Federal Court **Cour fédérale**

2014 FC 151 (CanLII)

Date: 20140217

Docket: IMM-1214-13

Citation: 2014 FC 151

Ottawa, Ontario, this 17th day of February 2014

PRESENT: The Honourable Mr. Justice Roy

BETWEEN:

RAZBURGAJ, Pashko
RAZBURGAJ, Lule
RAZBURGAJ, Juljana
RAZBURGAJ, Klaudia

Applicants

And

MINISTER OF CITIZENSHIP
AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is a difficult case. There is no doubt that blood feuds continue to exist in Albania. However, the Refugee Protection Division of the Immigration and Refugee Board (the “Board”) found that, in this case, the credibility of the main applicants, Pashko Razburgaj and his wife Lule Razburgaj, was such that they are not “persons in need of protection” on account of two blood

feuds. Furthermore, the Board was of the view that state protection is available and adequate in Albania and the complete refusal to even consider asking for state protection would in itself be enough to deny the remedy sought. I have come to the conclusion that the findings cannot be disturbed as they meet the test of reasonableness.

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[2] This is a judicial review application made pursuant to section 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the "Act"). The applicants claimed refugee status in accordance with section 96 and they also claimed for protection under paragraph 97(1)(*b*) of the Act. The Board disposed quickly of the claim under section 96 because there was no nexus with any of the grounds found in section 96. The existence of the blood feud does not satisfy the pre-requirements of section 96. This matter is not before this Court as judicial review has not been sought with respect to that decision. Thus, there is only one issue before this Court and it is whether or not paragraph 97(1)(*b*) applies. The paragraph reads as follows:

97. (1) A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally

(*b*) to a risk to their life or to a risk of cruel or unusual treatment or punishment if

(i) the person is unable or, because of that risk, unwilling to avail themselves of the protection of that country,
(ii) the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that country,
(iii) the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international

97. (1) A qualité de personne à protéger la personne qui se trouve au Canada et serait personnellement, par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait sa résidence habituelle, exposée :

b) soit à une menace à sa vie ou au risque de traitements ou peines cruels et inusités dans le cas suivant :

(i) elle ne peut ou, de ce fait, ne veut se réclamer de la protection de ce pays,
(ii) elle y est exposée en tout lieu de ce pays alors que d'autres personnes originaires de ce pays ou qui s'y trouvent ne le sont généralement pas;
(iii) la menace ou le risque ne résulte pas de sanctions légitimes – sauf celles infligées au mépris des normes

standards, and (iv) the risk is not caused by the inability of that country to provide adequate health or medical care.	internationales – et inhérents à celles-ci ou occasionnés par elles, (iv) la menace ou le risque ne résulte pas de l'incapacité du pays de fournir des soins médicaux ou de santé adéquats.

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[3] Given the circumstances of this case, I believe that the correct approach is to rely strictly on rigorous analysis which, in this case, requires that the standard of review be identified properly, that the burden of proof be allocated and adhered to and that deference, where it is owed, be applied.

Facts

[4] The applicants claim that their return to their country of nationality, Albania, would subject them personally to a risk to their lives or to a risk of cruel and unusual treatment or punishment. That is because, they claim, their families are involved in blood feuds in Albania.

[5] With respect to the blood feud that involves the principal applicant's family, the relevant facts are the following. A dispute began with another family over a piece of land. It had been given by the communist government of Albania to another family. However, the principal applicant's family claimed to be the rightful owners of the land. Starting in 1992, attempts were made by the principal applicant's family to retrieve the said piece of land. The conflict seems to have degenerated over time.

[6] It appears that, in 1998, the principal applicant and his brother made an attempt to delineate what they considered to be their property; that was met by violent resistance by representatives of the other family. As a result of a confrontation, the principal applicant was assaulted and rendered

unconscious. It seems that it took another six years for the principal applicant to leave Albania for the United States. It must be said however that the co-applicant, the wife of the principal applicant, and one of their children had already left for the United States in 1999. They lived in the United States without any status and, with the arrival of the main applicant in 2004, an attempt was made to regularize their legal status in the United States through an application for asylum.

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[7] The applicants sought to get status in the United States on the basis of their political opinions. One of the principal applicant's brothers had been successful before and they felt there was some likelihood of success. However, it appears that the brother's application for asylum had been made in 1989, as the communist regime was still in place in Albania, which most probably favoured a successful application. Be that as it may, the claim by these applicants before the United States authorities was not successful. No attempt was made to raise fears about blood feuds in Albania.

