



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

Case No: UI-2023-003862

First-tier Tribunal No: PA/55745/2022  
LP/00968/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 11 December 2023**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE WILDING**

**Between**

**OREF  
(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE  
HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms S Ferguson, Counsel, instructed by Freemans Solicitors  
For the Respondent: Ms S Lecoite, Senior Home Office Presenting Officer

**Heard at Field House on 1 November 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 appeals with permission against the decision of First-tier Tribunal Judge Sullivan ('the Judge') who dismissed his appeal on protection and Article 8 grounds.

### **Background**

2. The appellant is a stateless Palestinian who was born and raised in the El Rashida camp, near Tyre in Lebanon. The Appellant claimed asylum on 7 February 2018, based on his fear of Ansar Allah and of Hezbollah, because he had provided humanitarian support to Syrian refugees in Lebanon and had posted on Facebook a comment questioning why Palestinians were participating in conflict in Syria. As a consequence, he said, he had been accused in August 2017 of supporting the Free Syrian army, attacked in November 2017 and there had been an attempt to kidnap him in December 2017. His asylum claim was refused on 14 March 2019 and his appeal dismissed in a decision of the First-tier Tribunal dated 19 November 2019 ("the previous determination"). Although he had applied to the First-tier Tribunal for permission to appeal the previous determination, when that was unsuccessful he did not renew his application to the Upper Tribunal.
3. It is convenient to set out briefly FTTJ Rothwell's reasons for dismissing his appeal:

*'50. However even taking these factors account together with relevant case law i.e. JT (Cameroon) about the emphasis I ought to place on screening interviews the appellant stated on several occasions that the reason he feared returning to Lebanon was because he feared being forced to go to Syria and fight. At no stage did he refer to the attempted shooting or the attempted kidnap. I find that this omission does seriously damage his credibility.*

*53. The second issue is that Dr George's report does not corroborate the factual details of the appellant's account. I have set out the paragraph above where Dr George sets out his surprise that the appellant would be targeted for providing assistance to Syrian refugees. He sets out that there are individuals and organisations who provide such support. However he does state that if someone had upset Ansar Allah or Hezbollah then they could find themselves in trouble.*

*55. There is also the issue that following the attack on the appellant in the local market on 15 November 2017 he failed to tell his uncle about this very serious incident. He said that he was afraid to tell his uncle, but he also said he was afraid for himself, his uncle and his own family. He said that he was only 17 and did not tell his uncle. I find that this is just not credible, that he would have gunshots fired at him in the market place and he would not tell his uncle what had happened.*

*56. The appellant states that after this incident he carried on going to the refugee camps to offer assistance. He said he continued going as he was doing nothing wrong. He was very vague about how many times and when he went. I find that given that he only went six times in total this lack of clarity also damages his credibility.*

*58. Further Dr George gives a detailed account of the situation in Lebanon. In the refusal letter the respondent states that there is “clear water” between Hezbollah and Ansar Allah. Dr George’s report states that Ansar Allah and Hezbollah are no longer connected. He states that Ansar Allah are a small faction whose influence has never been significant. He states that they have never had a presence within the Lebanese security forces.*

*60. Therefore even without the internal inconsistencies and lack of plausibility within the appellant’s account Dr George’s assessment of the background situation does not support the appellant’s account.*

*61. I have assessed all the evidence in the round and I find that even applying the lower standard of proof for the reason given above I do not find that the appellant is a truthful witness. I do not find that these events occurred and I do not find that he is at risk of serious harm on return to Lebanon.*

