



**Upper Tribunal
(Immigration and Asylum Chamber)** Appeal Number:
PA/05239/2017

THE IMMIGRATION ACTS

**Heard at: Columbus House,
Newport
On: 30 April 2018**

**Determination
Promulgated
08 May 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE J F W PHILLIPS

Between

AQH

(anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Mr D Paxton, Counsel instructed by Migrant
Legal Project

For the Respondent: Mr D Mills, Senior Home Office Presenting
Officer

DECISION AND REASONS

1. This is an appeal against the decision of First-tier Tribunal Judge Woolley in which he dismissed the appeal of the Appellant, a citizen of Iraq, against the Secretary of State's decision to refuse asylum and issue removal directions.

2. The application under appeal was refused on 18 May 2017. The Appellant exercised his right of appeal to the First-tier Tribunal. This is the appeal which came before Judge Woolley on 5 September 2017 and was dismissed. The Appellant applied for permission to appeal to the Upper Tribunal. The application was granted by First-tier Tribunal Judge P J M Hollingworth on 8 November 2017 in the following terms

“The Judge has encapsulated the essence of the issue in relation to the Appellant’s protection claim at paragraph 25 of the decision. The Appellant’s claim for refugee protection in Iraq was that he was at risk on account of his political opinion. He feared ISIS and the family of Ghalib for his actions in reporting Ghalib to the authorities in Chamchamal. The Judge found the account to be credible. The Judge found that the Appellant was at current risk of persecution in his home area of the IKR namely Chamchamal. The Judge reached a global conclusion on the Appellant’s protection claim. The Judge considered the question of internal relocation at paragraph 39 of the decision. The area the Appellant would have to avoid would be Chamchamal since this was the only location, the Judge stated, that ISIS or the Ghalib family had for him. The options for relocation would be for the Appellant to relocate either to Baghdad city or to another part of the IKR. At paragraph 42 of the decision the Judge refers to the telling point made by the Respondent that if the Appellant’s full address had been disclosed no good reason had been shown as to why ISIS or the Ghalib family had not sought the Appellant out personally. Nevertheless, the Judge had earlier in the decision found the Appellant to be at risk of persecution in his home area. The Judge at paragraph 42 of the decision states that the Judge did not accept that even with this limited information as the Judge refers to this that ISIS or the Ghalib family could not have tracked the Appellant down in the time he spent in Chamchamal. It is arguable that the Judge in approaching the question of relocation has departed from the essence of the earlier finding that the Appellant was at risk of persecution. The Judge accepted the country information that ISIS can and do infiltrate IKR territory and that the presence of Ghalib in Chamchamal was perhaps a good illustration of that point. The Judge refers to the Appellant having moved with his family to Rania. The Judge has noted the expert report of Professor Ruth. The Judge found that if the Appellant was returned to the IKR that he could reasonably be expected to relocate to avoid any risk in Chamchamal as stated at paragraph 48 of the decision. The Appellant could safely relocate to a different part of the IKR. The Judge found as stated at paragraph 48 of the decision that the Appellant could regain contact with his family and even if they had now moved away from Rania there would be neighbours who could tell him where they had gone. It is arguable that given this finding in the overall circumstances appertaining in the IKR that the persecutors of the Appellant would be able to find him by doing the same thing as is pointed out in the permission application. It is arguable that this facet of the Judge’s findings in conjunction with the dilution of the essence of the finding as to

persecution has led the Judge into error. It is arguable that the Judge in this context has attached insufficient weight to the conclusions of Professor Bluth with regard to the operational efficiency of ISIS in the IKR in the context of targeting individuals. It is further arguable given the nature of ISIS that the potential diversion of resources within the organisation liberated by the yielding of territory would be expended on exacting revenge in the circumstances of the Appellant's case."

In a rule 24 response dated 5 December 2017 the Respondent opposed the Appellant's appeal arguing that the Judge directed himself appropriately. The Respondent notes that the Judge found that the Appellant could relocate to a different part of the IKR and found that the Appellant had family members who could support him.

