



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

Appeal Number: AA/09718/2014

**THE IMMIGRATION ACTS**

**Field House  
19 February 2016**

**Decision & Reasons Promulgated  
26 February 2016**

**Before**

**UPPER TRIBUNAL JUDGE ESHUN**

**Between**

**J A**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DECISION ON ERROR OF LAW**

1. The appellant has lodged an application for permission to appeal to the Upper Tribunal against the determination of FtTJ O'Rourke, which was promulgated on 15 October 2015.
2. The appellant's application only challenges the judge's decision on the Article 8 appeal.
3. However, the judge's conclusions at paragraphs 24 and 25 in respect of the asylum claim disclose an error of law, which is material to the decision. The appellant is a citizen of Nigeria. The judge materially erred in law when he considered risk on return to Iraq, his finding that the appellant is a Kurd and can therefore locate himself in the KRG area and that Article 15(c) is not engaged by returning him to the KRG.
4. These findings clearly show that the judge did not apply his mind to the facts that were before him.

5. In the absence of any submissions from either party to my Case Management Directions dated 17 December 2015, I have decided to remit the appeal to the First-tier Tribunal for re-hearing by a different judge.

Signed  
Upper Tribunal Judge Eshun

Date: 19 February 2016