[8] On November 26, 2010, the applicants crossed the border into Canada illegally. They claimed for protection on December 9, 2010.

[9] The attempts to reclaim the land in Albania seem to have continued after the principal applicant's departure for the United States in 2004. On September 26, 2010, brothers and cousins of the principal applicant decided to remove the members of the other family from what they considered to be their land and to re-establish the boundaries. As told by the main applicant in his Personal Information Form [PIF] a gunfight ensued. He says that "[T]hey (representatives of the other family) started approaching us and when they saw that our family wasn't moving, they started

swearing and they started shooting in the direction of my family then they severely wounded my brother Gjek Razburgaj and the others laid down on their stomachs and responded with firearms and shot Luvigji Pjetraci dead and severely wounded Gjeto Pjetraci." I take it that when the principal applicant refers to "approaching us" he refers to the members of his family but does not include himself because, according to his PIF, he was still in the United States.

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[10] Following that tragic incident, the principal applicant claims that his family is jailed in their house in Albania and they would be awaiting the "unexpected that could come from the Pjetraci family".

[11] The other so-called blood feud involves the co-applicant's family and would be the result of the murder committed by the co-applicant's brother in 2003 in the State of Michigan, in the United States. In the principal applicant's affidavit, one can read:

> [11] Parallel to these events, in 2003, a violent incident between my wife's side of the family, the Pepaj and the Sufaj family blew up and became a blood feud. My wife is part of the Pepaj family and many of the family members of this family are in Michigan, USA. In 2003, my wife's brother went to church and shot a man he knew nine times in the back. This was an escalation in violence between the victim and my brother-in-law. A blood feud was declared in Albania between these families. My wife was called by her family members and warned about the official blood feud.

Questions and Issues

[12] As already pointed out, the Board had significant issues with the credibility of the applicants and, at any rate, would have faulted the applicants for not having sought state protection in their country of nationality. In order to be successful before this Court, the applicants must prevail on

both. Furthermore, the applicants contend at this stage that the duty of procedural fairness owed to them has been violated in the use that was made of the specialized knowledge the Board had acquired about allegations of blood feuds in Albania.

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Standard of Review

[13] The parties agree, and the Court concurs, that the allegation of a breach of the procedural fairness duty is reviewable on a correctness standard (*Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190 [*Dunsmuir*]; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12, [2009] 1 SCR 339), while issues having to do with credibility and state protection are subject to a reasonableness standard (*Lawal v The Minister of Citizenship and Immigration*, 2010 FC 558; *Jiang v The Minister of Citizenship and Immigration*, 2008 FC 775; *Mendez v The Minister of Citizenship and Immigration*, 2008 FC 584; *Hinzman v The Minister of Citizenship and Immigration*, 2007 FCA 171).

Analysis

[14] As pointed out, this application is now limited to paragraph 97(1)(*b*) of the Act. The applicants do not claim anymore to be refugees pursuant to section 96.

[15] The difficulty a case like this poses stems from evidence that is often unreliable, or not corroborated, about a phenomenon, blood feuds in Albania, that is not clearly defined. In the case at hand, it is conceded that the applicants did not contact the Albanian authorities and that the blood feud has not been formally declared. It is not that blood feuds do not exist. It is rather that the Board must assess whether the evidence supports an allegation that a particular family is actually involved

in a blood feud, as opposed to relying on a phenomenon in order to gain refugee status in this country. To put it another way, it must go from the general to the specific. General allegations may not suffice.

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[16] The assessment made by the Board is entitled to deference from this Court. It is not for this Court to substitute its view on the matter, but rather the Court may apply the standard of reasonableness which, in the words of the Supreme Court of Canada in *Dunsmuir*, *supra*, at paragraph 47,

> . . . is concerned mostly with the existence of justification, transparency and intelligibility within the decision-making process. But it is also concerned with whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.

[17] Before addressing the two issues reviewable on a reasonableness standard, we can dispose of the claim that the duty of fairness was violated in this case. The applicants complain that the Board member, who professed to have some expertise in cases of that nature from past involvement, used "specialized knowledge" in a manner that did not give the principal applicant an opportunity to contest that "specialized knowledge" because of its lack of specificity.

