



**IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER**

Case No: UI-2024-002225

**First-tier Tribunal No:
PA/00160/2023**

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 14 August 2024**

Before

UPPER TRIBUNAL JUDGE REEDS

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

N G

(ANONYMITY ORDER MADE)

Respondent

Representation:

For the Appellant: Mr J. Thompson , Senior Presenting Officer

For the Respondent : Mr A. Ajina , Solicitor Advocate

Heard at Bradford (IAC) on 26 July 2024

DECISION AND REASONS

1. The Secretary of State appeals, with permission, against the determination of the First-tier Tribunal (Judge Caswell) promulgated on 20 March 2024. By its decision, the Tribunal allowed the appellant's appeal on protection grounds and on Article 3 of the ECHR, against the Secretary of State's decision dated 5 January 2023 to refuse his protection and human rights claim. The Article 8 claim had been conceded on behalf of the Secretary of State at the hearing and does not form part of this appeal.

2. The FtTJ did make an anonymity order and no grounds were submitted during the hearing for such an order to be discharged. Anonymity is granted because the facts of the appeal involve a protection claim.
3. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, or his family members likely to lead members of the public to identify the appellant and his family members. Failure to comply with this order could amount to a contempt of court.
4. Although the appellant in these proceedings is the Secretary of State, for convenience I will refer to the Secretary of State for the Home Department as the respondent and to the appellant before the FtT as “the appellant,” thus reflecting their positions before the First-tier Tribunal.

The background:

5. The factual background can be summarised as follows. The appellant is a national of Iraq. He arrived in the UK in February or March 2015 with his wife and 2 children. The appellant and the children were dependents on his wife student visa as she was studying in the UK. The appellant had extensions of leave until 8 May 2021.
6. On 19 April 2021 he claimed asylum, humanitarian protection and leave to remain on human rights grounds with his wife and children as dependents. The respondent refused the appellant’s claim in a decision letter dated 5 January 2023.
7. The basis of the appellant’s claim is set out in the decision of the FtTJ at paragraphs 5 – 8 as follows. The appellant is from Baghdad in Iraq and is a Sunni Arab. He was previously in employment and educated to degree level. When he and his family came to the UK they rented out their very attractive house in Baghdad to a tenant. When their visas were due to expire, the appellant travel back to Baghdad in March 2021 to give notice to the tenant to leave. The tenant agreed to go. The appellant returned to the UK on 19 March 2021. On 3 April 2021 he received a threatening call from a man who said he was from the Shia Milita identified as the Asa’ib Ahl Al -Haq (hereinafter referred to as “AAH”) and was informed that they had taken over his house and he was told he was not allowed to have the house as he was a Sunni Arab and that he would be killed if he returned to Iraq and/or try to get the house back.
8. The appellant tried to telephone his tenant multiple times that the calls not taken. He is unable to go visit the house and the neighbour reported that AAH had taken it and that there were their vehicles all around it. The appellant’s friend approached a lawyer in Baghdad to see if the house could be reclaimed through the courts. However the lawyer advised that this would not be wise, as the AAH were effectively part of the government.

