



**First-tier Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: HU/60457/2023

THE IMMIGRATION ACTS

**Heard at Harmondsworth
On 26 February 2026**

Before

FIRST-TIER TRIBUNAL JUDGE L VELOSO

Between

**KLEVIS DISHA
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr McKee, Counsel
(instructed by Gerald UK Immigration & Legal Services)
For the Respondent: Mr Williams, Presenting Officer

DECISION AND REASONS

1. This is the decision of the Tribunal in the appeal of the appellant against the decision of the respondent made on 14 August 2023 as part of deportation proceedings ('Stage 2 decision'). These proceedings were triggered by the appellant's conviction and sentence to 2 years' imprisonment.

ANONYMITY ORDER

2. No general anonymity order is made because of the public interest of open justice bearing in mind previous Press reporting of this case. An anonymity order is however made with regards to the identity of C only. C remains a child under 18 and was named several times during the course of the hearing. A reporting restriction therefore applies in C's regard.

The Hearing

3. The hearing took place face to face. It was recorded using the Cloud Video. That recording is the record of proceedings and should be consulted in the event of any dispute about what was said at the hearing.
4. The papers in the appeals consist for the respondent of one 111-page bundle ('RB1'), one 72-page supplementary bundle ('RB2'), one 10-page review dated 14 November 2025 and one 10-page review dated 17 February 2026 and for the appellant page 120-127 of his first bundle ('AB1'), one 47-page supplementary bundle ('AB2') and a supplementary witness statement for him and his partner ('P') respectively, a 20-page 'provisions' printout and 2 educational assessment forms, the latter documents forming 'AB3'.

Preliminary issue -anonymity order

5. At the outset of the substantive hearing on 22 January 2026 (which I eventually converted to a Case Management review), Mr Mckee made an application for an Anonymity Order because the appeal had previously attracted a lot of Press attention, and caused a lot of stress due to phone calls and emails received. It would be a shame if the family were exposed again to the same attention. Mr Williams opposed the application on the basis that it was essentially too late. A member of the Press was present at the hearing and taking notes; it was likely that the case would be reported on the day. He relied on the principle of open justice. I refused the application in the interest of open justice and the public interest in this case, previously reported in the Press.
6. At the substantive hearing on 26 February 2026, I made an anonymity order in connection with the appellant's youngest child only ('C'), whose name was mentioned during the oral evidence. Whilst the principle of open justice is important, this does not extend to mentioning the name of a child under the age of 18.
7. The member of the Press in attendance confirmed that he understood.

Preliminary issue -the respondent's reviews

8. At the outset of the hearing, Mr Williams confirmed with regards to the review dated 14 November 2025 that he was relying solely on paragraph [35(2)-(4)]. The rest of the review had fallen away; he did not view RX's report as an 'expert report'.
9. Mr Mckee confirmed that he had not received the respondent's review dated 17 February 2026. He was handed a hard copy of the document, which he read. Once done, he confirmed he did not require a conference with the appellant.
10. Both representatives confirmed that they were effective to proceed.

Issues in the appeal

11. This is a partly remitted appeal.
12. On 17 December 2024, the Upper Tribunal set aside [39]-[50] of the First-tier Tribunal decision promulgated on 12 August 2024 and remitted to a differently constituted Tribunal the sole issue of whether the consequences of the appellant's deportation would be unduly harsh on C.
13. The Upper Tribunal preserved the First-tier Tribunal findings up to [38], which include:
 - (a) That the appellant has a genuine and subsisting relationship with his partner ('P');
 - (b) That it would not be unduly harsh for P to remain in the United Kingdom or travel to Albania were he deported to Albania;
 - (c) That it would not be unduly harsh for their eldest child ('B') to remain in the United Kingdom or travel to Albania were he deported;

As part of the representations made before the Tribunal on 27 June 2024, the Presenting Officer confirmed that the respondent no longer disputed that the appellant is the biological father of B and C.