4. On 31 July 2021 the Appellant made further representations. These were accepted by the Respondent as a fresh claim. On 22 November 2022 the Respondent refused ("the Refusal") the Appellant's further claim for protection. The application was refused under the Statement of Changes in Immigration Rules HC 395 ("the Rules") in force prior to 28 June 2022, for the detailed reasons set out in the Refusal.
5. The respondent highlighted that credibility was in issue, the Appellant having not been found credible in the previous determination, there was no connection between Ansar Allah and Hezbollah, intercamp violence had come to an end and there were security committees to maintain peace between factions. Letters said to come from the Palestine Liberation Organisation in Al Rashidieh camp had not been shown to be genuine. The Appellant had not shown that he would be of interest to Hezbollah on return to Lebanon. Photographs provided by the Appellant had not been shown to be from El Rashidi camp. The evidence did not show that the Appellant would be at real risk in Lebanon of serious harm or treatment breaching Article 2 or 3 of the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms ("the 1950 Convention").
6. To properly understand the case advanced, the basis of the fresh representations needs to be understood. The appellant expressly relied on the respondent’s own country of information request Response to an Information Request Lebanon: Ansarullah, Hezbollah (December 2019):

## **1. Ansarullah/ Ansar Allah**

### **1.1 Overview and links with Hezbollah/ Hizballah**

*1.1.1 On 30 October 2018, the Portal Center noted that Ansarullah was a Palestinian breakaway Sunni group loyal to the Shi’ite Iranian Revolutionary Guards (IRG) which had stepped up its confrontation to the Palestinian Fatah movement (Palestinian Liberation Movement). There were security reports of the IRGs having managed to expand their strongholds in Lebanon .*

*1.1.2 The Portal Center went on to say that ‘Ansarullah was formed by a Palestinian rebel named Jamal Soliman...*

*'Soliman, who was appointed the secretary-general of Ansarullah, launched the first military paraded for his 1000 forces in the Palestinian Ein el-Helwa Camp in Beirut in 2006. In addition to its headquarters in Ein el-Helwah, Ansarullah opened its offices in Bourg el-Baragnah Camp and Miya Miya Camp...*

*'Soliman mobilised his forces and joined the Shi'a Hezbollah forces, which fought Arafat's [Palestine Liberation Organisation] troops... 'In collaboration with Hezbollah, Soliman had assassinated about 182 of Fatah fighters. Soliman is also accused of assassinating Fatah's leading members Rasem el-Ghul and Ahmed Rashid...*

*'The leader of the breakaway group is also said to be the chief suspect in the assassination of Fatah's trustee Brig. Fathi Zeidan in Miyah Miyah Camp on April 12, 2014.'*

1.1.3 *On 26 October 2018, The Jerusalem Post noted that 'Ansar Allah was founded in the 1990s by Jamal Suleiman who had been a Fatah activist but gravitated to align himself with the Shi'ite Hezbollah and Amal movement during the Lebanese Civil War. However, his unit of Sunni Palestinians clashed with Fatah in April 2014 and Ansar Allah members were indicted for the fighting.'*

1.1.4 *On 14 May 2015, the news agency Foreign Policy stated that Ansar Allah and Islamic Jihad were both 'more extreme religious factions.'*

1.1.5 *On 7 November 2018, Al Arabiya noted that 'Lebanon official news agency reported that Jamal Suleiman, General Secretary of Hezbollah-linked Ansar Allah left to Syria as part of a deal with the Palestinian Fatah Movement following violent clashes between the two Palestinian groups last month, leading to the death of four persons and wounding 30 others including huge damages in properties.'*

1.1.6 *Arab News reported on 25 October 2018 that after renewed clashes had broken out between Palestinians in a Lebanon camp, a Palestinian official had said 'Hezbollah no longer supports Ansar Allah.'*

1.1.7 *On 11 May 2019, the Chinese news agency China.org.cn listed El Buss camp in its report entitled "Lebanon's Mieh Mieh refugee camp ends armed manifestations," which noted that 'A Lebanese-Palestinian agreement to end armed manifestations in Mieh Mieh camp in east of Lebanon's Sidon city came into force on Saturday [11 May 2019], local media reported.*

*'The agreement came after a series of meetings between representatives of Lebanese and Palestinian authorities which will pave the way for more similar agreements in other camps such as the Shatila in Beirut and El Buss in Tyre, Elnashra, an online independent newspaper reported.*

