that legal mechanisms set up to deal with blood feuds could not provide effective protection. Whether internal relocation would assist depended on the commitment of those attempting to enforce the feud. The conclusion, at paragraph 3.6.11, was that:

“3.6.11 Conclusion. In general, the Albanian Government is able and willing to offer effective protection for its citizens who are the victims of a blood feud; however, there may be individual cases where the level of protection offered is, in practice, insufficient. The level of protection should be assessed on a case by case basis taking into account what the claimant did to seek protection and what response was received. Internal relocation may be appropriate in some cases.

3.6.12 The UNHCR consider that there may be some individuals who, because of the circumstances of their case, may be considered to be a PSG. However, we consider that the findings in **Skenderaj** taken together with **SB Moldova** suggest that families affected by blood feuds in Albania are not perceived as being different by the surrounding society and would not form a PSG. The majority of claimants from this category of claim will not, therefore, qualify for either a grant of asylum or Humanitarian Protection and where there is a strong internal relocation argument supported by a previous successful relocation some claims may be certifiable, though most cases are unlikely to be clearly unfounded.”

E. Refugee Documentation Centre of Ireland

13. The bundle contains two such papers, 17 July 2009 and 11 February 2011. The papers summarise materials present elsewhere but do not seek to draw conclusions therefrom. They are therefore of no particular assistance to us since the materials mentioned are already before us.

F. Canadian IRB Materials

14. The bundle contains a number of research documents from the Canadian IRB, analysing the position on blood feuds in Albania. It is clear that the IRB has researched in depth the position on blood feuds and the non-governmental organisations which purport to mediate in this area. The historical responses were as follows:

(a) Response AKB24544 (7 April 2004) examines whether a widow can marry outside her dead husband’s family, if she has a child with him, and whether that would be cause for a blood feud. It sets out the relevant provisions of the Kanun.

(b) Response ALB42520 (17 May 2004) examines the consequences to a family of failure to retaliate against another family when the two families are in a blood feud. It is somewhat sparse:

“Information on blood feuds, including consequences of a family’s failure to retaliate for the murder of a family member when the two families are in a blood feud, and whether the abovementioned situations could trigger a blood feud...could not be found among the sources consulted by the Research Directorate. However, section 873 of the Kanun of Lekë Dukagjinit (KLD), the most widely-known source of customary law in Albania (Shkoder.net n.d.) may be relevant and provides that “[if] one of the victim’s relatives kills the murderer after 24 hours have passed, that person is no longer avenging blood, but is incurring blood (*Kanuni I Lekë Dukagjinit* (KLD) 1989).”

(c) Response ALB43503 (25 April 2005) concerns the position of the CNR and has been largely overtaken by more recent responses. Response ALB43020 dated 3 November 2004 is an earlier

version of the consideration of the workings of reconciliation groups and the existence of state protection. Response ALB42821 of 20 July 2004 covers similar ground.

(d) Response ALB101471 (22 September 2006) concerns the protection measures in place from 2005-2006 and is of no real assistance in assessing protection in 2012. The same is true of the consideration of internal relocation in Response ALB101479 on 13 September 2006 and of AL43501 of 26 April 2005, which lists the leaders and names of the organisations working in the area of blood feud reconciliation, drawn from the CNR website. The Response notes that the CNR website 'indicates that each case of blood feud reconciliation is followed with the help of archived folders, although it does not specify the content, purpose, or length of time for which such records are maintained.

(e) Response ALB103193 (22 October 2009) dealt with the attestation letters, issuing organisations, and how the letters were issued, processed and stored. It was based on in-country evidence from the CNR, and a research view from a Tel Aviv based academic with expertise in blood feuds. The Canadian embassy had supported the CNR's view that it was the only NGO authorised to issue such letters, but a police official stated that while the CNR might have 'some information on [self-confined] families' only state authorities could issue such attestations.

(f) Response ALB103570 (8 October 2010) examined again the means by which reconciliation groups begin working on a case; records kept by such groups to document their work; and the steps normally taken by groups to resolve blood feuds, by reference to the work of an unnamed research fellow at St Chad's, Durham, and other researchers at Roehampton University and Colgate University, indicates that post-1992, non-governmental organisations did keep records' and that the CNR and caritas were 'systematic' and 'competent' in their record-keeping. Before 1992 the records were mainly oral recollections. The number of feuds handled is significantly higher for the CNR as opposed to the AFCR. The report expressed concerns from some sources that certain reconciliation groups had been established to take advantage of available national and/or international NGO funding; that endemic corruption persisted in Albania and that it was impossible to rule out the possibility that attestation letters were being bought and sold, independent of any actual blood feud. The CNR chairman, Mr Marku, had stated that it was impossible to purchase a CNR attestation letter because each had an unique code, protocol number, and his personal signature. The new national mediation law had not been fully implemented and the Research Fellow at St Chad's considered it was unlikely to improve the chances of reconciliation, since both parties still had to be willing.

