



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

Appeal Number: PA/12997/2018

THE IMMIGRATION ACT

**Heard at Civil Justice Centre Decision & Reasons Promulgated
Manchester**

On 18th March 2019

On 21st March 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

PISHKO [F]

(NO ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Butler of Counsel instructed by Fountain Solicitors

For the Respondent : Mr Tan Senior Home Officer Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge O'Neill promulgated on the 17th December 2018 whereby the judge dismissed the appellant's appeal against the decision of the respondent to

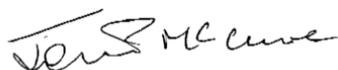
refuse the appellant's claims based on asylum, humanitarian protection and Articles 2 and 3 of the ECHR.

2. I have considered whether or not it is appropriate to make an anonymity direction. Having considered all the circumstances I do not consider it necessary to do so.
3. Leave to appeal to the Upper Tribunal was granted by First-tier Tribunal Judge Gibb on 29th January 2019. Thus the case appeared before me to determine whether or not there was a material error of law in the decision.
4. Ms Butler on behalf of the appellant submitted that in principle there were a number of issues which had been found to the benefit of the appellant. It was accepted that Kirkuk was a contested area and as such was not a safe place to return the appellant to.
5. Thereafter it was an issue as to whether or not the appellant could relocate to other parts of Iraq, including Baghdad and the IKR. Mr Tan for the respondent accepted that there was no cross-appeal but then conceded that the decision was based upon the possibility of the appellant relocating including relocation to Baghdad.
6. Reliance to an extent was placed upon the Country Policy and Information Note (the current one being February 2019, which is in much the same terms as the one before the First-tier Tribunal). That appears to make clear that ethnic Kurds may be able to relocate to Baghdad. There were issues with regard to restrictions placed upon Kurdish individuals from outside Baghdad relocating to Baghdad and otherwise in order to settle in Baghdad sponsorship may be required.
7. Mr Tan accepted that the decision in part was based upon the prospects of the appellant, who was a Kurd from Kirkuk, relocating to Baghdad. In light of the current case law on Iraq as to the prospects of such individuals relocating to Baghdad, Mr Tan conceded that the judge had failed to consider the issues raised in the case law and therefore the decision contained a material error of law and that the proper course was for this matter to be remitted to the First-tier Tribunal to be heard afresh.
8. Ms Butler did not dissent from the view.
9. I therefore find that there is a material error of law in the decision. I set the decision aside and direct that the appeal be remitted back to the First-tier Tribunal for hearing afresh.

Notice of Decision

10. I allow the appeal to the extent that it is remitted back to the First-tier Tribunal for a fresh hearing on all grounds. None of the findings of fact are preserved.

Signed



Deputy Upper Tribunal Judge McClure
2019.

Date 18 March