*'Authorities agreed to prohibit the acquisition of arms inside the camp [Mieh Mieh camp] in addition to dismantling security checkpoints...*

*'The camp has witnessed several clashes between members of Fatah and Ansar Allah during October last year [2018], killing at least five and injuring 26 people in the camp.'*

7. The appellant's argument therefore was that at the material time when he had issues in the camp, in 2017, the two groups did have links and therefore it was wrong to hold this against him. He also provided two letters from the PLO, photographs and screenshots from Facebook which were not before the previous judge. As the Judge summaries, the appellant's position was:

*a) The previous determination failed to refer to policy concerning exclusion from the protection of the 1951 Convention; some of what is written in the previous determination about the expert report (of Dr George) is wrong; the approach to section 8 of the 2004 Act was wrong and in seeking permission to appeal the previous determination the Appellant did not include those arguments as to errors of law.*

*b) The Refusal contradicts itself, is not in accordance with background evidence provided by the Appellant and letters from the Popular Committees of the Palestine Liberation Organisation should have been given more weight than the Respondent gave them in considering the fresh claim.*

*c) The Refusal acknowledges that those of interest to Hezbollah would not have sufficient protection or the possibility of internal relocation; there are serious protection risks from which neither the state nor UNRWA could protect the Appellant; he is entitled to the benefit of the 1951 Convention and would not be permitted to re-enter Lebanon to return to UNRWA protection.*

8. The appeal came before the Judge on 7 July 2023. Having heard the evidence, the Judge set out their reasons as follows:

*25. I note the omissions and inconsistencies in the Appellant's previous evidence as identified in the previous determination (paras.50, 51, 52) and the previous Tribunal's conclusion (para 61) that the Appellant was not a truthful witness. I find that further difficulties in the Appellant's case have arisen from his evidence in this appeal.*

*a) In the screening interview the Appellant appears to have said that he had posted something on Facebook which had triggered threats against him (previous determination, e.g., paras 22, 23), in oral evidence in the previous appeal in 2019 that he had not posted any such thing on Facebook but then that he had (previous determination, paras 25 & 27). In his statement for the current appeal, he writes that he did express anti-war opinions on Facebook. The Appellant has not complied with the guidance in XX (Iran) relating to social media material.*

*b) In the previous appeal, the Appellant relied in part on his fear of Hezbollah and said that Ansar Allah was part of Hezbollah (previous determination, paras 2 & 9). In his witness statement for this Appeal the Appellant wrote about being targeted "by Ansar Allah or Hezbollah" and that on return he would be at risk of persecution by "Ansar Allah or Hezbollah". In oral evidence in the current appeal the Appellant confirmed that when he was in Lebanon he was never contacted by*

Hezbollah, that he had been in contact with his family in Lebanon monthly and as recently as 15 days before the hearing and that since he had been in the United Kingdom his family had not received threats from Hezbollah.

c) The Appellant gave oral evidence that Ansar Allah are present in the camp where he lived, but Hezbollah are not.

26. I find that several of the gaps in evidence, identified in the previous determination, remain. Despite the Appellant remaining in contact with his family in Lebanon there is still no supporting evidence of his uncle's hospitalisation. Although one of his sisters is said to have been attacked in December 2017, in an incident the Appellant linked to Ansar Allah's grievance against him, there is no evidence from her. Furthermore, no details of any more recent incident involving her have been provided, with the Appellant writing only "my younger sister is still getting harassed in the streets by members of Ansar Allah for my actions in 2017".

