



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

Case No: UI-2024-003901

First-tier Tribunal No: PA/01747/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 6<sup>th</sup> of December 2024

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**SS (Iraq)**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Hosseinzadeh of United Immigration and Visa Services.  
For the Respondent: Mr Thompson, a Senior Home Office Presenting Officer.

**Heard at Phoenix House (Bradford) on 27 November 2024**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant 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. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

1. The Appellant appeals with permission a decision of First-tier Tribunal Judge Hands ('the Judge'), promulgated on 5 August 2024, in which she dismissed the appeal against the refusal of the Appellant's application for asylum and/or leave to remain in the United Kingdom on any other basis.

2. The Appellant is a citizen of Iraq born on 31 May 1992 who the Judge records left Iraq in the back of a lorry on 15 March 2022 and arrived clandestinely in the United Kingdom on 24 May 2022.
3. The Judge notes the Appellant's account at [13] and the oral evidence given by her husband at [14].
4. The core of the claim is an alleged real risk in Iraq from the Appellant's former boss, a member of the Barzani family who it was claimed are in power in the IKR through the KDP. The Judge finds at [25] that the KDP are in power in parts of the IKR meaning, in any event, that the Appellant could relocate to an area where the PUK are in power rather than an area where the KDP hold power.
5. At [29] the Judge finds the Appellant's return did not breach Article 15 (c) of the Qualification Directive as there was no serious individual threat to a citizen's life or person by reason of indiscriminate violence in a situation of international or internal armed conflict in the Appellant's home area.
6. The Judge at [30] finds the Appellant is in contact with her sister in Iraq, has since her marriage been a family member of her husband's family with whom she will return to Iraq, where they could access his family book in which she will have been registered as his wife. The Judge finds the Appellant therefore has channels to obtain the necessary identity documents. The Judge finds at [31] there was no evidence the Appellant had made any attempt to request assistance through the sources set out at [30] to obtain the necessary documentation.
7. The Judge does not find Articles 2 or 3 ECHR are engaged based upon the totality of the evidence and at [36] records that it was not argued that the Appellant's son would suffer being returned to Iraq. The Judge notes the child will be returned with the Appellant and his father.
8. At [38] the Judge writes:
  38. The Appellant has failed to satisfy me that:
    - i. She has a well-founded fear of being persecuted if she were returned to Iraq on one or more of the grounds defined in Regulation 6 of the 2006 Regulations.
    - ii. Qualifies for Humanitarian Protection as defined in paragraph 339C of the Immigration Rules and
    - iii. there could be a breach of the European Convention on Human Rights under Articles 2, 3 and 8.
9. The Appellant sought permission to appeal which was granted by another judge of the First-tier Tribunal on 21 August 2024, the operative part of the grant being in the following terms:
  2. Ground 1 asserts that the judge erred in her approach to the background evidence in holding the Appellant's father and brothers would cease to have power or influence over her following her marriage.
  3. It is arguable that the judge erred in her approach to the evidence in this respect given that the CPIN is cited refers to risk from any male relative [18].
  4. Ground 2 complains that too much weight has been attached to the Appellant's inability to substantiate all parts of her case and failed to attach weight to hers and her husband's oral evidence on this issue.
  5. This ground does not point to where in the decision the error is said to have occurred. It is arguable that the judge has failed to identify the additional corroborative evidence the Appellant ought to have been able to get [20 and 22] as is required for a proper consideration at paragraph 339 L of the rules.
  6. Ground 3 argues that the judge engages in excessive speculation when concluding that the journey to the UK would have cost "vast" amounts, and that the husband's friend was unlikely to have been close enough to lend this money because the Appellant herself did not know him well enough to know his full name. This is just arguable.

