

1109644 [2012] RRTA 159 (7 March 2012)

DECISION RECORD

RRT CASE NUMBER: 1109644

DIAC REFERENCE(S): 2009/77 CLF2010/86482

COUNTRY OF REFERENCE: Albania

TRIBUNAL MEMBER: Marten Kennedy

DATE: 7 March 2012

PLACE OF DECISION: Adelaide

DECISION: The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration and Citizenship to refuse to grant the applicant a Protection (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant, who claims to be a citizen of Albania arrived in Australia on [date deleted under s.431(2) of the *Migration Act 1958* as this information may identify the applicant] July 2009 and applied to the Department of Immigration and Citizenship for the visa [in] June 2010. The delegate decided to refuse to grant the visa [in] August 2011 and notified the applicant of the decision.
3. The delegate refused the visa application on the basis the applicant is not a person to whom Australia has protection obligations under the Refugees Convention.
4. The applicant applied to the Tribunal [in] September 2011 for review of the delegate's decision.
5. The Tribunal finds that the delegate's decision is an RRT-reviewable decision under s.411(1)(c) of the Act. The Tribunal finds that the applicant has made a valid application for review under s.412 of the Act.

RELEVANT LAW

6. Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. In general, the relevant criteria for the grant of a protection visa are those in force when the visa application was lodged although some statutory qualifications enacted since then may also be relevant.
7. Section 36(2)(a) of the Act provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia to whom the Minister is satisfied Australia has protection obligations under the 1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention).
8. Further criteria for the grant of a Protection (Class XA) visa are set out in Part 866 of Schedule 2 to the Migration Regulations 1994.

Definition of 'refugee'

9. Australia is a party to the Refugees Convention and generally speaking, has protection obligations to people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

10. The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* (1989) 169 CLR 379, *Applicant A v MIEA* (1997) 190 CLR 225, *MIEA v Guo* (1997) 191 CLR 559, *Chen Shi Hai v MIMA* (2000) 201 CLR 293, *MIMA v Haji Ibrahim* (2000) 204 CLR 1, *MIMA v Khawar* (2002) 210 CLR 1, *MIMA v Respondents S152/2003* (2004) 222 CLR 1, *Applicant S v MIMA* (2004) 217 CLR 387 and *Appellant S395/2002 v MIMA* (2003) 216 CLR 473.
11. Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the regulations to a particular person.
12. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
13. Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve “serious harm” to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). The expression “serious harm” includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial of access to basic services or denial of capacity to earn a livelihood, where such hardship or denial threatens the applicant’s capacity to subsist: s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.
14. Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors.
15. Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase “for reasons of” serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.
16. Fourth, an applicant’s fear of persecution for a Convention reason must be a “well-founded” fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a “well-founded fear” of persecution under the Convention if they have genuine fear founded upon a “real chance” of persecution for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. A “real chance” is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.
17. In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if stateless, unable, or unwilling because of his or her fear, to return to his or her country of

former habitual residence. The expression 'the protection of that country' in the second limb of Article 1A(2) is concerned with external or diplomatic protection extended to citizens abroad. Internal protection is nevertheless relevant to the first limb of the definition, in particular to whether a fear is well-founded and whether the conduct giving rise to the fear is persecution.

18. Whether an applicant is a person to whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

CLAIMS AND EVIDENCE

19. The Tribunal has before it the Department's file relating to the applicant. The Tribunal also has had regard to the material referred to in the delegate's decision, and other material available to it from a range of sources.