27. The Appellant has provided photographs in evidence. He writes in his witness statement that photographs show a fight which broke out in Rashidi camp in June 2021, which had involved the use of light weapons and bombs, leaving buildings damaged by bullets and a young boy dead. I asked, at an early stage of the hearing, for the Appellant to identify which photographs were taken of what and when. According to the index in the Appellant's bundle, the relevant documents and photographs are at pages 21 - 27 (CB, pp.57 - 63). In his oral evidence the Appellant said that the text had been taken from a well known Lebanese paper, Yasour.org and from the Facebook page of that organisation. I give little weight to the text for the combination of the following reasons:

a) Copies of the website or social media account pages have not been filed in evidence;

b) What has been provided (pp. 57 & 61) may have been obtained by copying or cutting from a larger text and pasting to these two pages;

c) I know nothing of the author of the text, his or her impartiality, knowledge or experience;

d) The text as translated does not include any date; and

e) The text does not offer a complete context, for example, writing about "violent clashes" between Palestinian factions without making who clashed with whom or why.

28. I am not satisfied that the photographs add weight to the Appellant's claim to be in danger from Ansar Allah, for the combination of the following reasons:

a) None of the photographs at CB, pp. 58 - 60 & 62 is dated and there is no supporting evidence to show when any damage to buildings was caused or by whom;

*b) There is no supporting evidence to show Ansar Allah to have been responsible for the visible damage to buildings or for the body (p.58);*

*c) Although the Appellant wrote that he recognised photographs as being from the camp in which he used to live there is nothing on the face of the photographs to show a link to Al Rashidi camp.*

*29. A Facebook page (CB, p.63) is dated 5 June 2021. It shows two photographs of a young man. I was told that it has been taken from the Yasour.org Facebook page. I cannot readily identify any translation of the Arabic script immediately above and below those two photographs. It has not been shown that they mention any link to Ansar Allah or to the Appellant.*

*30. Documents in support of the Appellant's claim are said to be at pages 12 - 20 of his bundle (CB, pp. 48 - 56) with better copies of some of the documents provided later (CB, pp.241 - 249). As it was not clear to me which pages of text had been translated, I asked the Appellant to link the documents he had brought with him to the hearing centre.*

*a) CB, pp. 48- 50 & 245 - 247 is described as a newspaper report. The photograph inset in the text is dated 19 April 2016 and the article refers to Hezbollah plans to assassinate Palestinian leaders in Lebanon and in particular to a plan to assassinate Rifaat Shanaa who is described as the leader of the Fatah movement. The text bears a website address at the bottom and the date 14/03/2018. The Appellant denied that he had printed the page that day and said that it was the date of publication of the article. The Appellant's explanation does not sit comfortably with the 2016 date which captions the photograph. I find that this article relates to events in or before April 2016, because of that caption.*

*b) The photograph captioned 19 April 2016 (CB, pp. 48 & 245) also appears in a different article which purports to provide an account of events in March 2018 (CB, p.111), illustrating the importance of considering photographs and other evidence in context.*

*c) I find that the article is evidence of suspicion that in 2016 members of Ansar Allah in Al Rashidi camp were suspected of involvement in plans to assassinate a Fatah leader (Rifaat Shanaa), that Ansar Allah denied any link to those arrested in relation to that accusation. There is some suggestion that Ansar Allah cooperated with Fatah by handing suspects over to Fatah, who in turn handed them over to the Lebanese army. I am not satisfied that the article provides any evidence of the standing or power of Ansar Allah at any time after April 2016 or of any activities by it in Al Rashidi camp more recently.*

*31. I note references in the previous determination to expert evidence that Ansar Allah was marginalised after October 2018, that its influence had never been significant and that it would have been very unusual for Ansar Allah to have targeted someone who had assisted Syrian refugees as the Appellant claimed to have done. No new expert evidence about the history, strength, influence or interests of Ansar Allah has been filed.*

32. I distinguish between the two letters from the PLO by the reference number that appears in the top right hand corner of the translations – 8/2017 (CB, pp.241 & 242) and 11/2020 (CB. pp. 243 & 244). Having considered these letters in the context of the evidence as a whole in light of the Appellant's clarifications about them, I give the contents of the two letters little weight, for the combination of the following reasons.

