



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

Case No: UI-2021-001243 (V)  
First-tier Tribunal No: PA/51336/2020  
IA/01599/2020

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 3 April 2023**

**Before**

**UPPER TRIBUNAL JUDGE PICKUP**

**Between**

**B A X**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr S Ahmed, legal representative  
For the Respondent: Ms A Ahmed, Senior Home Office Presenting Officer

**Heard remotely by video at Field House on 6 February 2023**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, [the appellant] (*and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified*) is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant (*and/or other person*). Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

1. The appellant, an Iraqi national of Kurdish ethnicity, claimed international protection on the basis that on return he would face persecution from the Popular Mobilisation Forces (PMF) because of his association with the Peshmerga. The respondent refused the claim of 26.8.20 and the appellant appealed to the First-tier Tribunal.
2. By its decision, the First-tier Tribunal (Judge Alis) dismissed the appeal on asylum and humanitarian protection grounds but allowed the appeal under article 3 ECHR, on the basis that the appellant was undocumented and unable to travel to his home area without a real risk of suffering conditions likely to infringe article 3.
3. The appellant sought permission to appeal to the Upper Tribunal against the First-tier Tribunal's refusal of his asylum and humanitarian protection claims. Permission was granted on 15.11.21, the judge considering it arguable that the First-tier Tribunal had erred in law "in giving inadequate reasons for his findings and, when assessing credibility, in failing to take into account the background material specifically referred to by the appellant's representative which refers to the Kakais minority group of which the appellant and his family are members."
4. The respondent also sought permission to appeal to the Upper Tribunal against the decision of the First-tier Tribunal allowing the appeal on article 3 grounds. The application was refused by the decision of Judge Gibbs, dated 19.10.22, rejecting the claim that the reasoning for the article 3 findings is unclear, given the finding at [58] of the decision rejecting the appellant's claim to have lost contact with his family in Iraq. The respondent did not renew the application for permission to the Upper Tribunal and therefore the First-tier Tribunal decision allowing the appeal on article 3 grounds must stand.
5. At the outset of the hearing, it transpired that Ms Ahmed had misunderstood the nature of the appeal and misread the documents. She had understood that this was the respondent's appeal and that permission had been granted by the decision of 15.11.21. She explained that she had not prepared to deal with the grounds relating to the appeal on protection and humanitarian protection grounds, though that should have been clear from a simple reading of the grant of permission. Ms Ahmed sought an adjournment for approximately one hour in order to prepare to meet the appellant's grounds. I refused, granting approximately 25 minutes until 11.15am.
6. In addition to the documents that were before the First-tier Tribunal, the Upper Tribunal has received a copy of the CPIN that was in force at the date of the First-tier Tribunal appeal hearing almost two years ago, on 8.2.21: 'Iraq: Internal relocation, civil documentation and returns,' Version 11.0 June 2020, and referred to by the judge at [44] of the decision. It is against that guidance and the original decision in SMO, KSP & IM (Article 15(c); identity documents) Iraq [2019] UKUT 400 that the decision of the First-tier Tribunal must be considered. However, the CPIN is not relevant to the only grounds now before the Upper Tribunal. I have also taken account of the document entitled 'respondent's review' dated 14.6.21.
7. The grounds dated 4.8.21 first argue that : the First-tier Tribunal made a material error of fact by the judge stating at [54] of the decision that he was not directed to any country evidence supporting the submission that attacks that took place on the area of Tuz Kharmatu on 16.10.17 specifically targeted the appellant's family rather than being indiscriminate attacks, as the judge found. Reliance is placed on the evidence of Dr Fatah recorded at [28] of SMO, which

stated that “Insurgent groups had also been reported to abduct minorities, particularly Kakais,” which the grounds say was drawn to the judge’s attention. The relevance is that it was the appellant’s case was that his father and brother had been kidnapped whilst his mother and sister were able to remain safely at their home address.

8. The second ground, which overlaps the first, asserts that the First-tier Tribunal failed to provide adequate reasoning for rejecting at [55] the appellant’s factual claim that his mother and sister would, without any male protection, have been able to remain safely in their home address, other than finding at [55] his “account lacking in credibility given the information contained in the country evidence of what was happening at the time.”
9. It must first be noted that as the judge explained at [54] of the decision, the findings were only made after having taken account of the evidence as a whole. As explained in Budhatkoki [2014] UKUT 00041 (IAC), “it is generally unnecessary and unhelpful for First-tier Tribunal judgements to rehearse every detail or issue raised in a case. This leads to judgements becoming overly long and confused and is not a proportionate approach to deciding cases. It is, however, necessary for judges to identify and resolve key conflicts in the evidence and explain in clear and brief terms their reasons, so that the parties can understand why they have won or lost.”
10. It is clear that the appellant’s account was considered in detail between [49] and [54] of the decision. The judge analysed the claim against the country background evidence that there were indiscriminate attacks on the day in question but no evidence of any targeted attacks. I am satisfied that the finding was reasoned and the reasoning was adequate. That Dr Fatah stated, in general terms, that “Insurgent groups had also been reported to abduct minorities, particularly Kakais,” did not address the events of 16.10.17 and is not evidence of a material error of fact or an insufficiency of reasoning. I confirmed with Mr Ahmed that there was no expert report from Dr Fatah before the hearing; Ms Cleghorn relied only on the brief reference to Kakais from SOM and did not indicate what the Upper Tribunal made of that evidence. That was hardly sufficient to demonstrate anything more than a generalised report that Kakais have been abducted by insurgent groups. It did not address the events of 16.10.17 or confirm that kidnappings took place during that incident rather than indiscriminate attacks as suggested by the country background information.
11. In summary, to characterise what is stated at [55] of the decision as unreasoned is a misconstrual of the decision, which must be read as a whole. I am satisfied that the findings were open to the Tribunal on the evidence considered in the round and are adequately reasoned. No error of law arising from either of the first two grounds.
12. The third and final ground asserts that the First-tier Tribunal Judge made an erroneous approach to corroborative evidence; stating the obvious, that there is no duty on an appellant to provide corroborative evidence. The ground is entirely unparticularised and makes no specific reference to any part of the impugned decision. In her submissions, Ms Ahmed suggested that the ground may refer to the finding at [52] of the decision that there was no supporting evidence of a direct attack on the appellant’s father and brother during the events of 16.10.17. However, I am satisfied that that passage was not a demand for corroborative evidence but rather pointing out that there was no actual evidence to support the

claim; even the appellant's account was not first-hand but came from a third party.

13. In the circumstances, I am satisfied that no material error of law is disclosed by any of the grounds. The appellant's appeal against the decision of the First-tier Tribunal must fail.

**Notice of Decision**

The making of the decision of the First-tier Tribunal did not involve an error of law.

The appeal to the Upper Tribunal is dismissed.

I make no order for costs.

DMW Pickup  
Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**6 February 2023**