14. At the substantive hearing on 10 June 2025 (which I eventually converted to a Case Management Review), the representatives agreed that the issues in the appeal are twofold, namely:
 - (a) Would it be unduly harsh on C to travel to Albania with the appellant or remain in the United Kingdom if the appellant were deported to Albania;
 - (b) If the Tribunal finds that it would not be unduly harsh, has the appellant shown very compelling circumstances over and above those described in Exception 1 and Exception 2.
15. The parties maintained their agreement about the limited issues in the remitted appeal at the subsequent hearings on 12 September 2025, 22 January and 26 February 2026.
16. At the substantive hearing on 26 February 2026, Mr Williams confirmed that the respondent largely accepted that C has difficulties.

Evidence and closing submissions

17. The appellant and P gave oral evidence and I heard closing submissions from the representatives, as all set out in the record of proceeding. I then reserved my decision.

FINDINGS

18. I have given full and careful consideration to all the papers, oral evidence and closing submissions. Whilst I have necessarily recorded my findings one after another, I have considered all the evidence in the round and not in isolation.
19. In considering 'unduly harsh' under Exception 2, I have regard to Section 55 of the Borders, Citizenship and Immigration Act 2009 and apply EV (Philippines) [2014] EWCA Civ 874. C was born and has lived all their life in the United Kingdom, over 11 years, where I consequently find that they will have set down their roots; C is a British citizen. C lives with the appellant, P and B. The family have been living together as one unit but for the 9 or so months covering the time of the appellant's arrest until his release from prison in 2017.
20. I find on balance that C's first language is English, as claimed by the appellant and P. Whilst the school Individualised Education Program ('IEP') printouts refer to C's first language as Albanian (page 120 and 125 AB1), English is reported as their first language in the School request for Educational Psychology Involvement form (AB3). In the event that Albanian was in fact C's first language, considering all the evidence in the round, I find on balance that C does not now speak nor understand it. The Referral/Report dated 24 October 2022 reports that Albanian and English are spoken at home and that C does not speak or understand Albanian (AB3). In their report, RX refers to their attempt to conduct part of their session in Albanian and that C could not understand them (page 20 AB2). Whilst in their concluding remarks RX incorrectly refers also to B not speaking Albanian, which is at odds with the appellant's evidence that he and P speak Albanian with B and P's evidence that B travelled to Albania on their own (page 25 AB2), I take into account the fact that RX met and spoke with C. They did not meet nor speak with B (page 10).
21. C has some relatives in Albania, including grandparents. C has met at least their grandparents, whom they visit around once a year. In oral evidence P stated that in preparation for a trip to Albania, they have to let C know about the flight out 1 week beforehand; not too early or C will forget about it. C also needs a day to day activity schedule of who they will meet whilst there and within the last week the details of all that they will be doing. C is not good with change or spontaneity. I find P's evidence entirely credible, which I find consistent with the school and other reports (referred to in detail below). Mr Williams did not make any adverse credibility submissions in closing in relation to that or any other part of her or the appellant's evidence. Taking into account C's particular circumstances, I find on balance that 1-2 weeks per year most years will have led C to become familiar with Albania to a limited extent only.
22. C is presently in school. Whilst there is no suggestion that this is not a mainstream school, C was added to the SEN register in November 2021 with "emotional and academic provision (intervention and in-class strategies)" and has an IEP. In the 2023-2024 academic year, the school requested Educational Psychology involvement with social communication skills and academic on the basis of the following concerns (AB3):

"Struggles expressing ... [their] emotions and will become very defiant and angry with ... [themselves]."

Struggles to understand social situations.

Becomes very withdrawn, especially if something does not go ... [their] way ...

Sensory sensitivities -Struggles with noises, certain textures of foods, smells and clothing ...

Possible social communication difficulties -unaware of social norms in the classroom ...

