



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: PA/06093/2017

**THE IMMIGRATION ACTS**

Heard at Manchester Civil Justice Centre

Decision & Reasons Promulgated

On 3 May 2018

On 14 June 2018

Before

**DEPUTY UPPER TRIBUNAL JUDGE BIRRELL**

Between

**BH**

(ANONYMITY DIRECTION MADE)

Appellant

and

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Greer instructed by Broudie Jackson and Cantor

For the Respondent: Mr Diwnycz Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Introduction**

1. I have considered whether any parties require the protection of an anonymity direction. An order was previously made and shall continue.

2. The Secretary of State for the Home Department brings this appeal but in order to avoid confusion the parties are referred to as they were in the First-tier Tribunal. This is an appeal by the Secretary of State against a decision of First-tier Tribunal Judge Chambers, promulgated on 10 November 2017 which allowed the Appellant's appeal against a refusal of a protection claim on Article 3 grounds.

### Background

3. The Appellant was born on 9 December 2016 and is a national of Iraq, the IKR.
4. On 9 December 2016 the Appellant applied for refugee protection on the basis that she was at risk from her violent husband who she had been forced to marry and who she had left as a result of violence; the authorities had been unwilling to help her when she complained.
5. On 9 June 2017 the Secretary of State refused the Appellant's application. The refusal letter gave a number of reasons. It accepted that her account of a forced marriage and the unwillingness of the authorities to assist was consistent with background material; it found however that her account of having sufficient funds to pay an agent was incredible and that undermined the whole of her claim.

### The Judge's Decision

6. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge Chambers ("the Judge") allowed the appeal on Article 3 grounds finding that while she ran away from a violent husband she was not at risk in her home area as he found she had not established that the male side of her family view her as having committed an honour crime or that her husband had a continuing interest in her. The Judge however found a 'difficulty arises in relation to the mechanics of her return to the Kurdish region' and set those difficulties out at paragraph 20.
7. Grounds of appeal were lodged arguing that the Judge gave insufficient reasons for allowing the case under Article 3 and failed to explain the significance of the lack of a CSID. On 18 December 2017 First Tier Tribunal Judge Chamberlain gave permission to appeal.
8. There is a Rule 24 Response from the Appellants representatives who argue that the Judge clearly found that she would return as a previous victim of domestic violence, she would be returning as a lone woman without the support of her

husband or male relatives or the state and therefore she would face destitution such as to amount to a breach of Article 3. The Judge was entitled to find in accordance with headnote 11 of AA (Article 15(c)) Iraq CG [2015] UKUT 544 (IAC) that the lack of a CSID would be a factor in her facing destitution.

9. On behalf of the Respondent Mr Diwnycz submitted that He understood that the Judge had allowed the appeal under Article 3 on the basis that she would be destitute and that the lack of a CSID was relevant to that as that was the route to accommodation, food and other services.
10. In reply Mr Greer on behalf of the Appellant relied on his detailed Rule 24 response

## **The Law**

### **Finding on Material Error**

11. Having heard those submissions I reached the conclusion that the Tribunal made no material errors of law.
12. As to the duty to give reasons I take into account what was said by the Court of Appeal in MD (Turkey) [2017] EWCA Civ 1958 at paragraph 26:  
  
*“The duty to give reasons requires that reasons must be proper, intelligible and adequate: see the classic authority of this court in Re Poyser and Mills’ Arbitration [1964] 2 QB 467. The only dispute in the present case relates to the last of those elements, that is the adequacy of the reasons given by the FtT for its decision allowing the appellant’s appeal. It is important to appreciate that adequacy in this context is precisely that, no more and no less. It is not a counsel of perfection. Still less should it provide an opportunity to undertake a qualitative assessment of the reasons to see if they are wanting, perhaps even surprising, on their merits. The purpose of the duty to give reasons is, in part, to enable the losing party to know why she has lost. It is also to enable an appellate court or tribunal to see what the reasons for the decision are so that they can be examined in case some error of approach has been committed.”*
13. This is a decision written by a well experienced Judge. He made unchallenged findings at paragraph 18 and 20 that the Appellant had fled from a violent marriage and therefore would not, if returned, be living with her husband and had no male supporters in her own family and could not expect support from the

state. He was therefore obliged to consider how the Appellant could support herself on return in the absence of her husband or other male support. As it is tolerably clear that she could be facing destitution which would be a breach of Article 3.

14. He took into account that she was not an educated person and while she had a history of self employment as a seamstress she need a secure base from which to carry out such work. While he makes no specific reference to the caselaw these are factors set out in headnote 11 of AA (Article 15(c)) Iraq CG [2015] UKUT 544 (IAC) that her ability to resettle in the absence of a CSID she would be unable to support herself. Given her return as a lone female, uneducated and without any assistance she was unlikely to be able to obtain a CSID within a reasonable period of time and this finding was open to him.

15. I am therefore satisfied that the Judge's determination when read as a whole set out findings that were sustainable and sufficiently detailed and based on cogent reasoning.

## **CONCLUSION**

**16. I therefore found that no errors of law have been established and that the Judge's determination should stand.**

## **DECISION**

**17. The appeal is dismissed.**

Signed

Date 8.5.2017

Deputy Upper Tribunal Judge Birrell