(g) Response ALB103573 (covering the period 2007-September 2010) examines state protection and support services available to those affected by blood feuds, including whether individuals have been prosecuted for blood-feud-related crimes. It records the vast difference between the figures of the Albanian government and the non-governmental organisations as to the extent of blood feuds in modern Albania, and the opinion of Professor Philip Alston that the correct figures were nearer the very low government levels. The European Commission did not consider that Albania had a coordinated strategy. A specialist on Albanian blood feuds at St Chad's College Durham had given as his opinion that criminal proceedings were not regarded by the aggrieved party as a resolution to a feud. The Albanian police often did not get involved until a criminal had taken place, because of potential danger to the police and their families. Educational assistance was being provided in the Shkodra school district up to grade 9; a boarding school for the children of families in self-confinement had been closed due to discovery of mismanagement of its funds. The unlicensed NGO which had operated the school had misappropriated the funds and the children were reportedly malnourished.

15. In Response ALB103902 (1 February 2012), the CIRB considered the latest information for Albania regarding attestation letters for blood feuds; issuing organizations; how letters are issued, processed and stored; whether issuing organizations are recognized by the government; whether the CNR has the full authority, approved by the government and recognized by international organizations and institutions, to verify the authenticity of blood feuds; fees for mediation services; issuance of false attestation letters. The Albanian government had issued a clarificatory statement of its position in the wake of the arrests of Mr Marku and others:

“In a statement prepared by the Albanian Ministry of Interior for the Research Directorate, an official indicated that some non-governmental organizations (NGOs) in Albania have issued certificates [or attestation letters] to people involved in blood feuds, but these organizations do not have any "legal right" to issue such certificates (Albania 4 Jan. 2012). Similarly, in correspondence with the Research Directorate, the Executive Director of the Albanian Foundation for Conflict Resolution and Reconciliation of Disputes (AFCR), an Albanian NGO established in 1995 for the purpose of conflict resolution and the promotion of tolerance and understanding, stated that some NGOs have issued attestation letters about blood feuds, but that they do not have any official authority to act in this capacity (AFCR 16 Dec. 2011).

The official of the Albanian Ministry of Interior indicated that the police, prosecution office, and the courts are the state institutions that handle blood feud problems, and that the courts and prosecution office are the only agencies authorized by the government to issue certificates related to blood feuds (Albania 4 Jan. 2012). Without providing details, the official indicated that these certificates can be issued after authorities "evaluate whether a case requires further legal protection or not" (ibid.). In contrast to the official's statement, two NGOs active in blood-feud mediation indicated that, to their knowledge, there are no governmental agencies that issue attestation letters about blood feuds (AFCR 16 Dec. 2011; CNR 25 Nov. 2011). Further information about the issuance, processing and storage of these certificates by the courts and prosecution office could not be found among the sources consulted by the Research Directorate.

Regarding the role of NGOs in mediating blood feuds, the Ministry of Interior official explained that NGOs operate in accordance with the Constitution and the 1999 Law on Mediation (Albania 4 Jan. 2012). The official specifically listed the Committee of Nationwide Reconciliation (CNR), the Mission of Feuds Reconciliation, the League of Missionaries of Peace, the AFRC and the Center for Justice and Peace as organizations active in blood feud mediation (ibid.). However, in response to a question about whether any NGOs are approved by the government to verify the authenticity of blood feuds, he noted that NGOs "do not duplicate the powers of the [Court] and the [Prosecution Office] (ibid.)."

16. On behalf of the CNR, Mr Marku had continued to assert that it was the "only organization recognized by the government and it has full authority, approved by the government to verify blood feuds and issue the attestation letters" (CNR 29 Nov. 2011). In relation to the processing of blood feuds and attestation letters, he stated that:

“... The attestation letters are issued only after the verification of a blood feud and confirmation that it would be difficult to reconcile. The attestation letters are signed only by the chairman of the CNR, Mr. Gjin Marku. No one else is authorized to sign letters. The CNR creates a file for a particular blood feud, which includes a copy of the letter. The file may contain information on the situation that caused the blood feud, contact details of individuals involved in the blood feud and notes on reconciliation attempts. All the files are stored in accordance with the Albanian Data Protection Act, in the main office of the CNR in Tirana (CNR 30 Nov. 2011).”