Often anxious -grabs himself when anxious, pulls at arms, pulls at hair, screaming, kicking feet and stomping ... [their] feet (at least twice a day but can be up to ten times a day)”

“In Year 5, ... [C] is working on the Year 2 curriculum for writing and early Year 3 for reading and maths”

23. A 20-page ‘Provisions’ printout since C’s SEN registration shows progress in some areas with ongoing support to engage required in others. Whilst I accept the submission made in the respondent’s review dated 17 February 2026 that the document does not refer to the appellant’s role in the progress and engagement shown by C, it relates only to the school environment; it does not look at the role of C’s parents at home. This is however acknowledged by the SENCo in their conversation with RX (see below) and by CAMHS in their Education Wellbeing service – Closure Letter dated 5 February 2025 (page 40 AB2).

24. I have considered the contents of the above-mentioned printout in the round alongside the conclusion in the Referral/Report dated 24 October 2022 that C’s development history and screening “do not highlight the need for further assessment” (AB3). Both predate the following views of the school about C as reported in the Occupational Therapy Observation Report dated 2 June 2025 (page 35-35 AB2):

“• [C] ... has difficulties participating successfully in class-based activities. [C] ... struggles to maintain focus for prolonged periods, which results in [them] ... not understanding how to complete tasks or grasp new concepts. [C] ... is currently on a lower curriculum.

• When reading back [their] ... work, it is often difficult to read, although [C] ... is sometimes able to read it [themselves]

• [C] ... requires significant adult support to complete tasks and to use the resources available to [them]....

• [C] ... also presents with difficulties in self-regulation, particularly in relation to sensory processing and emotional regulation. This impacts [their] ... learning, as it can take up to 10 minutes for [C] ... to regulate himself. During this time, [C] ... often does not seek support from an adult. This may result in [C] ... needing time in the ‘Safe Space’ or ‘Rainbow Room’, removing [them] ... from the learning environment for an extended period.

• Tasks need to be broken down into smaller, more manageable steps to provide [C] ... with achievable goals within each lesson.

- According to school staff, [C] ... struggles to cope with structured learning tasks and has limited resilience to complete them. [C] ... has been observed to lack confidence and finds it difficult to persevere when [they] ... anticipates a task will be challenging. [C] ... often engages in short bursts of learning (5–10 minutes) before requesting or requiring a brain break. [C] ... usually takes multiple brain breaks during a lesson.
- [C] ... requires continued adult support and encouragement to start a task.
- It has also been reported that [C] ... has a limited diet”

The report concludes by way of detailed recommendations and strategies for the classroom in connection with emotional regulation, sensory regulation, task engagement and attention span and support for handwriting (page 36-38).

25. In their 'Extended Report -Mental Health Assessment' dated 30 April 2025, RX provides the following background to C's present 'provisions' at school and CAMHS involvement, which RX obtained through direct contact with the SENCo at C's school (page 13 and 14 AB2):

“The SENCo described a long process over the years that [C] ... has been in the school to unpick [C's] ... anxieties and difficulties with emotional dysregulation and education. Initially, the teaching staff thought [C's] ... difficulties could be related to the disruptions caused by the COVID-19 pandemic and its impact on many children. As time went by, the difficulties persisted and increased and they realized that [C] ... required specialist input. [C] ... has received the input from Educational Psychology that has been beneficial both for [C] ... directly but also for teaching staff to get a better picture of [C's] ... learning needs. In terms of emotional regulation, there has been direct work from the Emotional Wellbeing service, a team of CAMHS”

The SENCo further reported the following (page 14 AB2):

“[C's] ... emotional dysregulation is managed in such a way that there are less outbursts; this includes how [C] ... engages with tasks in the classroom, how [C's] ... social interactions are being supported and how [C] ... deals with [their] ... surroundings. The SENCo was keen to describe that this has been the result of work from various professional angles and co-working with parents, [C] ... struggled to engage with interventions at first and [their] ... improvement is a delicate ongoing process.