9. The protection claim was based on his fear return to Iraq because he believed he could be arrested at the airport on a trumped up charge and/or that the AAH would find a way to kill him and his family to avoid any risk he might make a claim in relation to the house. The appellant is also afraid to pass through Shia checkpoints, as his name be checked, and identifies him as Sunni. The appellant could not reasonably or safely relocate. There is no protection from the authorities, since the Shia militias are in control. All the appellant's close family members have left Iraq and are now living in Turkey and other countries.
10. The respondent refused the claim in a decision letter dated 5 January 2023. The respondent's case before the FtT is set out between paragraphs 12 - 16 of the FtTJ's decision. In the decision letter the respondent argued that aspects of the appellant's account was not credible and in particular the core part of his claim that the Shia militia had taken his house and threatened him. The respondent considered his background that he had never been political or associated with Daesh or had any previous adverse attention from the authorities or the Shia militia when in Iraq. It is not plausible that his would be the only house taken over by the AAH, when the area was situated in a mixed area of Shia, Sunni and Christian homes. It was further argued that it was not credible that the militia would get the appellant's phone number, or they would phone him to inform him that had taken his house.
11. In respect of risk on return, the respondent relied on material in the objective evidence which states that being Sunni does not of itself expose someone to a real risk of serious harm Iraq. He had never had problems at Shia checkpoints in the past and it is said that it was not credible that he would have problems on return.
12. In the alternative, if the appellant's account he would not be at risk of persecution or serious harm on return so long as he did not try and recover the house.
13. The respondent also argued that the appellant could reasonably and safely relocate with his family to an area like Najaf, Karbala or Hillah.
14. The appellant appealed the decision, and it came before the FtT (Judge Caswell) on 14 March 2024. The FtTJ heard evidence from the appellant and his account was the subject of cross examination by the presenting officer (see paragraph 4 of the decision).
15. The FtTJ's analysis of the evidence and findings of fact are set out between paragraphs 17-25. The FtTJ concluded that having heard the evidence and considered the written evidence advanced that the appellant's account was reasonable and credible and addressed the credibility issues that had arisen in the decision letter. The FtTJ at paragraph 24 set out that the appellant had been a credible and reliable witness and that his account had been internally consistent and also consistent with the objective evidence and the country guidance case set out at paragraph 11 of her

decision. The FtTJ stated the appellant had given oral evidence readily and in appropriate detail and that she was satisfied that he was a credible and reliable witness thus she accepted the entirety of his account and also accepted the documents that he had provided in relation to his home were both reliable and genuine.

16. When assessing the issue of risk, the judge also accepted that against the background of the objective evidence that was before the tribunal and in light of the country guidance case of SMO, she was satisfied that the appellant would face a real risk of serious harm in his home area and also at Shia checkpoints, partly on the grounds of being Sunni. The judge also found that she was satisfied that he and his family could not safely and reasonably relocate within their country (see finding at paragraphs 23 and 24). The FtTJ therefore allowed the asylum claim and allow the appeal on human rights grounds (Article 3). It had already been conceded at the hearing that the Article 8 claim should succeed (see paragraph 1 of the decision).
17. Following the hearing the respondent sought permission to appeal which was granted by FtTJ Murray.
18. The appeal came before the Upper Tribunal. The Secretary of State was represented by Mr Thompson, Senior Presenting Officer and the appellant by his solicitor advocate Mr Ajina.
19. Mr Thompson relied upon the written grounds of challenge. They are as follows:
20. Ground 1:

It is submitted that FtTJ Caswell erred in law by allowing the appeal without providing adequate reasons for doing so.
21. It is asserted , that the judge has failed to explain why the appellant cannot, even if the appeal is taken at its highest, internally relocate to a majority Sunni area and seek redress via the Iraqi courts for his property.
22. It is further asserted, that it is unclear how it can be found that stealing someone's property, results in the victim being subsequently at risk of persecution, and therefore a refugee.
23. The FtTJ based the conclusion on supposition and conjecture in simply accepting that the individuals who have taken the appellants property, would seek him out and place him in danger if he returns to Iraq [5 and 8], no evidence has been provided for how they would be able to locate him, or why he would be treated less favourably in seeking redress simply based on his Sunni religion.
24. Furthermore, there has been a complete failure to consider the appellants own evidence (RFRL -AIR 97)that the militia group were simply interested in the available rental income from the property, and as such the appellant

could return to another area without issue, as they now have what they wanted. Whilst not condoning the actions of the militia in taking the property, (if this aspect of the appellants account is accepted), the loss of his house, cannot be said to reach the level required to demonstrate, either risk of future persecution, or Refugee status. Reliance is placed on Budhathoki (reasons for decisions) [2014] UKUT 00341 (IAC)