7. Ground 4 argues that it was unreasonable for the judge to have found the Appellant is an economic migrant despite her experiences and the associated trauma. It does not necessarily flow as one can be both traumatised and an economic migrant.
  8. Ground 5 argues that the judge has failed to make findings as to whether the evidence of the Appellant and her husband was reliable noting that it was entirely consistent.
  9. It is arguable that the judge has not engaged with the oral evidence to a sufficient degree to explain why it has by implication been rejected. This ground is arguable.
  10. Permission to appeal is granted in respect of all grounds.
10. The Secretary of State opposes the appeal in a Rule 24 response dated 5 September 2024, in the following terms:
2. The respondent opposes the appellant's appeal. In summary, the respondent will submit *inter alia* that the judge of the First-tier Tribunal directed himself appropriately.
  3. The FTTJ has considered the background evidence appropriately with reference to the CPIN, and having considered the claimed facts in the appeal. The A was married, thus negating the bulk of honour crime victims as highlighted at [16] with reference to 10.6 of the CPIN. The FTTJ was entitled to note her personal profile did not routinely fit [18]- such an assessment was conducted by the FTTJ as established by 3.2.2 of the CPIN as to the personal circumstances of the victim. Such observations by the FTTJ were not relevant to whether the assault took place since that was accepted, but whether the family of the A would have been dishonoured and intend to cause harm. The grounds do not quarrel with the consideration itself as to the marriage being apparently approved by the family [18]. The FTTJ was entitled to rationally note that in a patriarchal society such as Iraq, the 'responsibility' rests with the husband- that much is set out in the manner in which family registration details are on marriage aligned with the husband as set out in previous CG cases such as AA Iraq (headnote 9) and subsequently AAH Iraq (headnote 1 iii), hence the FTTJ referring to 'It is often reported that once married, a girl has to live with her husband's family and becomes their responsibility'. In any case, the central issue was whether her family actually wished to do the A harm which the FTTJ considers.
  4. Ground 2 seeks to home in one aspect of the findings without regard to the rest of [17]. Whilst corroborative evidence is not always required necessarily, given the A claims to be fearful of a powerful and influential Barzani family, there would have been no risk to the A to adduce evidence on the company she worked for actually existing, or that the business was linked to the Barzani family. In any case, there is no challenge to the finding made at [20] that her fear is not now of her claimed former boss, or of the reasoning as to why the claim to send videos to her own family in the belief she was unmarried and would draw unwanted attention to himself. Given the claim of risk from her family emanates from the sending of the videos to her family, the rejection of this fact remains unchallenged and therefore the grounds fail.
  5. There is no irrational approach to the findings made as referred to in ground 3. The cumulative findings in [21]-[22] are clear reasons for rejecting the claimed exit and manner in which it was funded, based not on speculation but having taken judicial note of the costs of transporting three persons halfway across the world by smugglers.
  6. Ground 4 speculates that the finding made at [23] is strictly restricted to an economic and financial aspect. Notwithstanding the acceptance of the assault having happened, the concept of a 'better life' as referred to by the FTTJ is not restricted to economic betterment. It is not material to the outcome of the appeal, but as alternative scenario to the rejection of the claim under the Convention.

7. As to Ground 5, even if the evidence may have been consistent on aspects that only forms part of the consideration. The FTTJ provided reasons for rejecting the claim as being inconsistent in form of threat and illogically so, unsupported by external evidence, and lacking in credibility as to the claim on how they departed Iraq. Simply put, the FTTJ did not consider the burden had been discharged.
8. Regardless of the merits of the grounds, there is no challenge to what is set out in [24]and [25] where the FTTJ finds that the A could be expected to relocate if required, and that such action would not result in serious risk of harm. Nor is there challenge to the findings made on feasibility of return and documentation, such that the appeal should remain dismissed.