I have had sight of case papers including the report from the Educational Psychology service, dated [2024] ... , communication from school regarding Child and Adolescent Mental Health Service (CAMHS) referral. The report details difficulties that relate to above mentioned concerns by parents and SENCo. Among specific learning needs identified, the emphasis is in social interactions-following cues and comprehending the situation- rather than the presence of dyslexia or another learning difficulty. The recommendations in this report have been put into action from school with the above results. [C] ... is currently in the waiting list following a referral to CAMHS for a specialist assessment for autism spectrum. My understanding from communication between school and CAMHS

in 2024 was that CAMHS wanted to exclude the potential of other presentations by requesting other screenings and input e.g. educational psychology, prior to accepting the referral. All that has been completed and they have accepted the referral as [C's] behaviours remain consistent with autism spectrum”

RX provides an important context to the 24 October 2022 report's conclusion on the lack of needs shown by C, which conclusion the school departed from later, and CAMHS' decision on 30 April 2025 to proceed with the referral for an ASD assessment.

26. RX refers to the strategies used by the appellant and P (page 17 AB2):

“The family report that they have moved on from a period of [C's] ... life and development when crying, shouting and being in distress was [their] ... constant state, to one of consistent management of [their] ... behaviour. The family has implemented many strategies offered by Emotional Wellbeing service on enabling emotional regulation as well as from Educational Psychology in terms of supporting [C's] ... learning; the situation is now being managed, but it is not one of spontaneous interactions at all times. Parents noticed that [C] ... found [the appellant's] ... voice and/or approach less distressing, so [P] ... engages less on tasks and is the [appellant] ... who takes the lead in this respect”

27. I give significant weight in the round to RX's report. They have provided a detailed cv setting out their qualifications and experience in related fields, including work with CAMHS and completion of specialist assessments (page 28-30 AB2). The respondent does not dispute those qualifications and expertise. I give very limited weight in the round to the sections of their report referring to the healthcare, social care and education system in Albania. I accept the respondent's submission that RX does not have any qualifications nor expertise in those areas, which is conceded in the appellant's skeleton argument. This does not however limit the weight that I give to the remainder of their report for the reasons already given.

28. I find on balance in line with the above-referred documentary evidence that C does have complex behavioural and other issues as set out above, which are ongoing somewhat managed with dedicated school and parental support. They remain on the waiting list for a CAMHS' specialised ASD assessment. Whilst without a diagnosis, C presents with complex and significant behavioural and other challenges on a daily basis, which still require to be addressed.

29. The background evidence provided by the respondent points to the presence and opening in Albania of new centres for children with autism (for example page 11 and 63 RB2). These are however limited in number in a country where there remain a lack of understanding and support from society for children with autism and their family. The CPIN entitled 'Albania: Mental healthcare' Version 3.0 dated January 2025 refers only to the University Centre 'Mother Teresa' as offering clinical services covering "autism and other related disorders" with only 15 working child psychiatrist and 2 psychologists for adults and youth (page 48-49 RB2). The UNDP report entitled 'Autism Never Sleeps: Inside Divjake's Community Center Changing Lives' dated 9 January 2026 reports that 16 children receive individual support in their new centre, that demand far exceeding capacity and already 75 children were on the waiting list (page 63-63 RB2).

30. A research article entitled 'Disability and Autism Spectrum Disorder Among Albanian Youth: An Overview' dated September 2024 reports the following (page 20 and 25 RB2):

“the shift towards greater inclusivity and understanding of disability issues is ongoing, with efforts from various stakeholders, including non-governmental organizations (NGOs) and advocacy groups. These initiatives aim to challenge stigma, promote awareness, and improve access to services for individuals with disabilities, including those with ASD.

The provision of support services for individuals with disabilities in Albania faces several challenges. These include limited financial resources, inadequate infrastructure, and a lack of specialized training for professionals. The healthcare system, while improving, still struggles to meet the needs of individuals with complex conditions such as ASD.