17. Under the heading, 'Purchase of false attestation letters', the CIRB set out the most complete analysis of the difficulties presented by the NGOs in Albania thus far. The research response indicates significant concerns in this area:

"4. Purchase of False Attestation Letters

Various sources report that some NGOs have issued false documents about blood feuds (Albania 2 Dec. 2011; AFCR 16 Dec. 2011; Belgium 29 Nov. 2011, 4-8; *Balkan Insight* 5 Dec. 2011; *ibid.* 27 Oct. 2011; Kojajone.com n.d). In response to an increase in blood-feud related asylum claims in Belgium in September and October of 2011, the head of Belgium's Asylum and Migration Department reportedly claimed that behind the individual asylum seekers "is an entire organisation, networks that provide documents and fake papers in exchange for huge amounts of money" (qtd. in AFP 18 Oct. 2011). According to the Balkan Investigative Reporting Network's publication *Balkan Insight*, the Belgian official met with Albanian authorities to warn them about possible criminal networks (27 Oct. 2011).

Balkan Insight found that some NGOs that claim to work for blood feud reconciliation "routinely sell families documents and certificates saying they could become victims of a fatal vendetta if they do not receive asylum ...," even in cases in which no feud or murder exists (*Balkan Insight* 27 Oct. 2011). The reporter, who went undercover looking to buy a false attestation letter about involvement in a blood feud, was initially offered a certificate by Fran Nikolli, the general secretary of Mother Teresa's Missionaries for Peace, who created a fictitious story about a family targeting the journalist for revenge after an uncle, who was alleged to be a migrant worker in Greece, fatally shot a family member in response to a car accident (*ibid.*). Nikolli offered to sell such a certificate to the journalist for 250 Euros ..., while he claimed that, if the story had been "real," the price would have been 150 Euros ... (*Balkan Insight* 27 Oct. 2011). Moreover, Nikolli said that his organization had released approximately 220 similar certificates in August and September of 2011 (*ibid.*). However, according to the reporter, Nikolli backed out of issuing the certificate after the Albanian police began investigating his organization (*ibid.*). Gjin Mekshi, chair of the Shkodra-based "Nationwide Reconciliation Mission, 'Mother Teresa'," also offered to sell the journalist a similar document about the same "imaginary crime" for 200 Euros ... (*Balkan Insight* 27 Oct. 2011).

Further, sources indicate that two local officials, the head of the town of Postriba and the mayor of Koplik, were indicted for issuing fake certificates about blood feuds (*Balkan Insight* 27 Oct. 2011; *Balkan Web* 24 Oct. 2011). A police representative reportedly stated that the officials "had no legal framework on which to issue such documents and in most cases they are fakes, because the people who received them were not involved in any conflict or vendetta" (*Balkan Insight* 27 Oct. 2011).

A report by the Office of the Commissioner General for Refugees and Stateless Persons (Commissariat général aux réfugiés et aux apatrides) in Belgium cites information from the Albanian State Police report to the effect that the Association of Peace Reconciliation Missionaries of Albania had also issued fraudulent attestation letters to people who were not involved in any blood feuds (Belgium 29 Nov. 2011, 7).

The Albanian news agency Kojajone.com, *Balkan Insight* and the Albanian State Police report on police investigations into the activities of Gjin Marku, the chairman of the CNR, and Pashko Popaj, a member of the Association of Missionaries of Peace and Reconciliation of Blood Feuds, in issuing false documents about blood feuds (Albania 2 Dec. 2011; *Balkan Insight* 5 Dec. 2011; Kojajone.com n.d.).

The Executive Director of AFCR stated that the CNR also has issued false attestation letters and that state authorities have initiated penal proceedings against the organization (AFCR 16 Dec. 2011). According to the Kojajone.com,

[translation]

[The] State Police declared that the two individuals are suspected of using their official positions to issue forged certificates to different people with the aim of applying and obtaining unfair asylum in some countries of Europe, thus committing the offense of falsification of documents. Police sources said that according to verifications and the information gathered by the Financial Crime Directorate at the Department of Organized and Serious Crimes of the State Police in cooperation with police counterparts showed that 55 year-old Gjin Marku, and Pashko Popaj issued forged certificates without legal basis to some citizens who do not appear to be in enmity or vengeance. Citizens were issued certificates in order to seek asylum in Belgium. ... Following investigations conducted by police, it was discovered that Mr. Marku and Mr. Popaj issued forged certificates by making use of their official positions. Thus, the police sent materials against both individuals to the prosecutor for further investigation. (Kojaone.com n.d.)