[18] With respect, I cannot agree with the applicants. I have read carefully the transcripts of the hearings before the Board and the exchanges between the principal applicant and the Board member. Rule 22 of the *Refugee Protection Division Rules*, SOR/2012-256, appears to me to codify the common law which requires that parties be notified where information not already on the record may be relied on. It is only fair that an opportunity be provided to persons before conclusions

detrimental to their interests are reached (see *Judicial Review of Administrative Action in Canada*, Toronto, Carswell, 2013, at 7:3110). Rule 22 reads:

22. Before using any information or opinion that is within its specialized knowledge, the Division must notify the claimant or protected person and, if the Minister is present at the hearing, the Minister, and give them an opportunity to
(*a*) make representations on the reliability and use of the information or opinion; and
(*b*) provide evidence in support of their representations.

22. Avant d'utiliser des renseignements ou des opinions qui sont du ressort de sa spécialisation, la Section en avise le demandeur d'asile ou la personne protégée et le ministre – si celui-ci est présent à l'audience – et leur donne la possibilité de faire ce qui suit :
a) présenter des observations sur la fiabilité et l'utilisation du renseignement ou de l'opinion;
b) transmettre des éléments de preuve à l'appui de leurs observations.

Obviously, the requirements created by the Rules are closer to the "judicial" side of the spectrum as opposed to the "political" or "legislative" end of the spectrum.

[19] The applicants have not argued, with authorities in support, and I have not found any, that the duty on the Board had to be any heavier than that which is outlined in rule 22. A hearing held by the Board should not be turned into a trial. The consequences that attach to these hearings are serious and the measure of procedural fairness must be commensurate. However, it does not reach the level of disclosure found in criminal law, for instance. What rule 22 contemplates is that a protected person be afforded an opportunity to make representations and to provide evidence in line with the representations.

[20] In this case, there is no doubt that the principal applicant, and his counsel, knew precisely about the information and the opinion that were conveyed to him. Two opportunities were in fact given to the principal applicant to correct the "specialized knowledge" displayed by the Board. He knew the case he had to meet and the information in the possession of the Board was specific and

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clear. Contrary to the contention of counsel on this judicial review, I cannot find that the specialized knowledge was so "unquantifiable and unverifiable" that it was impossible to respond. On the contrary, the information was specific and precise.

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[21] Like my colleague Justice Yves de Montigny in *Linares Morales v The Minister of Citizenship and Immigration of Canada*, 2011 FC 1496, I find somewhat surprising that the issue was raised on judicial review and not before the Board. As pointed out by the respondent, the subjects are present in the Board's disclosure package and the issues raised can hardly be considered to be novel. I find myself in agreement with paragraph 13 of *Linares Morales*:

> I note first of all that the applicant was represented by counsel experienced in immigration law during his hearing before the panel. She did not object to the panel's use of its specialized knowledge and did not even request clarification from the panel as to the sources on which it relied in setting out what it considered to be established practices. I will not go so far as to say that the applicant is now barred from raising this issue before the Court, but the fact remains that this issue is being raised late, and this can only undermine the seriousness of this argument.

There was no violation of the duty of fairness in this case.

[22] In order to be successful in this application for judicial review, the applicants must show, on a balance of probabilities, that the Board's decisions on their credibility and the availability of adequate state protection in Albania were unreasonable. If adequate state protection is available, a conclusion with respect to credibility becomes a moot issue. Given that the applicants have failed to convince me that adequate state protection was not available, it will not be necessary to address the credibility issue.

[23] The law on state protection has been usefully canvassed recently in *Ruszo v The Minister of Citizenship and Immigration*, 2013 FC 1004 [*Ruszo*]. Thus, the burden is on the shoulders of applicants as a state is presumed to be able to protect its nationals (*Canada (Attorney General) v Ward*, [1993] 2 SCR 689). It is only with clear and convincing evidence that the presumption will be refuted, and that burden must be discharged on a balance of probabilities (*The Minister of Citizenship and Immigration v Carrillo*, 2008 FCA 94).

