



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

Appeal Number: PA/09124/2019 (V)

**THE IMMIGRATION ACTS**

**Heard at Manchester CJC**

**Decision & Reasons  
Promulgated**

**At a remote hearing via Skype for  
Business  
On 29 April 2021**

**On 7 May 2021**

**Before**

**UPPER TRIBUNAL JUDGE PLIMMER**

**Between**

**AAO  
ANONYMITY DIRECTION MADE**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Greer, Counsel

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

**DECISION AND REASONS (V)**

*Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI2008/269) an Anonymity Order is made. Unless the Upper Tribunal or Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This prohibition applies to, amongst others, all parties.*

1. The appellant has appealed against a decision of the First-tier Tribunal ('FTT') (Judges TR Smith and D Kelly) sent on 18 February 2020, dismissing his appeal on international protection grounds.
2. I maintain the anonymity direction made by the FTT because the appellant, a citizen of Iraq, has made a claim for international protection.

## **Background**

3. In her decision dated 25 May 2019, the respondent accepted the vast majority of the appellant's account. In particular, the respondent accepted that the appellant:
  - is a citizen of Iraq of Kurdish origin who resided in Koya city in the KRI;
  - was discovered as being involved in an extra-marital relationship with K, a married woman and daughter of an Iman, on 29 October 2018, which resulted in K being killed in an 'honour killing';
  - did not return home but immediately fled Iraq with the assistance of an agent (paid for by his paternal uncle), his family members having been threatened that he would be killed.
4. The respondent therefore accepted the material facts underlying the appellant's asylum claim but concluded that he would not be at prospective risk in Iraq because he (i) would obtain police and sufficient state protection and, in any event (ii) would be able to internally relocate to Erbil or Sulaymaniya. The respondent considered that internal relocation was an option available to the appellant because, inter alia, he would be able to contact his family in Iraq in order to obtain his CSID (which he had left behind in the family home when he fled).
5. The appellant relied upon a short witness statement before the FTT dated 2 October 2019. This alleged that he had been disowned by his family and as such they would not assist him to return to Iraq by providing his CSID or otherwise. The FTT rejected this evidence and found that the appellant could safely and reasonably internally relocate to another part of the KRI.

## **Appeal to the UT**

6. The grounds of appeal are twofold and challenge the two key conclusions of the FTT. Permission to appeal was granted by UTJ Jackson in a decision dated 29 May 2020.

7. At the hearing before me Mr Greer relied upon the grounds of appeal. As to ground 1, he submitted that when the appellant's asylum interview was read as a whole, it was simply irrational to conclude, as the FTT did, that the appellant failed to explain that he had been disowned by his family. Mr Greer also relied upon ground 2 and submitted that the FTT's findings in support of internal relocation were not open to it. Mr Tan relied upon a comprehensive rule 24 response in which he addressed each of the grounds of appeal. I address these submissions in more detail below.
8. After hearing from both representatives, I reserved my decision, which I now provide with reasons.

### **Error of law discussion**

9. I am entirely satisfied that the FTT's decision contains material errors of law, as pleaded in the grounds of appeal, and must be set aside.

#### *Ground 1 - adverse finding regarding contact with family*

10. As set out in ground 1, each of the two reasons provided by the FTT for disbelieving the appellant's claim that he did not have contact with his family and they would not assist him because of his behaviour with K, do not withstand scrutiny.
11. In the particular circumstances of this case, at [65] the FTT irrationally concluded that the appellant's failure to categorically state at the interview "*what he now says is the truth (that he was disowned by his family) is a factor that weighs heavily against his credibility*" (my emphasis). It is significant that the core of the appellant's account was entirely accepted by the respondent. The decision letter drew attention to internal and external consistencies regarding material aspects of the appellant's account. By contrast, within its decision, the FTT has not drawn attention to any cross-examination of note. The appellant's general credibility was an important foundation from which to approach this particular issue. Although the FTT said at [67] that it took into account factors pointing 'for' and 'against' the appellant's credibility, there has been no clear recognition of the significance of the respondent having already accepted almost every single aspect of the appellant's core account. The plausibility of the appellant's claim is mentioned at [64] without mentioning any of the other significant factors in support of the appellant's credibility.
12. As stated in the grounds of appeal, the appellant's responses at interview were not inconsistent with his claim that his family had disowned him. Indeed, the appellant said that he had no contact with his family (Q 46) since the incident, he did not 'dare' phone them (Q 163) and his uncle told him that his father said "*just do what you can do with him*". When the interview is read as a whole, it is clear that the briefly stated claim that he was disowned by his family did not

materially embellish what had already been disclosed during the interview: the appellant had no contact with his family because they washed their hands of him after his perceived breach of social mores and the shame that brought with it.