Similarly, the Albanian state-police press release indicates that the Financial Crime Directorate at the Department of Organized and Serious Crime of the State Police provided materials to the Prosecution Office against Gjin Marku and Pashko Popaj (Albania 2 Dec. 2011). Both individuals were reportedly suspected

[translation]

"of using their official position ... to issue forged certificates to different people with the aim of applying and obtaining unfair asylum in some countries of Europe, thus committing the offense of forgery of documents according to article 186 of the Penal Code" (ibid.).

According to the Criminal Code, the punishment for issuing falsified documents in an official capacity is imprisonment for up to seven years and a fine ranging from 200,000 lek [1881.06 CAD (XE 17 Jan. 2012a)] to two million lek [18793.44 CAD (XE 17 Jan. 2012b)] (Albania 2004, Art. 186).

In addition, the Office of the Commissioner General for Refugees and Stateless Persons in Belgium, in a report about falsified documents in Albania, notes that the Albanian television program "Fiks Fare," during a 27 October 2011 presentation, showed the president of the Peace Missionaries Union Albania, Pashko Toma, while being filmed with a hidden camera, accepting money for signing and stamping a document that was written by an "undercover" journalist (Belgium 29 Nov. 2011, 6). The president "explained to the journalist that he issues similar attestation letters to Albanians from all over the country and that his secretary knows what to do when she writes these kinds of documents" (ibid.).

The same television program showed Gjin Marku, also being filmed with a hidden camera, accepting 300 Euros ... in exchange for the issuance of an attestation letter and the creation of a "vendetta" file for a woman he met for the first time (Belgium 29 Nov. 2011, 6). According to the report,

[Translation]

[She] said that the documents were to be used by her brother to seek asylum in Great Britain. *The documents were written without the Committee of Nationwide Reconciliation verifying the facts or acting as a mediator in this case. ... Gjin Marku explained to the woman that her brother must say during a hearing that he has proof that he is still in danger. ... The woman explained that actually the family [was] not involved in any vendetta, [but] Gjin Marku told her not to worry about it.... (ibid.)*

However, in correspondence with the Research Directorate, the Chairman of the CNR denied the allegations, claiming that they were part of a "political setup" (9 Jan. 2012). Regarding the incident with the hidden camera, in a statement by the CNR, which was signed by the Vice-chairman of the CNR, the Chairman of the National Assembly of the Reconciliation Missionaries and the Secretary and Vice-chairman of the Assembly, and which the Chairman of the CNR provided to the Research Directorate, the authors maintain that the money was charged by the CNR to "cover logistics cost" and the certificate was issued based on the urgency of the case and the lack of time for verification in

accordance with the CNR regulations (CNR 9 Jan. 2012). In earlier correspondence to the Research Directorate, the Chairman claimed that CNR representatives do not receive any money for their reconciliation efforts from families in blood feuds, but that families sometimes pay their travel expenses or accommodations (ibid. 4 Dec. 2011).

Regarding falsified documents, in 22 November 2011 correspondence to the Research Directorate, the Chairman of the CNR warned that there have been several cases in which his signature has been forged and that he has advised international agencies to verify the authenticity of attestation letters directly with the CNR (ibid. 22 Nov. 2011).

The CNR claims that there are about 83 so-called "reconciliation associations" such as [the] League of Missionaries of Peace and National Reconciliation, Mother Teresa Mission of Reconciliation, The Institute of Justice and National Reconciliation, House of Justice and Peace, House of Reconciliation and Peace, etc." (ibid. Oct. 2011, 33). According to the CNR, some of those organizations have issued false attestation letters (ibid.).

The Albanian Ministry of Interior has reportedly established a task force to address the problem of counterfeit documents about blood feuds used by asylum seekers (Sot.com 19 Dec. 2011). Both the Albanian police director (AFP 18 Oct. 2011; Belgium 29 Nov. 2011, 4) and the Minister of Interior (Sot.com 19 Dec. 2011) have vowed to prosecute those who prepare such counterfeit documents (ibid.).

According to the report of the Office of the Commissioner General for Refugees and Stateless Persons in Belgium,

[Translation] "Considering ... the extent of corruption in Albania, it is impossible to be sure about the level of corruption of certain organizations. As a consequence, the attempt of examining the authenticity of an attestation letter can not be conclusive" (Belgium 29 Nov. 2011, 5).