a) In relation to the 8/2017 document, the author is not identified and has not made clear whether he (or she) writes from personal knowledge or from other source of information;

b) In relation to the 8/2017 documents, it does not sit easily with the Appellant's previous evidence in that it asserts "we are aware that there were to several attempts to kill him in 2017 ..." whereas it appears from the previous determination that the Appellant had referred to a single assault when shots were fired towards him and to another incident when an attempt was made to kidnap him.

c) I had asked whether the Appellant was able to cast any light on the significance of the number "8/2017" as it appears on the document and he gave oral evidence that that the incident that happened to him was in August 2017; I contrast this with his previous claims of the attack in November 2017 and a kidnapping attempt in December 2017. Although he says that he was accused in August 2017 of supporting a Syrian army, the letter does not mention that.

d) The author of the 11/2020 letter is not identified and no information is provided about his (or her) standing or authority.

e) The 11/2020 letter adds nothing to an understanding of the Appellant's particular claim in that it does not mention him or Ansar Allah and does not detail conditions at the date the Appellant left Lebanon to provide general security situation context for his claim.

f) Both letters are now more than 2½ years old and are in consequence of little assistance in assessing current conditions.

9. Having set out the above assessment of the evidence before them, the Judge summarised their conclusions at paragraph 35:

*I summarise my findings as to the Appellant's protection claim as follows:*

a) *I am not satisfied that the Appellant has in the past been threatened by Hezbollah, that he was ever harmed by that organisation or that he would now be of any interest to it on return to Lebanon.*

b) *I am not satisfied that the Appellant attracted the adverse interest of Ansar Allah by reason of having offered assistance to Syrian refugees in Lebanon.*

c) *I am not satisfied that the Appellant was attacked in November 2017 by men who fired shots at him or that there was an attempt in December 2017 to kidnap him.*



d) *I am not satisfied that the Appellant has been threatened by any person or organisation by reason of having assisted refugees in Lebanon.*

e) *I am not satisfied that the Appellant made on Facebook any posting or publication which would have attracted adverse attention from Ansar Allah, or Hezbollah.*

f) *I am not satisfied that the Appellant has in the past been threatened by any person by reason of a posting he made to Facebook about the war in Syria.*

g) *I am not satisfied as to the current presence of Ansar Allah in Al Rashidi refugee camp or as to its power, influence or reach generally.*

h) *I am not satisfied that on return to Lebanon the Appellant would be at real risk of persecution, serious harm or treatment breaching Article 3 of the 1950 Convention.*

i) *I am not satisfied, for the purposes of Article 1D of the 1951 Convention, that the Appellant left Lebanon because his personal safety was at serious risk.*

10. Given the above findings the Judge then found that in relation to Article 1D:

36. *The Appellant identified the document at pages 284 & 285 as his Palestinian Lebanon refugee card and referred to an UNRWA list of family members (which I did not take into evidence because it was not suggested that anything would turn on it). I find that the Appellant was a refugee in Lebanon who had been registered with UNRWA for protection and assistance and who has acknowledged receiving some assistance from them. He was recognised as a refugee by UNRWA but has not suggested that he was so recognised because of events in which he was involved in Al Rashidi camp in 2017.*

37. *It is unfortunate that, in relation to the exclusion point, the skeleton argument does little more than set out provisions of Article 1D of the 1951 Convention and the relevant parts of the June 2018 CPIN. I have seen the Upper Tribunal's decision in Said (Article 1D: interpretation) [2012] UKUT 00413 (IAC) but my attention has not been drawn to any decision reconsidering the Court of Appeal's decision in El-Ali v Secretary of State for the Home Department [2002] EWCA Civ 1103. I have also seen the later decisions in Bundesrepublik Deutschland v XT (Directive 2011/95/EU) Case C-507/19 and NB & AB V Secretary of State for the Home Department (Directive 2004/83/EC) Case C-349/20. I deal with the current appeal on the basis that the Appellant is not "ipso facto ... entitled to the benefits of [the 1951] Convention" because, having considered all the evidence, I have concluded that the Appellant did not leave the UNRWA area of operations for reasons of personal safety or for objective reasons beyond his control. It follows that I am not satisfied that he is automatically entitled to recognition as a refugee in the United Kingdom because he was receiving UNRWA support and protection before leaving Lebanon and that support would still be available to him there.*

