



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: PA/01824/2020

THE IMMIGRATION ACTS

**At Field House, No hearing
On 15 April 2021**

**Decision & Reasons Promulgated
On 20 April 2021**

Before

MR C M G OCKELTON, VICE PRESIDENT

Between

[H K]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REMITTAL

1. I have reviewed the file in this case. In granting permission to appeal, a judge of the first-tier Tribunal observed as follows:

“The grounds for appeal assert that having found the Appellant to be an Iraqi, it was arguably an error of law for the Judge to conclude that because she was not credible as to her nationality, she could not be believed that she did not have access to her Iraqi identity documents. There is no indication in the Judge’s decision that this issue was explored, particularly in the light of the guidance contained in SMO, KSP & IM (Article 15(c); identity documents) CG Iraq [2019] UKUT 400 (IAC), of which neither the decision nor the grounds for appeal make mention. It is also arguable that the Judge did not adequately address the issue of the return of the Appellant to Iraq as a single woman, notwithstanding the difficulty in making a proper assessment of her circumstances on return to which the Judge referred at the end of paragraph 38 of his decision.

The grounds also assert the Judge arguably erred in law in his assessment of the Appellant’s claim under Article 8 as the wife of a naturalised British

citizen by not adequately addressing the aspect of the claim under EX of Appendix FM to the Immigration Rules. The findings at paragraphs 16 and 36 together with the matters referred to in the preceding paragraph of this document disclose an arguable error of law.”

2. On 1 March 2021 I wrote to the parties as follows:

“I have reviewed the file in this case. The respondent has not indicated any intention to contest the appeal, and time for a notice under rule 24 has expired.

I propose without more ado to set aside the decision of the First-tier Tribunal for error of law as identified in paragraphs 4 and 5 of the grant of permission, and remit the appeal to the First-tier Tribunal for a fresh decision.

Any submissions to the contrary will be considered if received within **21 days** of the date of this letter.”

3. There has been no response from the Appellant’s solicitors. On behalf of the Respondent, Mr Tufan, Senior Presenting Officer, has specifically consented to the course of action proposed.
4. I set aside the decision of the First-tier Tribunal sent out on 16 October 2020 for error of law as identified in the grant of permission. I remit the appellant’s appeal for a fresh decision by the First-tier Tribunal.

C.M.G. Ockelton

C. M. G. OCKELTON
VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 15 April 2021