



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

Appeal Number: PA/13699/2018 (V)

**THE IMMIGRATION ACTS**

**Heard at : Field House  
On : 23 July 2021**

**Decision Promulgated  
On 13 August 2021**

**Before**

**UPPER TRIBUNAL JUDGE KEBEDE**

**Between**

**KAH  
(Anonymity Order made)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms S Rogers, of Immigration Advice Centre Ltd

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

**DECISION AND REASONS**

1. This has been a remote hearing to which there has been no objection by the parties. The form of remote hearing was Microsoft Teams. A face-to-face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing.

2. The appellant is a citizen of Iraq, of Kurdish ethnicity, born on 1 February 1992. He claims to have arrived in the United Kingdom on 15 May 2018. He claimed asylum that day. His claim was refused on 13 November 2018. His appeal against that decision was dismissed in the First-tier Tribunal on 26

February 2019, but that decision was set aside and the case remitted to the First-tier Tribunal, where the appeal was dismissed once again, on 14 February 2020.

3. The basis of the appellant's claim was that he was at risk on return to Iraq as a result of his brother's relationship with M, the wife of his neighbour, O, which caused a tribal feud. The appellant belonged to the Mamahamala tribe whilst O belonged to the Gul tribe. When O found out about the relationship an agreement was reached between the two tribes, that the appellant's family was to pay US\$40,000 to O, O would divorce M and M would then marry the appellant's brother, and the appellant's family had to leave the area. They moved to Erbil. His brother and M were married on 6 March 2015, but he then received threats from O's family because he had known about the relationship, and on 25 August 2015 his brother disappeared. His body was later found and M and O were arrested for his murder, having reunited. The appellant claimed that he was later shot at by O's family when he was driving home and lost consciousness when the car overturned. He was hospitalised for two days. After he was discharged his mother told him that the family home had been burned down and that his father had had a heart attack and passed away. He then left Iraq two or three days later with his mother and sister. He feared O's family and the Gul tribe because he knew about the relationship between M and his brother. The appellant claimed further that he had seen the interviews and confessions of M and O on the news challenge and that M had lied about her relationship with his brother and had claimed that he had raped her and threatened her with a gun.

4. The respondent, in refusing the appellant's claim, noted that the appellant had produced a memory stick containing three videos of news reports with transcripts for two of the reports, but did not accord the evidence weight as the transcripts did not include the full name of the victim and perpetrators and did not identify the news channel. The respondent rejected the appellant's account of the threats and attacks by O's family and the Gul tribe and did not accept that the appellant had a genuine subjective fear of return to Iraq. The respondent considered that the appellant could relocate to another part of the KRI, in any event, and that he would be able to obtain a CSID as he had retained a copy of his previously issued CSID. As for Article 8, the respondent considered that there were no very significant obstacles to integration for the appellant in Iraq and that his removal from the UK would not breach his human rights. It was considered that his claim to suffer from PTSD was not such as to meet the threshold for an Article 3 or 8 claim.

5. The appellant's appeal was initially heard by First-tier Tribunal Judge Henderson who dismissed the appeal on all grounds. However, her decision was set aside by the Upper Tribunal on the grounds of a failure to make clear findings on the evidence and the case was remitted to the First-tier Tribunal for the decision in the appeal to be re-made.

6. The appeal then came before First-tier Tribunal Judge Fisher on 4 December 2019. The appellant gave oral evidence before the judge. The judge

had before him documentary evidence including video recordings and the transcripts. In light of that evidence and the consistency of the appellant's account both internally and with the background evidence, he found the account to be true and accepted that the appellant was at risk of being targeted on the basis of the feud between the tribes and families. The judge did not accept that the appellant could seek protection from the Kurdish authorities. However, the judge considered that the appellant could safely and reasonably relocate to another part of the country and he accordingly dismissed the appeal on all grounds.

7. Permission was sought by the appellant to appeal to the Upper Tribunal and was granted on 14 May 2020. At a hearing on 11 February 2021, following a concession by Ms Cunha on behalf of the respondent, I set aside the judge's decision in relation to his findings on internal relocation on the basis, as conceded by Ms Cunha, that he had failed to apply the country guidance in SMO, KSP & IM (Article 15(c); identity documents) CG Iraq [2019] UKUT 400. It was agreed that there would be a further hearing in order for the appeal to be re-decided on the issue of internal relocation.

8. The matter then came before me on 23 July 2021 for the decision to be re-made. The appellant had produced a country expert report from Dr Rebwar Fatah and a skeleton argument from Ms Rogers addressing the issue of internal relocation in light of the expert report.

9. In his report, Dr Fatah opined at [83] that:

"It is possible that in the case of a tribal feud, the members of the other tribe or clan would attempt to kill [KAH]."

at [86] that: "it is plausible that [KAH] would receive little protection"

at [87] and [88] that:

"The patronage system in Kurdistan means it is relatively easy to have friends and family in positions of power or access to databases check for an address or other information about an individual. However, it is possible that [KAH] could be traced by a member of the Gul tribe due to the collective nature of Iraqi Kurdish society.

Iraqi Kurdistan has a very small population of roughly 5.5 million Kurds. This means that most people will know of or at least have heard of other families. It is common for an individual to ask around in local communities in search of an individual and for that individual to either be directed to the person or be given information about other who may know of the individual."

and at [99] that:

"Iraqi Kurdistan has a relatively small population of roughly 5.5 million people. Society is also relatively collectivist, with people usually being aware of the families and tribes in the same area. It may thus be relatively easy for somebody to be located in the IKR, if they are being sought..."

10. In her skeleton argument, Ms Rogers referred to the guidance in SMO on relocation to the IKR and submitted on the basis of that guidance that it would be unreasonable for the appellant to relocate within the IKR as he had no support network there, his brother having been killed and his father deceased, and he had lost contact with his mother and sister. She submitted that it would be unlikely that any extended family the appellant had in the IKR would offer him shelter as that would result in them being drawn into the feud and would put them at risk. Without such assistance the appellant would face significant difficulties in securing accommodation and employment in Iraq. Ms Rogers submitted further that there was also the risk, as confirmed by Dr Fatah in his report, of the appellant being located by the Gul tribe, given the ease by which he could be traced due to the collective nature of Iraqi Kurdish society.

11. In her oral submissions at the hearing before me, Ms Rogers relied upon her skeleton argument. She referred to Dr Fatah's expert report confirming the ease with which the appellant could be located and therefore the risk he faced even if he relocated to another part of the IKR. She also relied on the guidance in SMO in relation to the difficulties faced in relocation, in light of the appellant's lack of a support network in the IKR.

12. Mr Walker, in response, submitted that the strength of the appellant's case was with the practicalities of relocation, as set out in SMO, but also due to the risk of being found by the Gul family. He submitted that as a result of this, the appellant had made out his case and the appeal should be allowed.

13. In light of Mr Walker's concession, there is no need for me to set out any detailed reasoning, save to state that the respondent now concedes that the appellant would be at risk of being found if he were to relocate to another part of the IKR and that relocation would be unreasonable in any event, given his lack of family support, in line with the guidance in SMO. The appellant has therefore shown that he would be at risk on return to Iraq and, accordingly, his appeal is allowed on asylum and human rights grounds on that basis.

## **DECISION**

14. The original Tribunal was found to have made an error of law and the decision was set aside. I re-make the decision by allowing the appellant's appeal on asylum and human rights grounds.

Signed S Kebede  
Upper Tribunal Judge Kebede  
2021

Dated: 26 July