Educational institutions also face challenges in accommodating students with ASD. Inclusion in mainstream schools is often limited by a lack of specialized support and resources. As a result, many families seek alternative solutions, such as special education schools or private therapies, which may not be accessible to all”

“The diagnostic process in Albania faces several challenges. Limited availability of trained professionals, especially in rural areas, contributes to delays in diagnosis. Moreover, there is a need for more comprehensive training programs for healthcare providers to ensure early and accurate diagnosis. The reliance on limited diagnostic tools and lack of integration between different healthcare and educational professionals further complicate the diagnostic landscape”

31. The background evidence referred to at [35(2)-(4)] dated November 2012, September 2006 and 2014 respectively is not representative of Albania at present.
32. On the available background information in the bundles, I find on balance that Albania has only limited services available for children with complex behavioural issues and ASD.
33. Considering all the evidence in the round, I find that it is in C’s best interests to remain with the appellant, P and B in the United Kingdom, the only country C knows, with the invaluable support received so far from the school and awaiting CAMHS’s ASD assessment later in the year. I take into account and give weight to the mention by SENCo to RX that C’s improvement “is a delicate ongoing process”, which would be interrupted by a move to Albania. C’s familiarity with Albania is limited and C does not speak nor understand Albanian.
34. In assessing whether the appellant’s deportation would be unduly harsh on C, I have regard to the fact that C’s best interests is a primary consideration. A primary consideration “is not the same as ‘the primary consideration’, still less ‘the paramount consideration’” (ZH (Tanzania) [2011] UKSC 4 [25]).
35. The relevant test for unduly harsh is set out in HA (Iraq) [2022] UKSC 22 at [41], [42] and [44] as follows:

"I consider that the best approach is to follow the guidance which was stated to be "authoritative" in *KO (Nigeria)*, namely the *MK* self-direction:

"... 'unduly harsh' does not equate with uncomfortable, inconvenient, undesirable or merely difficult. Rather, it poses a considerably more elevated threshold. 'Harsh' in this context, denotes something severe, or bleak. It is the antithesis of pleasant or comfortable. Furthermore, the addition of the adverb 'unduly' raises an already elevated standard still higher.

This direction has been cited and applied in many tribunal decisions. It recognises that the level of harshness which is "acceptable" or "justifiable" in the context of the public interest in the deportation of foreign criminals involves an "elevated" threshold or standard. It further recognises that "unduly" raises that elevated standard "still higher" - ie it involves a highly elevated threshold or standard. As Underhill LJ observed at para 52, it is nevertheless not as high as that set by the "very compelling circumstances" test in section 117C(6)"

"Having given that self-direction, and recognised that it involves an appropriately elevated standard, it is for the tribunal to make an informed assessment of the effect of deportation on the qualifying child or partner and to make an evaluative judgment as to whether that elevated standard has been met on the facts and circumstances of the case before it"

36. Considering all the evidence in the round and my findings set out above, in terms of the go scenario, I find that a move to Albania would undo the progress C has made over the years with ongoing dedicated support from C's school and parents. C's improvement is a "delicate ongoing process". C is awaiting an ASD assessment with CAMHS expected later this year. A move to Albania would interrupt this progress, which C would be left to start all over again, in a country which presents with gaps in necessary services. C's familiarity with Albania is limited to the well prepared and structured visit made with the family. I take into account the appellant's mention in his second witness statement that his family find embarrassing for them that C does not speak Albania "let alone because of [C's] ... difficulties. They would keep their distance" (page 3 AB2). I find that C's lack of knowledge of Albanian would further affect their progress there.
37. Whilst the appellant and P were clear in their evidence that if the appellant were deported to Albania P would remain in the United Kingdom with B and C, I am required to and therefore do consider and make findings on the go and stay scenario. The appellant is required to show that both are met to succeed under Exception 2. In the event that Exception 2 is not met, all findings are relevant to the assessment of 'very compelling circumstances'.
38. In terms of the stay scenario, RX assesses the consequences of a separation of the appellant from C as follows (page 19 AB2):

"My understanding is that managing [C's] ... behaviours, educational needs and emotional regulation has been the result of systematic joint work between parents and school, as well as learning around what helps him. As per 1.7, the input of professionals is done though (sic.) a coordinated and well planned collaborative work between school and specialist services and that way some progress has

been made. The work is ongoing and the progress has not met the targets in terms of education, albeit positive. There is a risk that any disruption in the family home life would impact this joint work negatively. In case of father's removal from the UK, the impact would be certain in my view...