25. Ground 2:

26. It is further submitted, that in allowing the appeal, FtTJ Caswell has failed to have regard for the objective information before her, which confirms, that without additional risk factors, Sunni Muslims will not be considered to be at general risk of persecution. The appellant has not indicated any other risk factors other than his being Sunni. As detailed in the Reasons for Refusal Letter:

The CPIN Iraq: Sunni Arabs dated January 2021 s 2.4.9 it is stated that in general Sunnis do not face treatment which amounts to persecution, and you have not demonstrated any factors increasing this risk of persecution. At interview you stated you did not support ISIS (AIR Q84), you were not involved in the conflict (AIR Q85), you had never been accused of affiliation with Daesh (AIR Q96) and that you had never been detained by the authorities (AIR Q100). You have failed to demonstrate you possess factors such as family connections, profession, past experience or origin which may place you at risk of persecution.

27. It is submitted, therefore, that the FtTJ has failed to provide adequate reasons for why the appellant would be at risk in simply accepting his oral evidence and failing to reconcile this against the background evidence which does not support his account of potential future risk.
28. Furthermore, it is asserted, that the FtTJ's failure to apply the case law SMO (2) on the level of his risk, even if the whole account is accepted has caused material misdirection in law.
29. It is submitted, that the FTTJ's failure to adequately engage with the objective evidence before her, has caused the determination as a whole to be flawed to the extent that it is unreliable.
30. In oral submissions Mr Thompson submitted that within paragraph 24 the FtTJ accepted the appellant was at risk in his home area "partly" because he was a Sunni Arab. However the FtTJ failed to explain the other basis upon which the appellant was at risk and therefore provided inadequate reasons. He submitted that the reference to the word "partly" must refer to other factors. By applying the decision in Budhathoki (reasons for decisions) [2014] UKUT 00341 (IAC) the FtTJ was required to resolve all errors of conflict, however the wording used suggests logically that there were other reasons.
31. He submitted that the respondent acknowledged that paragraph 11 of the decision did mention SMO(2) and referred to the objective evidence.

However he submitted that just mentioning that you have had regard to the objective evidence and the country guidance is different from applying them and it cannot be concluded that the FtTJ had regard to the objective evidence or SMO (2).

32. Mr Thompson referred the tribunal to the CPIN at paragraph 2.4.9 (as highlighted in the grounds) to demonstrate that Sunni Arabs do not face persecution. He submitted that the paragraph did refer to particular factors that might place them at risk.
33. At paragraph 20 - 21 the FtTJ did recognise it was the appellant's evidence that he had had no prior issues at checkpoints and therefore it is submitted that the FtTJ accepted the unsubstantiated evidence of the appellant. He had not experienced sectarian violence previously and had no prior political involvement and therefore there were no factors increasing risk.
34. He submitted that there was no evidence before the judge and the conclusions are based on speculation and therefore there was a lack of reasoning in the FtTJ's decision
35. Mr Thompson referred to SMO (2) at paragraph 25 referring to relocation to Baghdad. Whilst recognising the appellant would not be returning with children (because of the circumstances of the Article 8 concession) the FtTJ's decision still contained inadequate reasoning as to why internal relocation within the Arab part of Iraq could not take place. Mr Thompson made it clear that the respondent did not pursue internal relocation to the IKR as he was of Arab Sunni ethnicity and was not of Kurdish ethnicity.
36. In summary he submitted that due to inadequate reasons and failure to refer to the CPIN and SMO (2) pertaining to risks for Sunni Arabs, the decision should be set aside.
37. Mr Ajina relied upon the skeleton argument that had been submitted prior to the hearing (later referred to as a Rule 24 response).
38. It was submitted that the FtTJ had in fact provide adequate reasons as to her conclusion that the appellant would be at risk from militias on his return to Iraq and that internal relocation would not be a viable option for the appellant and his family, and that these findings are made in line with the objective information and the relevant country guidance caselaw.
39. It was submitted that between paragraphs 18 to 24 the FtTJ provided detailed reasons as to why the appellant was credible to the basis of his asylum claim, why the appellant would be at risk on return to Iraq and how internal relocation would not be a viable option for the appellant.
40. In answer to the grounds of challenge, it is submitted that the appellant's claim was that he had been targeted by the Shia Militia and that was entirely consistent with the available objective information (see material in the appellant's bundle article entitled security situation in Baghdad - the

Shia Militias-published by the country information service of the Finnish Immigration Service dated 29 April 2015. The skeleton argument sets out the relevant paragraphs.