Application for protection visa

20. In his application for a protection visa, the applicant stated that he left his country initially to study English and master it so he could use it at his work in Albania. The applicant stated that before he left Albania [in] April 2009, his first cousin [Mr A] was shot by [Mr B]. The applicant stated that his family are Roman Catholic and support the Demo-Christian party whereas [Family B] are Muslims and support the Democratic Party in the area.
21. The applicant claimed that members of [Family B] had gone to his house and threatened his father that they will kill his son (the applicant) because of his support for the Demo-Christian party candidate and the Catholic Church.
22. The applicant claimed that he feared that he will be killed by [Family B] if he returns to Albania. The applicant claims that the police have refused to provide protection. The applicant claimed that his father had tried to reconcile the dispute many times. The applicant claimed that he is being sought after because of his political and religious views, both of which were Christian in nature.
23. The applicant claimed that this political and religious dispute started with the listing of candidates in [Town 1] for the general elections of June 2009. The applicant claimed that the first indication of the conflict was the injury of his cousin by firearm in April 2009. The applicant claims that his father tells him that the threat has been increased during the last 2 to 3 months before the visa claim.
24. Accompanying the application for a protection visa, among other documents, were translations of documents from Albania. One is entitled "Evidence of the village church." It confirms the existence of a blood feud between [Family A] and [Mr B]. Another is entitled "certificate" and purports to be from the chief of police in [Town 2]. The document purports to confirm the injury of [Mr A] by firearm and records that "*the author of this crime is the citizen [Mr B], who is captured and referred to the competent bodies. Despite the measures obtained from us the conflict between two parties continue for the revenge.*"

Interview by the Department

25. The Tribunal has had regard to the recording of the interview held between the applicant and an officer of the Department of Immigration and Citizenship [in] May 2011.
26. In the interview the applicant stated that he was a member of the Demo-Christian Party (PDK) in Albania. The applicant said he joined the PDK four to six years ago but had previously been a socialist. The applicant said that after "some programs they did and things they did I didn't like it" he started supporting the Demo-Christian Party.
27. As to his role within the PDK the applicant said he was just a political member but eventually got to a position which he described as being in the middle. The applicant said that he did some activities with young people, such as giving them reasons why they should be a member of the party.
28. As to the incident involving his cousin, when asked why they shot his cousin, the applicant said:

"Maybe the reason was like, they go to the same school, they used to go to the same school, so I don't know, maybe something happened. Then he like, told my cousin. 'You're Catholic' and some words I don't want to say, and things like, 'we're going to kill you' and things like that."
29. The applicant was asked whether anything had happened before the shooting, to which the applicant had said that some words have been exchanged, but nothing more than that. The applicant said that [Family B] came to his house a couple of times and talked with his father because he was helping the local member, [name deleted: s.431(2)].
30. When asked why the shooting of his cousin was dangerous for him, the applicant said that he was always the target for them not his cousin. The applicant said he was a person who was doing something, he was working and in contact with people.
31. The applicant was asked what was happening to his parents and brother who were still living in Albania. The applicant said they did not have any choice but to live there. He said they are very scared. The applicant said his brother is not a target.
32. The applicant was asked why he did not seek protection in Australia when he first arrived. The applicant said that in the last month of his visa, his parents told him that it was not safe for him to return.

Hearing

33. The Tribunal asked the applicant whether the claim set out in his application for a Protection Visa was accurate and complete, or whether any other relevant events had occurred in the meantime. The applicant said another threat had been made via his father about four or five months ago. The applicant said that every time a political movement arises the threats resurface. The applicant said that his father was stopped in the street by people connected with [Family B]. The applicant said he knew this because he was in regular telephone contact with his father.
34. The Tribunal asked about the applicant's background generally. The applicant said he was from a small town called [Town 3] near [Town 1] He attended school in this town and in the nearby town of [town deleted: s.431(2)]. He obtained a Bachelor [degree].