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[24] The following two paragraphs taken from *Ruszo*, *supra*, are particularly apposite to the case at hand:

> [32] An applicant for refugee protection is required to demonstrate that he or she took all objectively reasonable efforts, without success, to exhaust all courses of action reasonably available to them, before seeking refugee protection abroad (*Hinzman*, above, at para 46; *Dean v Canada (Minister of Citizenship and Immigration)*, 2009 FC 772, at para 20; *Salamon*, above, at para 5). Among other things, this requires claimants for refugee protection "to approach their home state for protection before the responsibility of other states becomes engaged" (*Ward*, above, at para 25; *Kim v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1126, at para 10 [*Kim*]; *Hassaballa v Canada (Minister of Citizenship and Immigration)*, 2007 FC 489, at paras 20-22); *Camacho v Canada (Minister of Citizenship and Immigration)*, 2007 FC 830, at para 10; *Del Real v Canada (Minister of Citizenship and (Immigration)*, 2008 FC 140, at para 44; *Ramirez v Canada (Minister of Citizenship and Immigration)*, 2008 FC 1214, at para 28; *Stojka v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1371, at para 3; *Ruiz Coto v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1211, at para 11; *Matthews v Canada (Minister of Citizenship and Immigration)*, 2012 FC 535, at paras 43-45; *Kotai v Canada (Minister of Citizenship and Immigration)*, 2013 FC 693, at para 31; *Muli v Canada (Minister of Citizenship and Immigration)*, 2013 FC 237, at paras 17-18; *Ndoja v Canada (Minister of Citizenship and Immigration)*, 2013 FC 163, at paras 16-18, 25; *Dieng v Canada (Minister of Citizenship and Immigration)*, 2013 FC 450, at para 32).
>
> [33] In this regard, doubting the effectiveness of state protection without reasonably testing it, or simply asserting a subjective

> reluctance to engage the state, does not rebut the presumption of state protection (*Ramirez*, above; *Kim*, above). In the absence of a compelling or persuasive explanation, a failure to take reasonable steps to exhaust all courses of action reasonably available in the home state, prior to seeking refugee protection abroad, typically will provide a reasonable basis for a conclusion by the RPD that an applicant for protection did not displace the presumption of state protection with clear and convincing evidence (*Camacho*, above).

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[25] Here, the applicants have not even attempted to seek protection from their country of nationality. Indeed, they have not even raised the issue of blood feuds in the United States where they resided for many years. It is only in Canada where they ask for state protection against blood feuds in Albania. As for Albania, the applicants rather argue that state protection will not be forthcoming. The Board disagreed and that conclusion, in view of the totality of the record, can only be reasonable. The burden was never discharged.

[26] The Board, in its examination of the issue, referred abundantly to a report made about Albania and dated October 31, 2012, as well as to the “Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions” following a mission to Albania by one Philip Alston (the “Alston Report”). In that report done for the Human Rights Council of the United Nations, Mr. Alston provides views and observations on the blood feuds phenomenon in Albania supported by documentary evidence and numerous interviews of senior officials of Albania. It is not surprising that the Board gave significant weight to the Report. I have read the Report too.

[27] Although the applicants showed a subjective reluctance to engage the state, the Board found that the more persuasive views of the United Nations demonstrated an adequate protection against

blood feuds which are in part prosecuted in Albania. Hence, not only are there laws in Albania to punish blood feud killings, but they are enforced.

[28] The Alston Report observes at paragraph 29 that for many families, "… the State should do little because matters of honour and respect must be resolved privately, rather than by the police". That found an echo in the Board's decision, at paragraphs 48 and 49:

> [48] The principal claimant was asked if his family ever approached the state for help to resolve the feud and he said yes they went to village elders and municipal [village commune] officials. He was then asked if, after the failure of the elders to resolve the dispute if the family went to the Albanian federal government or courts for assistance and he said no. He said the dispute/feud was "considered a private matter." Asked if his family ever consulted a lawyer he said no, "we had no idea what a lawyer is." The principal claimant confirmed that at no point did he or any other family member seek assistance above the village level. The Albanian government was never approached for help. The principal claimant was specifically asked if he made a complaint to the police following his assault in 2000 and he said "no one goes to the police, the police don't help, it's a private matter, and the police are corrupt."
>
> [49] His counsel asked the principal claimant what laws do people follow in his region of Albania and he said the Kanun. Counsel then asked him if people were aware that the state has laws as well. He replied "No one talks about Albanian laws because no one recognizes it. State laws are not recognized." Asked if the state would protect him and his family if they went back, the principal claimant said "no, we have no hope with the state. And where we are [from] it's not honourable to go to the state … we must go by Kanun."

[29] The conclusion drawn from the position taken by the principal applicant seems to me to be unassailable. The Board found that this kind of attitude about blood feuds being a private matter and the refusal to acknowledge the authority of the state can hardly constitute clear and convincing

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evidence rebutting the presumption of adequate state protection. The decision not to seek state protection is not clear and convincing evidence that state protection is unavailable.