41. References also made to the UNHCR eligibility guidelines for assessing the international protection needs of asylum seekers Iraq published in May 2012.
42. In terms of internal relocation, the appellants would not be able to relocate to Baghdad or other areas within mainland Iraq as the militias are operational throughout these areas as confirmed by the objective information.
43. As to whether it was a viable option for the appellants to relocate to the KRI, the assessment made that they could not relocate was consistent with the country guidance case of SMO which found that an Arab with no support network in the eye KR would not be able to relocate to the region.
44. Insofar as it was argued that the appellant would be provided with protection, the appellant relied upon the Home Office operational guidance note (Sunni Muslims) paragraph 2.5.
45. It is therefore submitted that the decision of the FtTJ did not disclose the making of an error on a point of law.
46. In his oral submissions Mr Ajina referred to the use of the word “partly” as identified by Mr Thompson but submitted that the judge was being clear as to the findings of fact that the appellant was credible and consistent in his account to have come to the attention of the Shia militia and was therefore at risk and in her analysis she was clear as to how she reached the conclusion why internal relocation was not viable.
47. He referred to paragraph 8 of the rule 24 response where it set out paragraph 2.5 of the CPIN relied upon by the respondent.
48. He submitted that it was clear how the FtTJ reached her decision and had given a detailed analysis as to the appellant’s claim being credible and referred to the objective evidence and the country guidance case. The judge had found that he was a refugee who would be at risk would not be able to obtain protection from the Iraqi authorities.
49. As internal relocation it had been accepted that the appellant and his family members met the circumstances for leave based on Article 8 therefore the judge’s decision that it was unreasonable for them to relocate confirms the Article 8 leave and that relocation was not a viable option.
50. Mr Thompson by way of response referred to the concession made in Article 8 by reference to the children’s ages. However paragraph 25 of SMO was an assessment of the appellant’s circumstances and his wife as adults returning and there was inadequate reasoning. The FtTJ still need to

say why the adults could not relocate and therefore there was a lack of sufficiency of reasoning in the decision.

51. When asked if the respondent relied upon any other parts of the country guidance decision Mr Thompson confirmed he relied on paragraph 25 of the headnote which he had made submissions on.

Decision on error of law:

52. The grounds of challenge make a number of submissions but when distilled can be seen as a challenge to the reasoning of the FtTJ on the basis that she gave inadequate reasons for reaching her overall decision.
53. Dealing with the first ground there are a number of issues raised concerning factual matters relevant to the appeal. First, the grounds challenge the decision on the basis that it is unclear how it can be found that stealing someone's property results in the victim being at risk of persecution and therefore a refugee and that the FtTJ based her conclusions on supposition and conjecture in simply accepting that the individual who would take on the property would seek him out and place him on danger on return to Iraq. It is asserted that there was no evidence provided as to how they would seek him out or why he should be treated less favourably in seeking redress simply based on his Sunni religion. It is further asserted that even if accepting the account of the actions of the militia it could not be said to reach the level required to demonstrate a risk of future persecution.
54. Those grounds fail to properly take into account the factual basis of the claim. The respondent in the decision letter had not accepted the factual basis of the claim and had set out issues of credibility that were recited in the FtTJ's decision between paragraphs 12 - 16. The FtTJ's analysis of the evidence was set out between paragraphs 17 - 24 which included consideration of the objective country evidence submitted on behalf of the appellant which consisted of evidence in the bundle; the Finnish Immigration report and the UNHCR guidelines relating to Shia militia in Iraq and the CG decision of SMO and the respondent's CPIN (see paragraph 11). Having heard the appellant's evidence and that being subject to cross-examination, the FtTJ concluded that the appellant's account was "consistent and logical" and accepted that his account was consistent with the objective evidence and the country guidance decision. The FtTJ set out that she had found the appellant had given his oral evidence "readily and in appropriate detail" and was satisfied that he was a "credible and reliable witness". The FtTJ concluded that she accepted the entirety of his account and accepted that the documents he provided were reliable and genuine. His account of being at risk of serious harm or persecution in Iraq was not solely based on being a Sunni Arab but based on the risk that the FtTJ had found from him having come to the adverse attention and of interest to the Shia Militia. When the FtTJ referred to the appellant facing a real risk of serious harm in his home area and also at checkpoints "partly" on the grounds of being Sunni the FtTJ was plainly