11. The Judge went on to consider the Article 8 case and found there were no very significant obstacles to integration on return.
12. The appellant appealed. Permission was given by First-tier Tribunal Judge Dainty on 12 September 2023:

*2. The grounds aver that the Judge did not consider material evidence as to the connection between Ansarullah and Hezbollah and that the evidence she did consider was not given anxious scrutiny nor did she engage fully with the Appellant's case on all the relevant issues. It is further said the judge looked at the wrong test - she should not have considered risk on return rather she should have considered this as an article 1D Refugee Convention case. It is also averred she misdirected herself as to s8 and the case law to which she referred.*

*3. There is an arguable error of law in failing to engage with some or all of the new points/evidence raised in the fresh submissions (in particular the article 1D point at [21]). This appears to have arisen out of an arguably wrong approach to Devaseelan type cases in delving too far into a review of the previous decision instead of using the previous decision as a starting point and then moving on to considering the facts, arguments and evidence arising out of the fresh submissions.*

### **The hearing**

13. At the hearing Ms Ferguson adopted her grounds of appeal and submitted that the Judge had materially erred by failing to understand and consider the case through the lens of Article 1D of the Refugee Convention. Whilst the written grounds are number 1 - 4, in reality grounds 1 and 2 are in relation to the credibility assessment, and 3 - 4 are in relation to the application of 1D. She submitted that the Judge's failure to appreciate the distinction between Ansarullah and Hezbollah and when they disentwined from each other was a fundamental failing.
14. She then criticised the Judge for considering the case through the lens of risk on return, when the Judge ought to have considered it through Article 1D, and the Judge's approach was unlawful.
15. Ms Lecointe submitted that the Judge's decision was sustainable and had not fallen into legal error.

### **Decision and reasons**

16. I take the grounds in the reverse order. Ms Ferguson made lengthy submissions on the error that the Judge fell into in not considering the case through the lens of 1D, and instead focussing on the appellant's risk on return. I reject this ground as being simply inaccurate. Article 1D of the Refugee Convention gives protection to some Palestinians, as set out in Said (Article 1D : meaning) Palestinian Territories [2012] UKUT 413 (IAC):

*24. In these circumstances, it is right to look at what the Advocate General (Sharpston) said in her opinion in Bolbol. After arguing that the temporal position taken in El-Ali was wrong and therefore writing against the background of the meaning of the first sentence of article 1D that was*

*adopted by the Court she said this at paragraph 90, summarising her conclusions:*

*“90. The construction that I propose in dealing with each of the four points of interpretation involves reading the two sentences that together comprise Article 1D in a way that will generate the following set of outcomes:*

*(a) a displaced Palestinian who is not receiving UNRWA protection or assistance is not excluded *ratione personae* from the scope of the Convention: he is therefore to be treated like any other applicant for refugee status and to be assessed under Article 1A (avoidance of overlap between UNRWA and the UNHCR; application of the principle of universal protection);*

*(b) a displaced Palestinian who is receiving protection or assistance from UNRWA is excluded *ratione personae* from the scope of the Convention whilst he is in receipt of that protection or assistance (avoidance of overlap between UNRWA and the UNHCR);*

*(c) a displaced Palestinian who was receiving protection or assistance from UNRWA but who, for whatever reason, can no longer obtain protection or assistance from UNRWA ceases to be excluded *ratione personae* from the scope of the Convention (application of the principle of universal protection); however, whether he is then *ipso facto* entitled to the benefits of the Convention or not depends on why he can no longer obtain such protection or assistance;*