...

Given [C's] ... age a permanent absence of [C's] ... father would be one of severe and traumatic loss. In this case we are speaking of a child who has presented longstanding difficulties and has all the indications of the presence of neurodiversity. As per 2.4, [C] ... struggles with transitions and change in matters that to the majority of people would seem unremarkable. The impact of such a major change in [C's] ... life such as the permanent and abrupt loss of father's presence could be catastrophic in consideration of [C's] ... presentation. This would be reflected in [C's] ... engagement with education and [their] ... overall development"

39. C would be separated from the appellant, with whom they have lived since birth but for 9 or so months in 2017, over 8 years ago. C finds the appellant's voice and/or approach to their behaviour less distressing; the appellant is the one, who 'manages' their behavioural and other issues. C's closeness to the appellant could not be replicated by voice or video calls. One visit per year would not be enough either. This would effectively bring their closeness to an end, which would have serious consequences for C given their complex issues, including with coping with change. Whilst the finding made by the previous Tribunal that it would not be unduly harsh on P to remain in the United Kingdom if the appellant were deported stands in the present appeal, I find on balance that P's reaction to her separation from the appellant would necessarily impact on and further affect C. I take into account P's mental health history as helpfully set out in a GP letter dated 3 June 2025 (page 44 AB2).
40. Considering all the evidence in the round and applying the relevant test as set out above, for the detailed reasons above I find that the appellant's deportation would be unduly harsh for C with regards to the go scenario and unduly harsh with regards to the stay scenario. The consequences on C would not be merely uncomfortable or undesirable and would not amount to a mere inconvenience to C; rather would be excessively severe or bleak taking into account all their circumstances.
41. Having found the appellant's deportation from the United Kingdom to be unduly harsh on C for both the go and the stay scenario, the appellant meets Exception 2 of Section 117C, which is determinative of his appeal. Section 117C(3) sets out the following:

"In the case of a foreign criminal ('C') who has not been sentenced to a period of imprisonment of four years or more, the public interest requires C's deportation unless Exception 1 or Exception 2 applies"

As helpfully summarised by the Supreme Court in HA (Iraq) at [18]:

"The general approach to the interpretation of the statutory scheme

In *KO (Nigeria)* Lord Carnwath (with whose judgment the other Justices agreed) set out the appropriate general approach to interpretation at paras 12 to 15. In summary, he stated as follows:

(i) Part 5A of the 2002 Act must be approached in the context of the history of attempts by Government, with the support of Parliament, to clarify the application of article 8 in immigration cases. The purpose of the changes was to promote consistency, predictability and transparency in decision making and to reflect the Government's and Parliament's view of how as a matter of public policy, the balance should be struck"

42. As a result, I am not required to go on to consider 'very compelling circumstances', which unlike Exception 2 would have required consideration of the seriousness of the appellant's offending and the strong public interest in his deportation.

NOTICE OF DECISION

The appeal is allowed on Human Rights grounds.

Direction Regarding Anonymity – Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014

Until this appeal is finally determined the appellant's child C is granted anonymity. No-one shall publish or reveal any information, including their name or address, likely to lead members of the public to identify them. Failure to comply with this order could amount to a contempt of court.

This order does not restrict disclosure of information relating to this appeal to law enforcement or regulatory agencies, the Bar Council, the Solicitors Regulatory Authority, the Law Society, OISC, or where disclosure is otherwise required by law.

TO THE RESPONDENT

FEE AWARD

As I have allowed the appeal and in the event that a fee has been paid or is payable, I have considered making a fee award and have decided to make no fee award for the following reason.

I allowed the appeal on the basis of the contents of the bundles including detailed witness statements and oral evidence, all of which were not available to the respondent at the time of the decision. This appeal furthermore results from a partial remittal of an earlier First-tier Tribunal decision.



Signed
Judge Veloso
Judge of the First-tier Tribunal

Date 12 March 2026