referring to his factual account of being of adverse attention and of interest to the Shia Militia .

55. In reaching her decision on the credibility of the appellant's account and whether the account given was credible, consistent and believable, the FtTJ plainly have regard to the points raised by the respondent as to the credibility of his account to be at risk from the Shia militia having considered it in the light of the appellant's evidence given in detailed evidence in answer to the points raised by the respondent (see witness statement 14/9/23) and is set out by the FtTJ at paragraph 17. That evidence was set out between paragraphs 17 - 23 and the FtTJ found the appellant's explanatory evidence to be both reasonable and credible. Insofar as it was suggested by the respondent that the house deeds had been brought by the appellant to the UK to found a false claim for asylum, the FtTJ accepted his evidence that his wife would require those documents when she enrolled to prove her address and circumstances. The FtTJ found this to be both credible and logically explained in the evidence. The judge also accepted that his evidence when viewed with the country objective evidence was also internally consistent and had been given in detail.
56. Against that background it was open to the FtTJ to make that assessment of his evidence and thus whether the factual basis of his claim was met.
57. It was also open to the judge to find that the factual background relied upon was consistent with the country objective evidence. This was not an appeal where there was a large amount of objective country material before the FtTJ and that which was relied upon by the appellant was clearly set out in the appeal skeleton argument (known as the "ASA") and was also available in the appellant's bundle. There were 2 documents the Finnish report and the UNHCR guidelines relating to the Shia militia.. When the FtTJ stated that the appellant's account was consistent with the country objective evidence, this was the evidence that she was referring to. That evidence expressly concerned the position of the Shia militia and the security situation in Baghdad. This set out that human rights abuses were committed by the Shia militia against Sunni Arabs (p119). Reference was made to the general conditions of harassing Sunni Arabs at checkpoints and that there had been threatening letters and they had been driven from their homes by the militia. This was described as being engaged in "Sunni persecution".
58. The Shia militia which was referred to by the appellant in his account was named as the AAH. At page 112 there was a specific section concerning their conduct who were described as an armed group which had operated in Iraq since 2004; who were an openly Shia militia operating mainly in Baghdad and that extended to operating to other areas outside the country. Reference was also made to them operating under a mandate issued by the Iraqi government and that the AAH were more powerful than the Iraqi police who had been under their control. This Shia militia also was supported by the Iraqi government. Paragraph 3.1.1 referred to their

power and influence that extended to the security forces. Reference was also made to the human rights violations committed by the Shia militia persecuting Sunni Arabs and that their operations existed in the Baghdad region (page 130). The issue of checkpoints both illegal and legal were set out between paragraphs 3.3 which refer to 200 checkpoints on the streets of Baghdad; Sunni's are inspected more thoroughly than Shi'ites. At paragraph 5.5 reference is made to having trouble at checkpoints due to having a Sunni name and 5.6 referred to the killings by the Shia militia.