35. He grew up in [Town 3] with his mother, father and brother. The applicant described [Town 3] as a farming community. His family had [a number of different businesses], until about 5 years ago. The applicant said higher taxes were imposed on his family because they were on the other side of politics. His father now is just farming.
36. Prior to coming to Australia, the applicant said he was living with his parents and working in [Town 2] as an economist in a building company. He started at the company in 2007 when he finished his study.
37. The applicant said that he had decided to come to Australia because he needed to improve his English language. The applicant said he chose Australia because he had some friends in Australia.
38. The Tribunal asked about the applicant's brother. The applicant said that his brother was now in Australia, but he didn't know why. The Tribunal asked for more information from the applicant about his brother's whereabouts and was told by the applicant that his brother, [name deleted: s.431(2)], was in [immigration detention] having been detained at passport control. The applicant said that he thought his brother might have applied for a protection visa.
39. The Tribunal asked the applicant to tell it about his Catholic faith. The applicant said it is not easy being a Catholic in a Muslim place, but one tries to be nice to people. The applicant said that he did not encounter any problems growing up on account of his Catholicism.
40. The Tribunal asked how he would practise his Catholic faith in Albania. The applicant said he would go to the church in [Town 3] every week from the age of about [age deleted: s.431(2)]. The Tribunal asked for the name of the church. The applicant said he did not know the name of the church, but thought it might be called the '[Town 3] Church' or something like that. The Tribunal remarked that it doubted a Roman Catholic Church would have a name like that, and thought it would normally be named after a Saint or similar. The applicant thought it might be named after a nun.
41. Later, the Tribunal told the applicant that it found it very strange that he could not instantly give the name of the Church he attended every week from the age of [age deleted: s.431(2)]. The Tribunal explained that it might lead it to conclude that he is not Catholic as claimed.
42. The Tribunal asked about his practise of Catholicism in Australia. The applicant said that he attended church once or twice a month. The Tribunal asked which church he attended. The applicant said he did not know the name of the church but that it was in [suburb deleted: s.431(2)].
43. The Tribunal asked the applicant about his political involvement. The applicant said he had been a member of the Albanian Socialist Party since he was a child. He said that about 6 ½ years ago he decided to join the PDK. He said it was after he joined the PDK that problems started. The applicant said that his father had been a member of the Socialist party, but explained that having a business and being on 'the other side' was not a good idea. His father had not been active in politics.
44. As to his own activities within the PDK, the applicant said he worked with young people. He said he worked with students and lots of people didn't like it.

45. The Tribunal asked for more information about his change of political allegiance. The applicant said that initially he liked the socialist ideas, including plans for young people and the new generation. He said they would build schools and provide more space for schools. After a time, he said he did not like their ideas, and found there had been no progress with their plans. The socialists had got into power but none of the problems were resolved. As to why he joined the PDK, the applicant said he had been about [age deleted: s.431(2)] years old. The applicant said he was always talking with young people. He said that he would go to schools and talk to the teachers.
46. The Tribunal remarked that its impression from the evidence so far was that the applicant was very vague about what he would actually do as a member of the PDK, and what the party actually stood for. The Tribunal pressed the applicant for more detail about the PDK's platform and his own role. The Tribunal asked what sorts of things he would tell people when he tried to recruit them. The applicant said he would say to people that they would build a school here, provide free books and internet or put a hospital there and a soccer pitch there.
47. The Tribunal asked about the applicant's place within the structure of the party. The applicant said he did not hold an office in the party. The Tribunal asked who he reported to and from whom he obtained instructions about what to say to people. The applicant said that before the election in 2009 he would attend a party meeting for his community. He did not attend the national meeting. He said he would meet with this person five or six times a week in [town deleted: s.431(2)].
48. The Tribunal noted that there was no documentary evidence of his membership of the party. The applicant said he could obtain a copy of his membership card. The Tribunal afforded him an opportunity to do so but no documentation was forthcoming within the time discussed at hearing.
49. The Tribunal asked about the circumstances which gave rise to his fear of returning to Albania. He said that he started to fear going out in about 2009, and he could not go out for a coffee at night with people. He said he first found out that [Family B] had a problem with the PDK at about the time of the 2009 election. The Tribunal asked why he started fearing going out, and whether there had been a particular incident. The applicant did not give an example of any particular incident that led to his fear of going out at the time of the 2009 election. The applicant ultimately said that one of them ([Family B]) had threatened his family. The applicant said prior to his political involvement he had not been threatened by anyone and had never had a problem with [Family B].
50. The applicant said he only feared consequences from [Family B], and not any other groups.
51. The Tribunal asked what started the problem with that family. The applicant said there had not been a pre-existing problem with the family, and problems only arose because he joined the PDK. He found out that [Family B] had a problem with him being in the PDK in 2009 when they stopped his father and told him so. The applicant said that he had never been threatened by anyone about his political affiliations other than a member of [Family B]. The applicant denied that there was any underlying feud for some other reason between his family and [Family B].
52. The Tribunal asked the applicant to tell it about the incident that led him to leave Albania. The applicant said his cousin was shot in a classroom. His cousin was about [age deleted:

s.431(2)]. He went to hospital. The incident had arisen out of a conversation where his cousin was called an offensive Albanian term for an infidel. The applicant said that nothing had happened since.

53. The Tribunal asked what the incident had to do with the applicant. The applicant said it was a political thing and a religious thing. The Tribunal asked why they would shoot a [age deleted: s.431(2)] year old boy if they were actually trying to get to him. The applicant said that maybe they couldn't find him. The Tribunal asked if he was hiding. The applicant said sometimes.
54. The Tribunal asked whether his whole family were members of the PDK and if that is why they were targeted. The Tribunal asked if any other member of the family had been harmed. The applicant said that he thought his brother had been shot, but he was not sure. The Tribunal asked what he meant by 'he thought' his brother had been shot, and why he had not mentioned this previously. The applicant said his brother had refused to discuss it. Noting that the applicant had not mentioned this earlier in the hearing when asked if anything else had happened that might be potentially relevant to his claims, the Tribunal asked whether he had just made this up. The applicant said he had not thought this matter would be relevant.
55. The Tribunal asked why he had not requested Australia's protection soon after his arrival. The applicant said he used to have a good job and had intended to return to Albania, but things had got worse.
56. The Tribunal asked the applicant for some general information about the PDK. The applicant identified the leader of the PDK, and described the political philosophy of the party as being somewhere in the middle.
57. The Tribunal asked whether the applicant could tell it about a significant event that occurred within the party in November 2007. The applicant did not immediately identify any issues, but when provided with more information to the effect that the incident related to 'Nikolle Lesi', the applicant said that he did not think he was in the party anymore. The applicant said the party secured two seats in the 2005 elections.
58. The Tribunal raised a number of concerns it had about the applicant's claims and evidence, and afforded the applicant time to discuss these matters with his representative before responding.
59. First, the Tribunal indicated it did not understand the connection between the applicant's cousin being shot and the applicant's political activities. The Tribunal indicated that it wondered whether there was another basis behind the harm feared from [Family B] that it was not being told about. The Tribunal emphasised that it did not understand how the politics related to the incident, or how the incident related to him.
60. Secondly, the Tribunal indicated that the applicant's evidence that he thought his brother had been shot might lead the Tribunal to believe that the applicant was making up evidence, and the Tribunal might doubt the credibility of the applicant's evidence generally.
61. Thirdly, the Tribunal indicated that it had access to country information that indicated that the authorities did not persecute opposition political parties, and that if there were rogue elements targeting people at a local level then effective protection could be accessed elsewhere in Albania.