### Discussion and analysis

4. The Judge's findings commence from [8] of the decision under challenge in which the Judge sets out the stepping stones leading to the core findings referred to above. As they are where the grounds of challenge lie, I summarise those in the following terms:
  - a) That it is accepted that the Appellant is a national of Iraq of Kurdish ethnicity and that she was a victim of abuse [12].
  - b) That the Appellant must establish, to the lower standard of proof, that she is the target or potential victim of an honour crime and thereby facing persecution or a real risk of serious harm as being a victim or potential victim is not sufficient to be recognised as a refugee [15].
  - c) The Respondent has accepted the Appellant was a victim of sexual assault at the hands of her boss who the Appellant believed to be a member of the powerful Barzani family, but that she had not provided evidence to support that claim [17].
  - d) There is no evidence about the company the Appellant claims to have worked for nor information about the Barzani family being involved in the cleaning business [17].
  - e) Whilst tribal affiliations within the IKR are accepted it is not established that because somebody has the same surname that they are related closely enough to any other Barzani that would enable that person to act with impunity within all communities with the IKR. The Appellant had not established she was a victim of a member of the same Barzani family that is in power in the IKR [17].
  - f) The Appellant's marriage must have been approved by her father, it is unlikely her marriage to someone unable to maintain her and forcing her to go out to work in order to make ends meet would have been approved by her father. The work carried out by her father and brothers was such that they could have assisted her husband to find additional employment without her having to go out to work. If they did not do so that suggests they were happy she was the responsibility of her husband and not theirs [18].
  - g) The patriarchal society in Iraq does not mean a woman's father and brother have power and influence over her after marriage [19].
  - h) The Appellant stated her husband had no family, she was an only child, and his parents are deceased. As such it was found she would therefore be the sole responsibility of her husband. Her husband was willing and supported the Appellant after her ordeal at the time they left Erbil, the only person she claimed she feared was her boss [19].

- i) The Appellant's claims have changed in that she originally feared her boss causing her serious harm or death, but such fear was also transferred to her family. The Judge was not satisfied looking at the evidence in the round that the Appellant had provided sufficient reliable information to substantiate her claim that her boss was seeking to do her harm or that he sent videos of her to her family [20].
- j) The Appellant claimed her family did not have much money or savings and that a friend in Kirkuk arranged the cost of the journey to the UK in exchange for their family car. The Judge finds the cost of sending two adults and a child to the UK illegally using an agent or people smuggler would have cost a vast amount of money being far more than the value of the family car. Taking into account the Appellant did not know the full name of the husband's friend or provide information as to the frequency with which they were in contact or visited the friend, is it unlike their friendship was sufficiently close to merit him spending so much money to meet the expenses of the illegal transit to the United Kingdom [21].
- k) No matter who paid for the journey it was arranged within a very short period of time, within a week of revealing what had occurred to her husband. The Judge did not accept the Appellant would have been able to arrange all her affairs to be in order to prepare for such journey or that the friend was able to arrange the journey quickly through an agent. The Judge did not find the timeline plausible, especially when arriving in the UK along with her husband and son was not delayed by months of waiting in any European country or the agent deciding where the journey would take them [22].
- l) Looking at the evidence in the round, the Appellant had not provided sufficient reliable evidence to substantiate her claims that her former boss or her father and brothers were the reason she left Iraq [23].
- m) The Judge finds the Appellant's account of her being able to commence the journey within a week of the time she fell into danger to be implausible. The Judge finds the Appellant and her husband planned the journey in the belief they would find a better life in the UK than the one on offer in Iraq. The Appellant is an economic migrant not a member of a particular social group who requires the protection as a refugee in respect of events in Iraq and the reason she left [23].
- n) The Appellant has not established the need for protection from the state [24].
- o) In the alternative, the Judge finds that if she is wrong about the need for protection in her home area, it is open to the Appellant to relocate. The Appellant had not established that her family have any influence either inside or outside the area where her father and brother work as taxi drivers. There is no information to show that taxi drivers throughout the IKR would find out where she was living. The Judge finds they did not know where she was in Kirkuk and made no attempt to find there. Registering in whatever town they decide to form a new life in, should they not return to Erbil, will not lead to them being discovered by her family [24].
- p) The Judge does not find the Appellant had established her former boss is a member of the Barzini family who are powerful in the IKR through the KDP. The Judge does not find the Appellant will face harm from her boss, and in any event, the Appellant said she did not believe he would want to harm her now [25].
- q) The KDP are in power in parts of the IKR meaning, even if the Judge states she is wrong about her former boss, the Appellant could relocate to an area where the PUK are in power. Kirkuk is also an alternative location for

her because it is in the part of the country where the Iraqi government holds power [26].