59. That material is consistent with the respondent's objective material set out in the CPIN Iraq; Sunni Arabs, January 2021 referred to in the respondent's grounds and in the oral submissions made. This refers to the Popular Mobilisation Front ("PMF") and the Popular Mobilisation Units ("PMU") and the Shia militia at paragraph 7. Paragraph 7.2 of the CPIN expressly refers to the militia feared by the appellant known as AAH and at paragraph 7.2.3 there is a section which refers to the AAH who are described as being much feared for its targeting of civilians.
60. The country information as identified by the FtTJ albeit in general terms, was consistent with the factual account of the appellant of having come to the adverse attention of the Shia militia and having been threatened with serious harm and that this was due to them having taken his home in Baghdad it having being targeted by the militia as it was worth a considerable sum of money and had been vulnerable because he was not in it and that it belonged to a Sunni. The appellant's claim was that he would also be at risk at checkpoints (see paragraph 23) which is consistent with the objective evidence set out above.
61. Whilst it may have been preferable for the FtTJ to identify the parts of the objective material she had found to be consistent with the appellant's account, it is clear from that material that it supported her analysis that the appellant's account was credible and consistent with the objective material. Therefore the FtTJ did give adequate reasons for reaching the decision that the appellant would be at risk of serious harm or persecution on return to his home area in Iraq.
62. As to ground 2, it is submitted that the FtTJ failed to have regard to the objective evidence which confirmed that without additional risk factors, Sunni Muslims will not be considered to be a general risk of persecution. There is no error of law based on that ground of challenge. That submission wholly fails to take into account the factual account accepted by the FtTJ who, having heard the evidence of the appellant found him to be at risk of serious harm or persecution having come to the adverse attention of the Shia militia for the reasons set out. The factual account did not rely solely on being a Sunni Muslim and the grounds appear to contend.
63. Furthermore I observe that the written grounds in support of that submission only cite part of paragraph 2.4.9 of the CPIN and not the full part of the section which is reproduced below.

Para 2.4.9 In general Sunnis do not face treatment which is sufficiently serious by its nature and repetition to reach the high threshold to constitute persecution or inhuman or degrading treatment. However, a Sunni may be able to demonstrate a real risk of persecution or serious harm from a PMF/PMU depending on their personal profile, including their age and gender, family connections, profession, past experiences and origin. Decision makers must consider whether there are particular factors specific to the person which would place them at real risk. The onus is on the person to demonstrate this.

64. Mr Thompson, in his oral submissions did refer to the full paragraph . However the relevant part of paragraph 2.4.9 is that the respondent recognised that a Sunni Arab Muslim may be able to demonstrate a real risk of persecution or serious harm from a PMU/PMF as identified by their personal profile and past experiences and that the decision-maker must consider their particular factual circumstances are specific to that particular appellant . The specific factual circumstances of this appellant other than being a Sunni Arab relates to being at risk of serious harm from the militia (PMU) and having received threats of harm from them.
65. As to the assertion made that the appellant could access the courts/police for protection. This was not supported by paragraph 2.5 of the same CPIN as submitted by Mr Ajina. That paragraph sets out as follows; **2.5 Protection** 2.5.1 Where the person has a well-founded fear of persecution from the state, they are unlikely to be able to avail themselves of the protection of the authorities. Similarly, where the person has a well-founded fear of persecution from a PMF/PMU (a 'hybrid actor'), they are unlikely to be able to avail themselves to the protection of the authorities.
66. For those reasons there is no error of law based on the grounds of challenge based on the failure to give adequate reasons or failure to consider the country materials.
67. The 2nd issue relates to that of internal relocation. It has not been set out in any detail in the written grounds other than the bare assertion that even if the appellant's account is taken at its highest he could relocate to a mainly Sunni area and seek redress via the Iraqi courts for his property. Mr Thompson in his oral submissions submitted that the FtTJ failed to have regard to SMO (2) at paragraph 25 which reads as follows:
68. *Relocation to Baghdad. Baghdad is generally safe for ordinary civilians but whether it is safe for a particular returnee is a question of fact in the individual case. There are no on-entry sponsorship requirements for Baghdad but there are sponsorship requirements for residency. A documented individual of working age is likely to be able to satisfy those requirements. Relocation to Baghdad is likely to be reasonable for Arab Shia and Sunni single, able-bodied men and married couples of working age without children and without specific vulnerabilities. Other individuals*

are likely to require external support, i.e. a support network of members of his or her family, extended family or tribe, who are willing and able to provide genuine support. Whether such a support network is available is to be considered with reference to the collectivist nature of Iraqi society, as considered in AAH (Iraqi Kurds - internal relocation) CG [2018] UKUT 212.