*(d) if such a displaced Palestinian can no longer benefit from UNRWA protection or assistance as a result of external circumstances over which he had no control, he has an automatic right to refugee status (application of the principle of special treatment and consideration);*

*(e) if such a displaced Palestinian can no longer benefit from UNRWA protection or assistance as a result of his own actions, he cannot claim automatic refugee status assessed on its merits under Article 1A (application of the principle of universal protection and fair treatment for all genuine refugees; proportionate interpretation of the extent of special treatment and consideration to be afforded to displaced Palestinians).*

17. As can be distilled from the above the key question is whether a displaced Palestinian ceased to receive the protection or assistance from UNRWA as a result of external circumstances over which he had no control.

18. Contrary to the submissions made by Ms Ferguson the Judge did consider the correct test. The Judge plainly identified the issue and determined the matter through the lens of Article 1D at paragraph 37. The reason why the appellant does not benefit from 1D protection is not because of the Judge erring in not applying 1D, but due to the findings of fact as to why it is that the appellant left the UNRWA protected area. In other words, the Judge clearly finds that the appellant would have the support of UNRWA on return to Lebanon, and that it

was not for external circumstances over which he had no control that he no longer had such protection or assistance.

19. Having viewed the case through the correct lens, the next complaint is that the Judge misapplied the Devaseelan test, in that the Judge did not properly turn their minds to the new evidence and consider the case in that context. The Judge, it is said, materially erred by failing to consider the new evidence through fresh eyes, before then considering whether the evidence was capable of taking them behind the previous findings.
20. I reject the criticism levelled in relation to the application of Devaseelan. The Judge identified at paragraph 20 the submissions for why they should go behind the previous decision. The Judge considers the appellant's evidence, and at paragraph 25 a) - c), sets out difficulties in his evidence beyond those identified previously.
21. The Judge identifies gaps in the evidence continue to exist, which have not been adequately addressed or explained. The Judge then goes on to consider the documentary evidence and at paragraphs 27, 28, 29, 30 and 32 reject those documents giving clear reasons. The Judge therefore considered the material reasons given for going behind the previous decision and rejected them. There was, in my judgment, no misapplication of the Devaseelan principle.
22. Turning to grounds one and two. Ms Ferguson's focus at the hearing was on the point taken against the appellant regarding when Hezbollah and Ansarullah disconnected from each other. The grounds assert "*the Judge says she has considered all the evidence but has not in relation to a core issue (the connection between Ansarullah and Hezbollah)*", this ground however does not address paragraph 31 which expressly references the previous decision about the marginalisation of Ansarullah after October 2018, and that there has been no updated expert evidence. It should be noted that the group Ansarullah are also referred to as Ansar Allah at various points in the documents.
23. Ms Ferguson submits that the Judge made the same mistake that the previous Judge had in failing to understand that the two organisations cooperated with each other until 2018 when the background material shows they became less in tune with each other. The complaint made in writing about the distinction between Hezbollah and Ansarullah I regret appears to be on a misunderstanding and a misreading of both Judge Rothwell and Judge Sullivan's decisions. The grounds of appeal say:

*3. There was a previous determination heard 6 November 2019 at Hatton Cross before FTJ Rothwell. The basis of claim was the same: Ansarullah had taken an adverse interest in him on account of his work assisting Syrian refugees and comments questioning why Palestinians would fight in Syria. In that appeal the issues were also said to be credibility and risk on return (previous determination §16).*

*4. It was said then by the respondent and accepted by the Judge that there was no connection between Ansarullah and Hezbollah which consequently damaged the appellant's credibility and the assessment of risk (previous determination §11). The appellant has always contested this.*

24. The above submission is not accurate. Judge Rothwell did not find that the two groups had no connection, she did not find that this damaged the appellant's credibility. It is correct that was the respondent's position, but that was not a finding made by Judge Rothwell anywhere in her decision.