- r) The Appellant can be returned directly to the IKR without the necessity of travelling via Baghdad [28].
- s) The Appellant cannot succeed under Article 15(c) as there is no serious individual threat by reason of indiscriminate violence in a situation of international internal armed conflict at the point to which she will be returned [29].
- t) The Appellant could obtain any replacement document she requires on arrival in Iraq including attending at a local CSA office to obtain an INID, in person [30].
- u) The Appellant will be returned to Iraq accompanied by husband and child and there will be no breach of Article 2 and 3 ECHR [35].
- v) The family have only been in the UK for a short period of time and are unable to meet the requirements of Appendix FM or paragraph 267 ADE. The child will return to Iraq with the Appellant and his father who can continue to take care of him and ensure his education as they do now [36].
- w) Work carried out by the Appellant's husband in the community groups can be transferred to community life within Iraq [37].

- 5. Ground 1 asserts a clear error in the Judge's interpretation of the background evidence in her claim that nowhere in the background material does it say that in the patriarchal society in Iraq that a woman's father and brother ceases to have power or influence over her after marriage, as, indeed, the CPIN states that is not the case in terms of honour-based violence.
- 6. I find that was one comment by the Judge but not material to the Judge's assessment of there being no risk in relation to the claimed events concerning the Appellant's former employer. The Judge also in the alternative deals with what would happen if the Appellant's claim was credible, including the threats from her family. Even if in terms of family honour the father and brother would retain the right to take action against her that does not undermine the Judges findings when the decision is consider as a whole.
- 7. In Iraq, women traditionally move into the house of their husband at marriage and come under the control of their in-laws when they marry. That is the basis on which the Judge comments upon the Appellant coming outside the sphere of control of her immediate family and is not a finding that if the family is dishonoured male members of the family may not take steps to remedy the dishonour, including inflicting serious harm or death upon the person responsible.
- 8. Ground 2 asserts the Judge erred in finding there was not sufficient reliable evidence to substantiate her claim. The ground asserts the Appellant was not required to substantiate that part, by reference to paragraph 339L of the Immigration Rules. The same ground asserts the Judge failed to give any weight to the oral evidence of the Appellant or her husband in respect of this issue, but that claim is without merit. The weight to be given to the evidence was a matter for the Judge. The Judge repeatedly states she considered the evidence in the round following which she came to the conclusions that she has. Disagreement with that outcome does not mean insufficient weight was given to the evidence as a whole.
- 9. In relation to the corroboration point, the comment by the Judge that there was a lack of corroborative evidence is a factual comment, no more, which has not been shown to be a finding outside the range of those of reasonably open to the Judge. The Judge does not dismiss the appeal through lack of corroboration alone which would be contrary to the requirements of the Immigration Rules. The Judge weighed up the evidence that was available which was found not to be sufficient.

Although it is often referred to as the lower standard of proof there is still a threshold which, on the evidence, the Judge did not find had been met. This has not been shown to be an irrationally objectionable conclusion even if the Appellant disagrees with it.