69. Having considered the grounds, there is no error of law in the FtTJ's decision as to internal relocation. The FtTJ had found on the facts that the appellant and his family members would be at risk of serious harm or persecution on return to their home area in Baghdad and that they would be at risk of harm at the checkpoints from the Shia militia (see paragraph 24). The FtTJ found this to be consistent with the objective evidence and that finding is supported by the material cited earlier in this decision and to which the FtTJ had regard to. The appellant could not seek protection from the Iraqi authorities in the light of the respondent's position set out in the CPIN at paragraph 2.5 which highlighted that the Shia militia are "hybrid actors" given their influence. The appellant's claim of being at risk of serious harm was not only at the checkpoints but also at the point of return. At paragraph 23, the FtTJ set out the evidence of having to pass the Shia checkpoints. On the factual account given and accepted by the FtTJ, she found that the appellant and his family members could not safely return to another area, and this was based on the objective material.
70. As to the reasonableness of relocation the FtTJ did not find that it would be reasonable for the family to relocate to another area in Iraq. As Mr Ajina submitted it had been conceded by the respondent that the appellant's claim should succeed on Article 8 grounds as it was not reasonable for the family members and the appellant to return to Iraq (see paragraph 1). Having reached that conclusion in respect of Article 8, it is difficult to see how it could otherwise be argued that internal relocation was reasonable for the appellant and his family members. This was not just the appellant on his own but the appellant and his wife and they would be returning as a family unit with children which was recognised by the concession of being granted Article 8 leave. Whilst Mr Thompson sought to argue that the leave pertained to the children and therefore the appellant and his wife could return, that does not reflect the position of whether it was reasonable to return and relocate based on the family's circumstances taken together which was what the FtTJ was considering.
71. In conclusion and when properly analysed, the grounds of challenge amount to no more than a disagreement with the decision. When addressing the adequacy of the analysis undertaken, and when addressing the issue of adequacy of reasons in MD (Turkey) v SSHD [2017] EWCA Civ 1958 the Court of Appeal confirmed that adequacy meant no more nor less than that. It was not a counsel of perfection. Still less should it provide an opportunity to undertake a qualitative assessment of the reasons to see if they are wanting, perhaps even surprising, on their merits. The purpose of the duty to give reasons, is in part, to enable the losing party to know why he or she has lost, and it is also to enable an appellate court or

tribunal to see what the reasons for the decision are so that they can be examined in case there has been an error of approach.

72. Having considered the decision reached, the FtTJ was required to consider the evidence that was before the First-tier Tribunal as a whole, and she plainly did so, giving adequate reasons for her decision on the material evidence available.
73. In summary, I remind myself of the need for appropriate restraint before interfering with the decision of the FTT, particularly where the judge below has heard and assessed a range of evidential sources relating to the reliability of an account. Not every evidential issue need be specifically addressed and there is no requirement to provide reasons for reasons. The FtTJ had regard to the evidence before her and gave adequate reasons to why she believed the appellant's factual claim and why she found he would be at a real risk of serious harm or persecution and could not reasonably relocate.
74. Consequently the decision of the FtTJ did not involve the making of an error on a point of law, and the decision shall stand.

Notice of decision:

The decision of the FtTJ did not involve the making of an error on a point of law; the decision of the FtTJ shall stand.

Upper Tribunal Judge Reeds
Upper Tribunal Judge Reeds

5 August 2024