62. The Tribunal also indicated that the country information did not support the proposition that there was religious discrimination in Albania, or that there had been politically motivated disappearances. The Tribunal indicated this information might lead the Tribunal to doubt whether any harm feared from the family was politically motivated.
63. The Tribunal also raised its concerns about the applicant's inability to identify the church he had attended in [Town 3]. The applicant then said he thought the church was something like the 'Church of [name deleted: s.431(2)]' but he was not sure. The Tribunal explained that its concerns about his evidence arose because it was the sort of thing it thought should be able to answer instantly.
64. As to the connection between the incident involving his cousin and political or religious affairs, it was submitted that the applicant felt he was a target because he had a good job and was now educated overseas.
65. In relation to his brother being shot, the applicant submitted that his brother had refused to tell him what had happened, and had not understood that it was relevant and there may have been difficulty understanding the purpose of the Tribunal's question. The Tribunal observed that it had not encountered any difficulty communicating with the applicant during the hearing, and noted that the question came about in the context of the Tribunal asking whether any other members of his family had been harmed in connection with the incident involving his cousin or his political affiliations.
66. As to the country information referred to by the Tribunal, the applicant's representative warned about relying on information provided by the US or UK government. The Tribunal asked the applicant's representative what it should conclude from the media articles he had provided. The Tribunal understood that the articles were provided to demonstrate the corruption within Albanian society and government. The applicant's representative confirmed this was the purpose behind the provision of the articles.
67. In terms of the country information to the effect that protection could be obtained from political threats at a local level, the applicant submitted that [Family B] could threaten him in [town deleted: s.431(2)].
68. The Tribunal also suggested that it was difficult to accept that a [age deleted: s.431(2)] year old would mount a politically based attack on another [age deleted: s.431(2)] year old. The applicant said he did not know. The Tribunal also queried why, if the motivation was political, would only one family be targeting the applicant. The Tribunal suggested this may indicate that the motivation was not political.
69. The Tribunal asked if the applicant had ever approached the Police. The applicant said he had, but nothing had happened.
70. The Tribunal afforded the applicant three weeks to provide party membership documents. No documentation was forthcoming. The Tribunal also invited the provision of a translated media article about the attack on the applicant's cousin within the same timeframe. Nothing was provided.

Country information

The Christian Democratic Party of Albania – (PDK)

71. The Political Handbook of the World¹ describes the PDK and the events of 2007 thus:

Christian Democratic Party of Albania (Partia Demokristiane e Shqipërisë—PDK). A member of the 1977 Union for Democracy coalition, the PDK drew support mainly from Shkodër and other northern Catholic towns. It won 1 percent of the vote in the 2001 legislative poll. The then chair of the PDK, Zef BUSHATI, was appointed Albania's ambassador to the Vatican in 2002 and was succeeded as PDK leader by Nikolle LESI, a well-known editor. The PDK secured two seats in the 2005 assembly who had recently left the New Democratic Party (PDr). In November 2007 Lesi split with the party and founded the Albanian Christian Democratic Movement, stating his intention to draw from PDK supporters and compete in the 2009 parliamentary elections.

A local PDK party head was assassinated by a bomb attack in June 2009, although it was not confirmed that the attack was politically motivated.

Leader: Nard NDOKA (Chair).

Christians in Albania

72. The United States Department of State International Religious freedom Report for July-December 2010 states:

By law the country is secular. According to the constitution, there is no official religion and all religions are equal; however, the Sunni Muslim, Bektashi, Orthodox, and Catholic communities enjoy a greater degree of recognition (e.g., national holidays) and social status based on their historical presence in the country.

73. In the context of mixed marriages, but also addressing Albanian religious tolerance generally, DFAT report CX 94926, dated 30 April 2004, reads as follows:

A.1. It is not plausible that as a result of marriage to a Catholic, an Albanian woman would be liable to generalised persecution. Albania is tolerant to different religions and there is very little religious fundamentalism - except possibly for some specific areas in northern Albania.

Death threats within families usually stem from blood feuds (or family vendettas), as opposed to religious or broader persecution. Blood feuds are an old historical practice in Albania, primarily rooted in the tribal society of the northern Albanian highlands. Central to the notion of blood feud is the concept of honour and kinship: a man can be justified in killing someone who has insulted his, or his family's, honour. Subjects in a blood feud can be forced into hiding but only in their own home, which is considered inviolate in the blood feud tradition. It is very difficult to determine if an applicant's asylum claim based on a blood feud is genuine or not. Some countries refuse to accept asylum applications based on blood feud claims.

A.2. The Albanian government is tolerant to different religions and community groups. The Albanian government has enacted religious freedom legislation within its constitution. Further information can be found at “www.keshilliministrave.al” Sources said that although the majority of the Albanian population is Muslim, there is only a relatively small number who strictly practice the religion. As an example, headscarves tend to now be worn mainly by older women living in villages.