13. The FTT irrationally found that that 'the truth' of having been disowned was not tolerably clear from a combination of what was said in the interview together with how most families would react in the context of the country background evidence on the KRI, particularly in the light of it having been accepted that the appellant was a generally credible witness.
14. As to the uncle, when [64] to [66] are viewed together, this was clearly a factor the FTT regarded to be of less importance. In any event, as UTJ Jackson observed when granting permission to appeal, the FTT failed to make any specific findings as to whether the appellant was otherwise in contact with his family in Iraq and simply assumed that they would be willing to support his return. That assumption is inconsistent with the appellant's clear evidence that he has had no contact with his family since he fled in 2018 and they were resolute in the need for him to flee Iraq quickly.

#### *Ground 2 - internal relocation*

15. The respondent's case was clearly set out in the decision letter to the following effect: (i) the appellant's genuine subjective fears were not well-founded because he would be able to access state protection in his home area; (ii) even if state protection was unavailable in his home area he could safely relocate because K's family members did not have the motivation, power or influence to locate him in other parts of Iraq; and it would be reasonable for him to internally relocate. In these circumstances, it is unclear why the FTT addressed internal protection before addressing the sufficiency of state protection. Internal relocation only became material if the FTT reached the conclusion that the appellant could not obtain state protection in his home area.
16. It is clear from [87] to [90], and the conclusion at [91] that the FTT was satisfied, contrary to the respondent's position, that the appellant would not receive sufficient state protection, but that the appellant could *reasonably* (as opposed to safely) internally relocate. The FTT did not limit the absence of state protection here to the appellant's home area. By contrast, the FTT appears to find at [70] to [73] and at [80] that the K's family would not have the power or influence to trace the appellant to another part of the IKR. Confusingly the FTT lists this as a factor supporting the conclusion that it would not be 'unduly harsh' for the appellant to internally relocate - see [78] to [80]. The findings on internal relocation are therefore confusing and inconsistent.

17. I do not need to address the materiality of these errors because I am satisfied that the first two points contained in ground 2 are made out.
18. First, the FTT was wrong to find at [70] that the appellant accepted he had 'no' evidence of K's family members' connections to the security service when he clearly stated that by virtue of being an Imam K's father was able to wield power over other parts of the KRI - see Q 76-78.
19. Second, the FTT's conclusion at [73] that it was not satisfied that K's family members were members of the Jaff tribe is inadequately reasoned (even when considered in the context of the neighbouring paragraphs) in the context of this case, where, as explained above the respondent accepted the vast majority of the appellant's evidence.
20. I do not accept the third and fourth points in ground 2 are justified for the reasons set out in Mr Tan's written submissions. It is not necessary to address these in any detail because I am satisfied that the remainder of the grounds are sufficient to vitiate the FTT's decision.

## **Disposal**

21. I have had regard to [7.2] of the relevant *Senior President's Practice Statement* and the nature and extent of the factual findings required in remaking the decision, and I have decided, that this is an appropriate case to remit to the FTT. Although the issues in dispute were narrowed by the respondent within the decision letter, no part of the FTT's adjudication of those issues can be preserved and the matter therefore needs to be entirely remade. I acknowledge that there is no need to make detailed fresh findings as the respondent has already accepted the vast majority of the appellant's account. However, there remain important factual matters to resolve in this appeal.

## **Decision**

22. The decision of the FTT involved the making of a material error of law. Its decision cannot stand and is set aside.
23. The matter is remitted to the FTT, to a judge other than Judge TR Smith and Judge D Kelly.

Signed: *Ms Melanie Plimmer*  
Upper Tribunal Judge Plimmer

Dated: 29 April 2021