[30] There was evidence before the Board to support the view that enforcement of laws takes place. Perfection is certainly not required. Indeed it is impossible to attain. The Federal Court of Appeal made the point vividly in *Villafranca v The Minister of Citizenship and Immigration* (1992), 99 DLR (4th) 334, at paragraph 7:

> No government that makes any claim to democratic values or protection of human rights can guarantee the protection of all of its citizens at all times. Thus, it is not enough for a claimant merely to show that his government has not always been effective at protecting persons in his particular situation. Terrorism in the name of one warped ideology or another is a scourge afflicting many societies today; its victims, however much they may merit our sympathy, do not become convention refugees simply because their governments have been unable to suppress the evil. Where, however, the state is so weak, and its control over all or part of its territory so tenuous as to make it a government in name only, as this Court found in the case of *Zalzali v. Canada (Minister of Employment and Immigration)*, a refugee may justly claim to be unable to avail himself of its protection. Situations of civil war, invasion or the total collapse of internal order will normally be required to support a claim of inability. On the other hand, where a state is in effective control of its territory, has military, police and civil authority in place, and makes serious efforts to protect its citizens from terrorist activities, the mere fact that it is not always successful at doing so will not be enough to justify a claim that the victims of terrorism are unable to avail themselves of such protection.

[31] The Alston Report states that the Government of Albania should try to do more, especially in research, community education and outreach (paragraph 47). The phenomenon is complex, with cultural underpinnings and societal pressures. Conversely, the Report finds that not only laws have been adopted, but enforcement seems to produce results:

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> 27. While the criminal justice system is thus significantly flawed, suggestions that it is so inefficient and corrupt as to necessitate continuing resort to blood feuds to achieve justice appear misplaced. There is no evidence that a perceived law and order vacuum explains a continuing attachment to the practice of blood feuds. While some cases, particularly older ones, remain unresolved, and some accused killers have gone into hiding or fled the country and not been extradited, in most of the cases I examined, the killer had either surrendered or been quickly arrested and was prosecuted and sentenced. Moreover, the reduction in recent years in the overall homicide rate has also brought with it a reduction in blood feuds, thus attesting to the impact of more effective policing, among other factors.
>
> 28. A much more salient problem is that many families involved in blood feuds do not see the State's criminal justice system as being capable of addressing their concerns, which centre on the loss of blood and honour caused by the initial killing. Sentencing a killer to a long prison term might be inadequate to satisfy some families' conception of justice, which requires restoration of the lost blood, either through a revenge killing or a voluntary formal reconciliation between the families. The actions of the State vis-à-vis the perpetrator are thus sometimes perceived to be irrelevant in the families' evaluation of whether there has been a "just" response.
>
> 29. On the other hand, the State's role in relation to the family in isolation varies. For many such families, it is limited at best. Some believe that, in practical terms, there is little the State could do to protect them. Others think the State should do little because matters of honour and respect must be resolved privately, rather than by the police. One such family indicated to me that, although they were deeply unhappy with the restraints and strictures of isolation under *kanun*, they felt obliged to remain in isolation in deference to the other family's respect for *kanun* rules. To this family, State intervention was beside the point. Moreover, many isolated families never receive a specific threat to which police could respond; they just believe that the lack of *besa* means they could be targeted at any time.

[32] International refugee protection is only a surrogate form of protection. Only if there is no adequate state protection should there be the protection of another state. In order to get to that point,

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clear and convincing evidence is needed. The following paragraphs, taken from *Ruszo*, *supra*, are compelling:

> [49] In my view, the weight of the jurisprudence establishes that, in the absence of compelling or persuasive evidence which establishes an objectively reasonable basis for refraining from fully exhausting all reasonably available avenues of state protection, it is reasonably open to the RPD to find that the presumption of state protection has not been rebutted with clear and convincing evidence.
>
> [50] In this regard, compelling or persuasive evidence is evidence that provides an objective basis for the belief that taking any of these actions might reasonably expose the applicant to persecution, physical harm or inordinate monetary expense, or would otherwise be objectively unreasonable. It is not unreasonable to expect a person who wishes to seek the assistance and generosity of Canada to make a serious effort to identify and exhaust all reasonably available sources of potential protection in his or her home state, unless there is such a compelling or persuasive basis for refraining from doing so. In brief, this would not satisfy the requirements of the "unable" branch of section 96, discussed at paragraphs 30-33 above. And in the absence of a demonstration of an objectively reasonable well founded fear of persecution, the requirements of the "unwilling" branch, discussed at paragraph 34 above, also would not be met.
>
> [51] For greater certainty, a subjective perception that one would simply be wasting one's time by seeking police protection or by addressing local police failures by pursuing the matter with other sources of police protection, would not constitute compelling or persuasive evidence, unless the applicant had unsuccessfully sought police protection on multiple occasions, as in *Ferko v Canada (Citizenship and Immigration)*, 2012 FC 1284, at para 49.

