



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/00884/2017**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 4 September 2017**

**Decision & Reasons  
Promulgated  
On 11 September 2017**

**Before**

**UPPER TRIBUNAL JUDGE CHALKLEY**

**Between**

**F M  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr D Neale of Counsel, instructed by Brighton Housing Trust Immigration Services  
For the Respondent: Mr Lawrence Tarlow, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant in this appeal is a national of Iraq who was born on 25<sup>th</sup> January 2000 and is therefore aged 17 years at the moment. He made application for asylum to the respondent and in a decision dated 12<sup>th</sup> January 2017, the respondent refused that claim.
2. The appellant subsequently appealed the decision and his appeal was heard by First-tier Tribunal Judge Bernard Andonian at Taylor House on 24<sup>th</sup> February 2017.
3. At paragraph 23 of the judge's determination he did not consider that the appellant had established a well-founded fear of persecution for a

Convention reason, but granted the appellant's claim to humanitarian protection on the basis that the appellant was in need of international protection, but could not qualify under the Geneva Convention. He accepted that the appellant was at risk in his home area and in Iraqi Kurdistan. He accepted that he would be at general risk elsewhere in Iraq, but he failed to consider that as a displaced unaccompanied child his claim would engage the Convention. Mr Neale accepted that he had not addressed the judge on the issue of particular social group. Had he done so, the result may well have been different.

4. At the hearing before me today, having heard submissions from Mr Neale, Mr Tarlow (and in my view entirely appropriately) conceded that the determination could not stand and that it should be remade and that it should be allowed granting asylum to the appellant. I find that the determination of Judge Andonian does contain a material error of law. He was wrong to find that the appellant could not engage the Refugee Convention. The appellant's claim does engage the convention. I remake the decision myself. His asylum appeal is allowed.

### **Notice of Decision**

The appeal is allowed

### **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.

***Richard Chalkley***  
**Upper Tribunal Judge Chalkley**

### **FEE AWARD**

No fee is paid or payable and therefore there can be no fee award.

***Richard Chalkley***  
**Upper Tribunal Judge Chalkley**