The report also notes that although some organizations have issued fake attestation letters,

[Translation] "it does not mean that all attestation letters issued by those organizations contain false information" (ibid.)." *[Emphasis added]*

G. Australian Government Refugee Review Tribunal (RRT) Country advice: Albania

18. This records dramatically reducing statistics for all homicides in Albania from 1999 (458) to 2007 (87). In relation to blood feuds, the Advice says this:

"2008 article in *The New York Times* stated that an estimated "20,000 people have been ensnared by blood feuds since they resurfaced after the collapse of Communism in 1991, with 9,500 people killed and nearly 1,000 children deprived of schooling because they are locked indoors." The killing of a son is apparently a common form of revenge in blood feuds. Fortunately, blood feud related deaths also appear to be declining in line with the reduction in the overall homicide rate. According to the Interior Ministry, there were four blood feud related killings, out of a total of 85 murders during 2008, the lowest number in 18 years. In 2009 the Interior Ministry only reported one. The US Department of State (USDOS) attributes this, at least in part, to the criminalisation of blood feuds in the criminal code in 2007 and the subsequent codification of a three-year sentence. It reported that "the Court of Serious Crimes tried blood feud cases" and that the "law punishes premeditated murder, when committed for revenge or a blood feud, with 20 years' or life imprisonment."

19. The Advice considers the effectiveness of state protection and whether prosecutions actually occur. Although applauding the ongoing professionalisation of the police force and 'their increasing ability to maintain law and order in a state until recently characterised by

lawlessness.” Measures were being adopted to improve inter-agency cooperation between the police, the prosecutors and the judiciary.

H. CNR materials

20. On 16 April 2010, the CNR responded to what was then a draft of Professor Philip Alston’s report to the UN Security Council concerning blood feuds in Albania. Mr Marku, who wrote the letter, disagreed vigorously with Professor Alston’s assessment of the number of blood feuds and victims and argued strongly for his own, wider definition. He repeated that many killings nowadays did not fit the Kanun and, in particular, that many Albanians confused honour killing with blood taking. He contended that the Albanian government was not able to provide adequate protection and should not claim responsibility for the drop (which he did not accept) in murders linked to blood feuds, ancient or new.

I. Other materials

21. Reports dated 14 February and 10 July 2008 in the New York Times are summarised by HJT Research News Reporting Service. The full report in each case would have been more helpful than a summary by a third party. They provide anecdotal evidence of self-confinement, and commentary on the requirements of Kanun law. The same is true of an article from The World dated 3 June 2007, summarising a particular incident and case.
22. On 26 October 2010, the Southeast European Times reported the killing of a mayor at his home in Kukës the previous day. A number of people had been interrogated but the perpetrators and motive remained unclear.
23. On 11 August 2011, the Telegraph newspaper reported a blood feud, and the intervention of Mr Marku and the CNR therein. Mr Marku, the grandson of a mediator, whose wife was herself involved in a blood feud, had emphasised that the difficulty these days concerned people failing properly to follow Kanun law. The article discussed the casting of a film about a family in the middle of a blood feud. The lead actor was himself a member of such a family:

“...Refet Abazi, the professional actor who plays the father, is in no doubt about the sorrow that blood feuds cause. ...In 1997 his own brother was murdered, and when the chief suspect was arrested and then released without charge, the family came under ‘terrible pressure’ to take revenge. Eventually, though, they resolved the situation another way – one that was arguably much harder, and which required a patience that has not traditionally come easily in this part of the world. ‘My father decided we could not take the law into our own hands,’ Abazi says. ‘He said that if justice could not be delivered by ourselves, or by the state, God would deliver it instead.’ So they simply turned the other cheek.”

There had been no killings on either side since the original 1997 murder.

24. In an article from the newspaper, The World, entitled ‘The Haunting Persistence of Albanian Blood Feuds’, reporting an interview with a CNR mediator Pashk Lleshi, Lleshi stated that the Kanun does not permit killing of a woman or a child, for a piece of land or for an offensive word, but that it is often misused to justify all kinds of criminal revenge, in this case, the shooting of two innocent bystanders in 1997. The injured family are involved in conciliation over coffee and cigarettes. There have been no killings in the 13 years that followed. One of the dead men’s brothers is currently unwilling to reconcile but the article ends on a hopeful note that reconciliation may be brought about soon.

25. An essay by Erwin Koch entitled 'But it was beautiful' reflects the lax use of Kanun to justify murder. Again, it states that the blood taker may not kill the children of the blood giver, his wife, his house, his courtyard, or his livestock. It records that the CNR considers that there have been 10,000 families embroiled in blood feuds in the last 20 years, 1480 of whom seldom leave their homes, and that 2000 people in that situation over the last decade committed suicide. Government figures on the other hand have blood feud killings down from 45 to one case in 2009 and only 130 self-confined families nationally. The author is a Swiss journalist.