



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

Appeal Number: PA/01043/2020

THE IMMIGRATION ACTS

**Heard at Field House via Skype for Decision & Reasons
Business Promulgated
On 5 February 2021 On 2 March 2021**

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

**SH
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A S Islam of Fountain Solicitors

For the Respondent: Mr S Walker, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Iraq. He appealed to a Judge of the First-tier Tribunal against the Secretary of State's decision of 27 January 2020 refusing his protection claim. The appeal was dismissed by a Judge of the First-tier Tribunal in a decision dated 26 August 2020.
2. Little need be said about the judge's decision in the circumstances. It was common ground between Mr Islam and Mr Walker that the judge had erred in particular as set out at ground 1, in misunderstanding the background

material concerning a particular element of the appellant's claim. He had claimed to be at risk from the Peshmerga in the IKR, and the judge had concluded from the evidence that the Peshmerga was divided and controlled separately by the two main parties, the KDP and the PUK. However, the background evidence provided to the judge showed that the risk to the appellant came from the internal security forces in the IKR rather than being simply a risk from the PUK. As was argued in the grounds, the appellant was at risk on the basis of the documentation provided from the Ministry of Peshmerga which had influence and power throughout the IKR.

3. I agree with the joint submission that has made in this regard. There is therefore a material error of law by the judge in conflating the evidence with regard to the military presence on the ground, and the extent of re-making the decision is such that it will have to be done in the First-tier Tribunal. I direct that there be a full rehearing of this appeal at a face to face hearing in Birmingham before a judge other than Judge Chohan, with a three hour time estimate and a Kurdish Sorani interpreter.
4. An anonymity direction is made.

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 their 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 12th February 2021

Upper Tribunal Judge Allen