



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/13762/2016

THE IMMIGRATION ACTS

Heard at: Manchester
On: 31st January 2018

Decision & Reasons Promulgated
On: 16th March 2018

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

STH & Ors
(anonymity direction made)

Appellants

And

The Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Ms Wilkins, Counsel instructed by direct access

For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant is a national of Iraq born in 1988. His dependents are his wife and child. He appeals with permission the decision of the First-tier Tribunal (Judge Mathews) to dismiss his protection appeal¹.

¹ Permission granted on the 8th November 2017 by First-tier Tribunal Judge Osbourne

2. The substance of the Appellant's case is that he faces a well-founded fear of persecution in his home area of Iraq, the Iraqi Kurdish Region (IKR). He claims to have encountered difficulties with the authorities in Sulaymaniyah on account of his political activities, in particular publishing poetry critical of the government. He claims to have been a supporter of 'Gorran', the 'Change Party'. He further claims that he and his wife have received threats from the family of her ex-husband, a violent and abusive man whom she divorced before she married the Appellant.
3. The First-tier Tribunal rejected the account given in respect of both limbs of the Appellant's case.
4. Ms Wilkins makes several complaints about the approach taken but I need not deal with any of them in great detail since her submissions went unopposed by Mr Diwnycz. The errors identified are:
 - i) The determination states [at §32] that the claimed fear of the Appellant's wife's family was not mentioned in the Appellant's screening or asylum interview, and adverse inference is accordingly drawn from the late mention of this evidence. It is accepted by the Respondent that this is an error of fact. It is accepted that the Appellant did mention this element of his claim in his screening interview [§4.1] and in his asylum interview where he gives a full account of him and his wife having to move to avoid the family, and then being found at their place of internal relocation [§Q183-202].
 - ii) The determination further states that the Appellant failed to explain why his wife's former family did not take direct action against him and his wife. It is again accepted that this is an error, and a failure to take material evidence into account. The account given at paragraph 27 of the Appellant's witness statement explains that when the aggressors came to the family home the Appellant and his wife were not there.
 - iii) The determination fails to have any regard to the unchallenged documentary evidence from ASUDA, a women's refuge where the Appellant's wife stayed after she fled her abusive husband.
 - iv) In reaching its decision the First-tier Tribunal failed to have regard to the relevant country background evidence on sufficiency of protection in the KRI, in particular paragraph 4.1 of the Respondent's CPIN *The Kurdistan Region of Iraq: Access, Possibility of Protection, Security and Humanitarian Situation*.
5. I am satisfied that the alleged errors are made out. In its consideration of the second limb of the Appellant's case the First-tier Tribunal has failed to have regard to material evidence and found discrepancy where in fact there was none. As to whether those errors infected the decision overall, the answer is found at §33 where the Tribunal makes clear that its assessment has been a rounded and holistic one: "when I view all matters above in the context of the entire body of

evidence before me, I find a number of matters that reflect adversely on the credibility of the appellant". It follows that the entire determination must be set aside. The parties agree that the most appropriate disposal would be remittal for hearing *de novo* in the First-tier Tribunal.

Anonymity Order

6. This case involves a claim for international protection. Having had regard to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and the Presidential Guidance Note No 1 of 2013: Anonymity Orders, I therefore consider it appropriate to make an order in the following terms:

"Unless and until a tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies to, amongst others, both the Appellants and the Respondent. Failure to comply with this direction could lead to contempt of court proceedings"

Decisions

7. The making of the First-tier Tribunal decision involved an error in approach such that the decision is set aside.
8. The decision is to be remade *do novo* in the First-tier Tribunal.
9. There is an order for anonymity.

Upper Tribunal Judge Bruce

15th March 2018