Background

3. The history of this appeal is detailed above. The Appellant is a citizen of Iraq born on [] 1986. He left Iraq on 25 October 2016 travelling via Turkey and France before arriving in the United Kingdom on 12 December 2016 and claiming asylum. The basis of his claim was his fear of persecution on the grounds of his political opinion because he had given information about a terrorist called Ghalib to the authorities. Ghalib was an armed member of ISIS. As a result of the information given by the Appellant, Ghalib was arrested, tried and sentenced to death. In consequence of this the Appellant received threats on his life by telephone and text.
4. The Judge found the Appellant's account to be credible and that the repeated threats made amounted to persecution. The Judge found that the Appellant was at current risk of persecution in his home area concluding
"if ISIS or the Ghalib family were to find him in Chamchamal I find that there will be a risk of serious harm or persecution".
5. Having found that the Appellant was at risk of persecution in his home area the Judge went on to consider internal relocation. The Judge concluded (at paragraph 48) that the Appellant could reasonably be expected to relocate to avoid any risk in his immediate home area and noted that there were large metropolises where he would not be at risk. On this basis the appeal was dismissed.

Submissions

6. For the Appellant Mr Paxton referred to his written skeleton argument. He said the difficulty in the decision is the disconnect between finding that the Appellant is at risk in his home area and the finding on internal relocation. If there was a period of time when he was in his home area and not found and that was not sufficient to undermine the credibility of his claim why should it mean that it was safe for him to relocate. He was in Rania from August to October 2016. Professor Bluth comments that ISIS are active in the IKR and have the ability to pursue people. If the Appellant could locate his family by asking neighbours in Rania ISIS could do the same. Why is it that the Judge accepted Professor Bluth's opinion about the danger to the Appellant in his home area but did not accept his opinion when considering relocation. The only reasons given by the Judge seem to undermine his own assessment of risk in the home area. In this respect the Judge speaks in glowing terms about the Appellant's credibility yet does not accept his word about his difficulties in finding his family. So far as the Appellant's family is concerned there is no evidential basis to support the Judge's findings. If the Appellant can simply ask the whereabouts of his family it undermines the Judge's finding on risk of persecution in his home area.
7. For the Respondent Mr Mills said that the Judge accepted the Appellant's account and found that he would be at risk in his home town. He gave evidence against Ghalib and his address was on the witness statement and Ghalib's family came to know of the address. The risk was limited to the home area because of the specific address. It was always about that. ISIS never approached the Appellant at his home address, the threats made were on the telephone and these continued when he relocated to Rania. There is no evidence that ISIS would scour the entire region. The Judge was not bound to agree with Professor Bluth's conclusions and at paragraph 48 he explains why he takes a different view. The influence of ISIS was rapidly waning. So far as contact with his family is concerned there is nothing wrong with the Judge's conclusion that he would be able to regain contact with his family by speaking to neighbours who knew them.
8. I reserved my decision.

Decision

9. This appeal is confined to the issue of internal relocation. The Judge found at paragraph 58 of his decision that the Appellant had established a well-founded fear of persecution in his home area of Iraq but that it would not be unduly harsh to expect him

to relocate to a different area of the IKR to avoid persecution. In the rule 24 response the Respondent does not take issue with the primary finding and Mr Mills raised no issue in submissions. It is the Respondent's case that the Judge directed himself appropriately essentially reaching a sustainable decision.

10. The two errors of law asserted by Mr Paxton are based upon irrationality rather than adequacy of reasoning. As an approach this is no doubt the only one that could be adopted because the Judge gives detailed reasons for reaching his decision on the question of internal relocation. The challenge to his rationality is based upon what is said to be a disconnect between his conclusion that the Appellant was in danger in his home area but would not be in danger elsewhere in the IKR region of Iraq. In some ways it is a submission that carries a risk for the Appellant because whereas the Respondent does not suggest that the conclusion that the Appellant would be at risk in his home area is wrong it is implicit in Mr Paxton's submission of disconnect that one or other of the Judge's conclusions must be wrong.
11. The nature of the assertion therefore makes it necessary to look at the unchallenged conclusion as well as that of internal relocation to see if there truly is a disconnect amounting to irrationality. In this respect the Judge's conclusion that the Appellant was at risk in his home area of Chamchamal was based upon an acceptance of the credibility of his account. The Appellant's witness statement shows that having assisted the Asayish in the detention and conviction of Ghalib the Appellant began to receive threats in about July/August 2016 (paragraphs 29 and 30). The threats came by telephone. The Appellant relocated to Rania at the end of August 2016. His family came with him. He continued to receive threats by telephone. The Appellant left Rania on 25 October 2016 and travelled to the United Kingdom where he sought international protection.
12. In assessing risk of persecution in his home area the Judge accepted that the repeated calls and texts the Appellant received themselves amounted to persecution because they were threats upon his life and as such a severe violation of a basic human right. The finding of the continued risk was informed by but not based on the persecution already sustained, although the Judge does not specifically say it is implicit that the telephone threats can be eliminated by a change of telephone/number, it was based on the possibility of ISIS or the Ghalib family finding him (paragraph 31 of the decision).

