



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

Appeal Number: PA/02369/2020

THE IMMIGRATION ACTS

**Heard at Field House
Via Teams
On 5 August 2021**

**Decision & Reasons Promulgated
On 16 September 2021**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**SOK
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Thompson

For the Respondent: Mr Walker, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Iraq who was born in 1988. He appealed to the First-tier Tribunal against a decision of the Secretary of State made on 21 February 2020 refusing his claim for international protection. The First-tier Tribunal, in a decision dated 17 January 2021, dismissed his appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. I notified the representatives at the Upper Tribunal initial hearing that I intended to set aside the decision of the First-tier Tribunal. My reasons were as follows. First, the judge erred in law for the reasons given in Ground 1. At the First-tier Tribunal hearing, the judge had asked first the appellant's counsel, Mr Thompson, and then the appellant himself to use counsel's laptop computer to attempt to search for evidence of an organisation, Asayash Sulaimaniya, of which the uncle of Marwan (a person against whom the appellant claimed to have given evidence in court and who had subsequently committed suicide in prison) was purportedly a member. Counsel could not find evidence of the existence of the organisation on the internet and, as the judge records at [31], 'the appellant then carried out a search, which did not yield any result either.'
3. Although the judge does not refer in terms in his findings to the appellant's failure to find the uncle's organisation on the internet, that failure was, as described by the judge, an instance of the appellant being unable to support claims made in his appeal. In the context of the decision as a whole, I am satisfied that the appellant's failure to find the organisation contributed to the judge's rejection of the appellant's account as unreliable. However, whilst acknowledging that the appellant should be able, where possible, to substantiate assertions made in evidence, I do not consider that it was appropriate or fair to expect the appellant without prior notice to use an unfamiliar computer operating with a script designed for a language which he did not speak to look for that evidence. By adopting this procedure, the judge erred in law.
4. Ground 2 is less compelling although I did not ask Mr Walker, the Senior Presenting Officer at the initial hearing, to make submissions in respect of it. However, as the decision will in any event be set aside with none of the findings of fact surviving, I do not propose to address Ground 2.
5. There had been a number of adjournments in the First-tier Tribunal caused by the absence of original documents which the appellant wished to adduce in the evidence. Mr Walker, the Senior Presenting Officer before the Upper Tribunal, helpfully referred me to a note on his file which indicated that the missing documents may have been left on the 2017 asylum appeal file (reference: PA 059582017). I told the representatives that I would endeavour to have this file linked to PA 023692020 in readiness for the next hearing in the First-tier Tribunal. It would be prudent for the appellant's representative to check with the First-tier Tribunal that the files have been linked when that hearing is listed.

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision following a decision *de novo*.

Signed

Date 4 August 2021

Upper Tribunal Judge Lane

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.