¹ Banks, A.S. & Muller, T.C. eds. 2010, *Political Handbook of the World Online Edition*, ‘Albania’, Washington, CQ Press, p.16

The Albanian government has also enacted strong legislation in an attempt to eradicate the blood feud tradition. Penalties for blood feud killings are more severe than for other murders. A credible threat of revenge or blood feud that causes a person to remain in hiding is punishable by up to three years in prison.

74. The Tribunal noted the reservation in the above report regarding some areas of northern Albania.

FINDINGS AND REASONS

75. The Tribunal finds that the applicant is a national of Albania, having travelled to Australia on an Albanian passport. There is no evidence before the Tribunal that the applicant is a national of any other country, or has a right of entry and residence in another country. Albania is therefore the country against which the applicant's claims will be assessed.
76. The applicant claims to have a well-founded fear of persecution due to his membership of a political party, the PDK. The Tribunal notes that the party is a Christian party, and to that extent also considers his claim to have religious aspects to it. The applicant claims to fear harm for a political reason at the hands of the [Family B]. The applicant claims that his cousin was shot because of the applicant's political activities.
77. The Tribunal has first considered the question of whether the applicant is a member of the PDK as claimed. In this regard, the Tribunal does not accept the applicant's evidence as credible. This finding arises from the accumulation of a number of concerns.
78. As mentioned during the hearing, the Tribunal found the applicant to be vague about his own role within the party and indeed the party's political platform. The Tribunal did not consider that the applicant was able to speak about the party's platform and policies in any coherent way consistent with his claim to be involved in recruiting new members, and having regular meetings with superiors within the party. The Tribunal considered the evidence he did give, when pressed, about what he would tell people about the party when trying to recruit them, and considered it rose no higher than general assertions as to the building of schools and soccer pitches.
79. The Tribunal was also concerned that the applicant was unable, without prodding from the Tribunal, to identify the schism within the party of November 2007 when a new party was formed. The Tribunal considers that this event is not something likely to be forgotten by a person who was actively involved in recruiting for the political party.
80. A further issue of concern for the Tribunal relating to this core aspect of the applicant's claim was that the Tribunal afforded the applicant an opportunity to provide a copy of his party membership card. The applicant accepted this offer, but no such documentary evidence was forthcoming within the timeframe discussed and noted at hearing.
81. In addition to these concerns, the Tribunal also formed significant reservations about the applicant's claimed Catholicism in circumstances where he could not confidently name the Church that he claimed to have attended weekly since the age of [age deleted: s.431(2)]. On reflection, the Tribunal considers that it is implausible that a person who claims to be Catholic and to have attended a particular church since the age of [age deleted: s.431(2)] would not be able to instantly recall the name of the church when asked. The Tribunal has had regard to the 'Evidence of the village church' document provided by the applicant, but places no weight on this document in light of its concerns over the plausibility of the

applicant's claimed practising Catholicism. The Tribunal finds that the applicant is not a practising Catholic as claimed.