13. The Judge explains at paragraph 25 that the Appellant's witness statement in the proceedings against Ghalib would have revealed his telephone number and address in Chamchamal. This informs the Judge's decision as to why he would be at risk in Chamchamal. The Judge refers to this again at the start of his consideration of internal relocation noting that Chamchamal is the only location that ISIS and the Ghalib family have for him. There can in my Judgement be irrationality or disconnect at this point. It is quite clear that the Judge bases his finding of risk of persecution in the home area on his persecutor's knowledge of the Appellant's whereabouts. This is rational. Past persecution was for the reasons given by the Judge manifested in the telephone calls and texts received. Well-founded fear of future persecution was based on those threats being carried out because his persecutors knew his address.
14. The Judge explains his conclusions on internal relocation in significant detail from paragraphs 39 to 48. As noted above there can be no doubt as to the adequacy of reasoning. The Judge notes once more at paragraph 42 and accepts that ISIS and the Ghalib family have the Appellant's address in Chamchamal and telephone number. The Judge comments that the Appellant could have been tracked down at this address. This does not in my Judgement detract from the Judge's finding that the Appellant would have a real and well-founded fear if he remained at this address. His persecutors may not have taken immediate action but with threats to kill continuing and his address being known he would have remained open to physical confrontation at a time chosen by his persecutors. It is however clear that from the time the threats started the Appellant only remained at this address for a matter of weeks (July/August 2016). Before the end of August, he moved to Rania for his own protection remaining there for two months with his family. The telephone threats continued but this, as the Judge notes, is not surprising as he kept the same telephone.
15. The Judge goes on to note the expert report of Professor Bluth and gives clear reasons why he does not agree with the conclusion that the Appellant would be considered to be an IDP. At paragraph 48 of his decision the Judge gives his conclusion on internal relocation finding that the Appellant can reasonably be expected to relocate to avoid any risk in Chamchamal. There is in my Judgement nothing irrational in this conclusion and there is no disconnect with the earlier finding that the Appellant would be at risk in his home area. The clear thread running through the decision is that once the telephone has been discarded or the number changed the risk to the Appellant depends solely upon his persecutors' knowledge of his location. They knew his address in Chamchamal but once he left that

address and its immediate vicinity there is no indication either that his persecutors were aware of his whereabouts or that they were seeking to find his whereabouts. It is pertinent in this respect that the Judge making his decision in September 2017 notes the changing country conditions showing the rapidly waning influence of ISIS, a conclusion to which there is no challenge.

16. Turning finally to the Appellants knowledge of his family's whereabouts there is in my Judgement nothing irrational or inconsistent in the conclusion that he could ask neighbours in Rania for assistance in locating them. The Appellant knows where he and his family were living in Rania. There is no indication that ISIS or the Ghalib family have this information. It is entirely reasonable to expect the Appellant to make those enquiries and there is nothing irrational in the Judge's finding that he could do so.
17. My conclusion from all of the above is that the Judge did not fall into legal error. The Judge very carefully analyses the Appellant's evidence and his overall credibility, the risk to the Appellant in his home area and the possibility of internal relocation. The analysis is detailed and fully reasoned and does not disclose anything that could be said to amount to irrationality. This appeal is dismissed.

Summary

18. The decision of the First-tier Tribunal did not involve the making of an error of law. I dismiss the appeal. The decision of the First-tier Tribunal stands.

Signed:
May 2018

Date: 2



J F W Phillips
Deputy Judge of the Upper Tribunal