25. Judge Rothwell expressing considered the report of Dr George:

*43. Dr George states that Ansar Allah are not part of Hezbollah and had been close until clashes in October 2018. Further Ansar Allah have no connection to the Lebanese security forces. In addition there was no evidence that Al-Afaq institute is funded by Hezbollah.*

*44. However Dr George states that a person who had attracted the adverse attention of Hezbollah or the Lebanese authorities would have a good reason to fear for their wellbeing. The Lebanese authorities are present in all parts of country, except for the Palestinian camps where Hezbollah control. The Lebanese authorities are disinclined to exert themselves to assure the security of Palestinians.*

It is plain that Judge Rothwell was aware that the two groups were close until 2018.

26. In addition to the above, Judge Rothwell expressly finds:

*53. The second issue is that Dr George's report does not corroborate the factual details of the appellant's account. I have set out the paragraph above where Dr George sets out his surprise that the appellant would be targeted for providing assistance to Syrian refugees. He sets out that there are individuals and organisations who provide such support. However he does state that if someone had upset Ansar Allah or Hezbollah then they could find themselves in trouble.*

...

*58. Further Dr George gives a detailed account of the situation in Lebanon. In the refusal letter the respondent states that there is "clear water" between Hezbollah and Ansar Allah. Dr George's report states that Ansar Allah and Hezbollah are no longer connected. He states that Ansar Allah are a small faction whose influence has never been significant. He states that they have never had a presence within the Lebanese security forces.*

*59. Further Dr George stated there is no evidence that the appellant's college was funded by Hezbollah and the respondent states that as Hezbollah and Ansar Allah are no longer connected they would not be able to affect his studies.*

*60. Therefore even without the internal inconsistencies and lack of plausibility within the appellant's account Dr George's assessment of the background situation does not support the appellant's account.*

27. Judge Sullivan did not fall into error by failing to comprehend the two groups. The grounds of appeal are misconceived because it is clear that the previous Judge did appreciate that the two groups were close until 2018, Judge Sullivan

has plainly shown consideration of the point, and is clearly aware of how Judge Rothwell considered the issue.

28. Ms Ferguson's ground simply fails to reconcile that Judge Rothwell had not found the appellant's account credible as to why he had fled Lebanon, and had taken into account that Hezbollah and Ansarullah were more aligned before 2018. Whether the respondent's decision letter was accurate or not is not the issue in this appeal. The Judge was aware, as was Judge Rothwell, that they were no longer affiliated. There is no error of law in the Judge's findings on this point.
29. Ground two is a different submission on the same point, that the Judge had made a material error of fact. I do not accept that. The Judge was plainly aware of the distinction, the relevance of 2018 and that the two groups were aligned before then. None of the Judge's findings make any mistake in thinking the two groups were not aligned in 2017 when the appellant was in Lebanon.
30. Ms Ferguson's grounds then criticise the Judge for misdirecting herself "*in saying the appeal was about credibility; the wrong test has been repeatedly applied (risk on return not article 1D); the earlier determination was framed in the same terms so the mistake is compounded (see previous determination at §§11, 16); the approach to s8 is not consistent with what is said at KG (Turkey) [2022] EWCA Civ 1578 even though the judge purports to direct herself according to that;*".
31. This submission is surprising. The issue on an appeal in considering Article 1D, is to examine the circumstances someone left the protection of UNRWA, and whether it was due to circumstances outside their control. That inherently will require a credibility assessment. Once that assessment has been undertaken either someone did leave due to reasons outside of their control, in which case they attract the protection of the refugee convention. If they did not leave in those circumstances then any claim for protection inherently has to consider a risk assessment.
32. Given the credibility findings in this case the appellant has been found not to have left in the way and in the circumstances he claims. As a consequence, he needs to show that he is at risk on return. He has failed to do so.
33. For all of the above reasons I find that the Judge did not err in law.

### **Notice of Decision**

There is no error of law in the decision of the First-tier Tribunal, and the appellant's appeal is dismissed.

**Judge T.S. Wilding**

Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber

Date: 28<sup>th</sup> November 2023