10. Ground 3 asserts the Judge has drawn an impermissible conclusion not supported by the evidence when she speaks of the costs of taking two adults and a child to the UK, claiming was not known how much was paid and what is meant by 'a vast amount'. The Grounds also asserts the fact the Appellant could not answer questions about the alleged friend, including his full name or how often she saw him meant very little.
11. I find this ground is without merit. This is a very experienced Judge within the field of immigration and asylum law. Information is published in the public domain on a regular basis in relation to the cost of bringing illegal immigrants to the UK and the substantial profits being made by the people traffickers. The National Crime Agency report on the threat from organised immigration crime records that organised crime groups involved in immigration crimes are highly exploitative of vulnerable adults and children, charging large sums of money for their illegal services. It is not an irrational conclusion of the Judge to have found as she did bearing in mind the Appellant, her husband, and child claim to have been brought to the UK illegally, that the cost would have been "vast". The Judge was not required to quantify that figure when there was no evidence before her to enable her to do so. The Judge was entitled to give the weight that she did to the fact the Appellant appeared to know very little about the friend it was claimed had organised the trip from Iraq to the UK at very short notice. These have not shown to be findings outside the range of those reasonably open to the Judge on the evidence.
12. Ground 4 challenges the Judge's finding the Appellant is an economic migrant, but that is the assessment of the Judge on the basis of the evidence, even given what is accepted in terms of the reasons the Appellant left Iraq. This does not, in any event, undermine the core finding having analysed the evidence that the Appellant had not established she was entitled to any form of international protection or grant of leave to remain in the United Kingdom on any other basis. That has not been shown to be a finding outside the range of those reasonably open to the Judge on the evidence.
13. Ground 5 states the Appellant and her husband gave consistent evidence and asserts that consistent accounts should be considered corroborative evidence and that if it could not be relied upon then it was incumbent upon the Judge to say why. This ground is without merit. The Judge was required to give adequate reasons, not perfect reasons, having taken all the evidence into account with the required degree of anxious scrutiny. Having done so the Judge did not feel she was able to conclude that the Appellant had discharged the burden of proof upon her to show that she was entitled to any grant of leave to remain in the UK. The fact the Appellant and her husband gave similar evidence does not mean that that is a finding outside the range of those reasonably open to the Judge on the evidence as a whole. There was nothing to establish that the lay evidence was determinative per se or should be treated as such by the Judge.
14. Mr Hosseinzadeh's core submission focused upon the Appellant's family and on the role of family honour in the Kurdish community and risk that it was claimed the Appellant would face, specifically from her father and brother. It was argued that if she registered for school or provided official details she could be traced.
15. The Judge was alert to the issue which formed the basis of the submissions before me today, namely the influence of family members. The Judge dealt with this and has provided adequate reasons for why, having undertaken the required holistic

- approach and assessment of the evidence, including distinguishing the Appellant's personal circumstances, this claim was not made out.
16. Before the Judge the Appellant had not establish an entitlement to a grant of international protection or leave to remain in the UK on any basis. It was submitted by Mr Thompson the Grounds did not establish material legal error in this conclusion.
  17. There is also an important aspect identified in the Rule 24 response which is that a number of findings by made by the Judge are not actually challenged in the Grounds seeking permission to appeal. There is also no sustainable basis for finding the Judge's conclusions in relation to the question of internal relocation are infected by material legal error.
  18. When considering the merits of any challenge to a decision of a judge below it is necessary to give proper consideration to the guidance provided by the Court of Appeal in in Volpi v Volpi [2022] EWCA Civ 462 at [2], Ullah v Secretary of State for the Home Department [2024] EWCA Civ 201 at [26], and Hamilton v Barrow and Others [2024] EWCA Civ 888 at [30-31]. Having done so I conclude the Appellant has not established legal error material to the decision of the Judge to dismiss the appeal. Disagreement with the Judge's findings and a desire for a more favourable outcome to enable the Appellant and her family to remain in the United Kingdom is not sufficient. The Ground do not establish the findings made outside the range of those available to the Judge on the evidence. It is not made out those findings are irrational, unfair, or contrary to the material considered as a whole.

### **Notice of Decision**

19. There is no material legal error in the decision of the First-tier Tribunal. The determination shall stand.

**C J Hanson**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**27 November 2024**