



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

Appeal Number: PA/08108/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 23<sup>rd</sup> August 2019**

**Decision & Reasons  
Promulgated  
On 5<sup>th</sup> September 2019**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

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

Appellant

**and**

**M H I  
(ANONYMITY DIRECTION MADE)**

Respondent

**Representation:**

For the Appellant: Mr S Walker (Senior Home Office Presenting Officer)  
For the Respondent: Ms B Asanovic (instructed by Simman Solicitors)

**DECISION AND REASONS**

1. This is an appeal to the Upper Tribunal by the Secretary of State in relation to a judgment of First-tier Tribunal Judge Beach who heard, on 27<sup>th</sup> March 2019 at Taylor House, the appeal of an Iraqi Kurdish man who had made a protection claim which was refused by the Secretary of State. The

appellant was successful in his appeal in a Decision promulgated on 24<sup>th</sup> May 2019.

2. The appellant had fled Iraq when ISIS had entered his home area. He said his father had been killed fighting ISIS and that his father had previously been a member of the Ba'ath Party. The judge was unimpressed by the claim that he would be at risk on account of his father but accepted the appellant's evidence that he had left Iraq with his mother and sibling but that they had become unintentionally separated in Turkey. He accepted that the appellant, being a minor at the time, it was quite probable that it would be his mother who had kept any ID documents and information as to the whereabouts of any persons who could provide support in Iraq. He accepted that the appellant had no contact with family members or anyone who could assist him on return. He accepted that he had no CSID or any ID documents and on that basis would be unable to return and travel to the IKR through the proposed route, which was via Baghdad. However, the judge having so found then allowed the appeal on both asylum grounds and humanitarian protection grounds.
3. The Secretary of State was granted permission to appeal on the basis that the judge had made errors of law. Briefly, the grounds assert that the judge made no finding in respect of what the Convention Reason was and in allowing the appeal on the basis of asylum he had thus erred. He did make that error as he does not identify the Convention Reason and he further erred by allowing the appeal on both asylum and humanitarian protection grounds, which are mutually exclusive. However, it is clear on the basis of the findings that the judge made, which have not been challenged by the Secretary of State, that the appeal could and should have been allowed on humanitarian protection grounds. With the consent of both representatives I set aside the Decision to the extent only that I set aside the appeal being allowed on asylum grounds and I allow it on humanitarian protection and human rights grounds.

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

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 both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.



Signed

Date 28 August 2019

Upper Tribunal Judge Martin