[33] In his decision, the Board member considered all the evidence before him. He found, primarily, that Albania has laws in force to punish blood feud killings, and that the law was being enforced. He cites a variety of sources detailing a reduction in the homicide rate, the fact that in Albanian blood feuds, the targets are the killer and the killer's nuclear family, not extended family members (such as the principal applicant and his wife). He found that women and children are not

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targeted, based on the most reliable evidence provided. In my estimation, the findings meet the reasonableness test.

[34] The applicants, in their Further Memorandum, tried to rely on *Cekaj v The Minister of Citizenship and Immigration*, 2012 FC 1531, [*Cekaj*] where the decision of a Pre-Removal Risk Assessment officer was quashed by this Court. This decision is of no assistance to the applicants.

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[35] In *Cekaj*, the errors which resulted in the grant of judicial review were of a different order. The Court found that critical evidence had not been reviewed, the decision maker employing standardized phrases such as the evidence was vague, without considering carefully the evidence. The decision maker had not weighed the probative value of the evidence submitted. Not so in the case at bar. The Board did in fact a thorough and reasoned analysis of the documentary and corroborative evidence. One thing is for sure: on judicial review, the Court is not making a determination that there is, or not, adequate state protection in a country. I share the view expressed in *Konya v The Minister of Citizenship and Immigration*, 2013 FC 975, at paragraph 47:

> [47] The second problem is that the Applicant appears to be using findings of this Court as evidence that state protection is not adequate in Hungary. This would be a wrong application of the law. A judge of the Federal Court, sitting in judicial review, is not determining whether state protection is or is not adequate in Hungary. The task of the judge on judicial review is to review the decision to determine whether it is reasonable. Each case will be decided on the basis of the facts and arguments before the Court. In the course of analysis, a judge may express views of what the documentary evidence tends to show. However, these judicial comments cannot be elevated to factual findings. Only the Board is able to make such findings. Use of jurisprudence in the manner proposed by the Applicant is improper.

See also *Karimzada v The Minister of Citizenship and Immigration*, 2012 FC 152, at paragraph 24.

[36] The applicants also rely on the decision in *Andoni v The Minister of Citizenship and Immigration*, 2012 FC 516. It is not clear how referring to the arguments made by the applicant in that case, as done by the applicants, can be used in any fashion. They can hardly be relied on as authorities. Similarly, the applicants seem to refer to paragraphs of the Court's decision in support of credibility findings in the *Andoni* case. Credibility is assessed on a case by case basis. This kind of an argument carries no weight.

[37] The task of the reviewing court is to determine if the decision of the Board on the availability of adequate state protection is reasonable in that it falls within the range of acceptable outcomes in view of all of the evidence before the Board and the law that requires that the presumption be displaced by clear and convincing evidence. I have concluded that the Board's decision is reasonable.

[38] As pointed out, a finding that there is available adequate state protection renders an examination of arguments about credibility moot. I wish however to add in passing that evidence relied on in the past coming from one Gjin Marku, the chairman of an organization called the Albanian Committee of Nationwide Reconciliation, is now under a cloud. The Board quoted extensively from a recent report on Albania in the National Documentation Package; it seems that false documents have been issued by this organization, which only adds to the murkiness about the phenomenon of blood feuds and their prevalence. Given that those reports are already 14 months old, it may be that the investigations into the activities of Mr. Marku and his organization have concluded and an update would be welcome.

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[39] As a result, the application for judicial review is dismissed. At the hearing I raised with the parties if they suggested serious questions of general importance need to be certified, as provided by section 74 of the Act. None was suggested.

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JUDGMENT

The application for judicial review of the decision of the Refugee Protection Division of the Immigration and Refugee Board dated December 12, 2012 is dismissed. No serious question of general importance is certified.

"Yvan Roy"
Judge

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FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-1214-13
STYLE OF CAUSE:	Pashko RAZBURGAJ, Lule RAZBURGAJ, Juljana RAZBURGAJ, Klaudia RAZBURGAJ v. MINISTER OF CITIZENSHIP AND IMMIGRATION
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