82. The Tribunal notes that the applicant said that members of the party did not have to be Christian despite its name, and proceeds on the basis that a finding that he has not been a practising Catholic as claimed is not of itself conclusive about his involvement with the PDK, but considers that its reservations about the applicant's Catholicism added further weight to the other matters identified above leading to the Tribunal's conclusion that he was not a member of the PDK as claimed.
83. The accumulation of the concerns outlined above has led the Tribunal to find that the applicant is not a member of the PDK as claimed. The Tribunal finds that the applicant was not involved in political activities on behalf of the PDK. The Tribunal finds that the applicant was not threatened by members of [Family B], or anyone else, as a result of involvement with the PDK, and nor were threats made against him via his father as claimed.
84. The Tribunal also considers that it is implausible that if the applicant feared harm as a result of his political activities that the agents of such harm would be restricted only to members of one family.
85. Turning to the particular incident which the applicant claimed has led him to fear harm, namely the shooting of his cousin, the Tribunal indicated to the applicant at hearing that it was having difficulty understanding how that event related to him. The applicant expressly denied that there was any underlying feud between his family and [Family B], and the problems all stemmed from his political involvement.
86. The Tribunal's rejection of the applicant's claim to have political involvement with the PDK also leads the Tribunal to reject the proposition that the applicant's cousin was shot because of the applicant's political activities.
87. But in any event, the Tribunal considers it implausible that the incident related by the applicant in which a [age deleted: s.431(2)] year old member of [Family B] shot his [age deleted: s.431(2)] year old cousin at school would be because of the applicant's political activities in support of the PDK. The Tribunal can identify no plausible link between the incident recounted by the applicant relating to the shooting of his cousin and his own fear of harm for reason of political opinion, religion or indeed any reason, convention-related or otherwise.
88. The Tribunal considered whether there is another reason why [Family B] would seek to harm the applicant other than his involvement with the PDK. In this regard, the Tribunal took into account the documents provided by the applicant referred to at paragraph 24 above. The Tribunal considered whether his religion, notwithstanding that the Tribunal has found that he is not a *practising* Catholic might lead to harm from [Family B] (and the Tribunal has no doubt about this finding). The Tribunal expressly asked the applicant if there was an underlying feud between his family and [Family B] that he was not telling the Tribunal about, and this was denied.
89. The Tribunal also asked if the applicant had ever encountered any difficulties in the past on account of his religion, and this was also denied. In light of the applicant's evidence in this regard, and the Tribunal's finding that the applicant does not have any political involvement with the PDK, and is not at risk of harm or being threatened for this reason, the Tribunal does

not accept there is any other motivation behind the claimed threats from [Family B] and does not accept that the applicant is in fact being threatened, or is at risk of harm from [Family B].

90. The Tribunal places no weight on the documents referred to above at paragraph 24 referring to the existence of a blood feud between the applicant's family and [Family B]. The Tribunal has found that there is no political motivation to justify any feud as claimed, and nor is there a religious motivation. The applicant has denied that there is any other underlying basis for a blood feud between his family and [Family B]. The Tribunal is not satisfied that there is a blood feud between the applicant's family and [Family B].
91. The Tribunal finds that if the incident involving the applicant's cousin did in fact happen, it was not due to the applicant's political activities, and there is no plausible basis on which the applicant can draw a fear that he too will be harmed for a political reason, or for any other reason.
92. As to the applicant's evidence that he thinks his brother was shot, the Tribunal rejects the applicant's evidence in this regard. The Tribunal considered the evidence about such a significant matter was vague. The Tribunal considers that if, as claimed, the applicant's brother had been shot in circumstances relevant to the applicant's claim, the applicant would have mentioned it at an earlier opportunity. The Tribunal finds that the applicant's brother has not been shot, and the Tribunal is not satisfied that there is a real chance that the applicant would be similarly harmed.
93. The Tribunal also considered whether the applicant might also have a well-founded fear of persecution for reason of religion from a source other than [Family B]. However, the applicant gave evidence at hearing that he had not previously experienced any harm on account of his claimed Christianity, and the Tribunal has found, contrary to the applicant's claims, that he was not a practising Catholic. Looking beyond the applicant's expressed claim to fear harm for reason of his political opinion as an active member of a political party with a Christian foundation (which the Tribunal rejects), the Tribunal is not satisfied that the applicant otherwise has a well-founded fear of harm for reason of religion. The Tribunal is reinforced in this conclusion in light of the general country information citing religious tolerance in Albania, although considering the reservation in the DFAT cable regarding some areas of northern Albania.
94. The Tribunal has concluded that the applicant's claimed involvement with the PDK is untrue, and that there is no plausible basis for him to fear harm out of the incident in which his cousin was shot. The Tribunal also finds that the applicant does not have a well-founded fear of persecution for reason of his religion beyond the context of his membership of a Christian political party. The Tribunal finds that the applicant does not have a well-founded fear of persecution for a convention reason.

CONCLUSIONS

95. The Tribunal is not satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicant does not satisfy the criterion set out in s.36(2)(a) for a protection visa.

DECISION

96. The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.