



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

Case No: UI-2024-000671

First-tier Tribunal No: PA/50997/2023  
LP/01151/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 7<sup>th</sup> of January 2025**

**Before**

**UPPER TRIBUNAL JUDGE LOUGHRAN**

**Between**

**MO**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Offiah, Solicitor, instructed by JDS Solicitors

For the Respondent: Mrs Ahmed, Senior Home Office Presenting Officer

**Heard at Field House on 8 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**

**Introduction**

1. The appellant is a citizen of Nigeria who was born on 22 June 1975. By a decision issued on 23 September 2024, I set aside the decision of the First tier Tribunal dismissing the appellant's appeal. I now re-make the decision.

2. As this is a protection appeal an anonymity order was made at the outset of these proceedings. There was no suggestion by either party that the anonymity order should be lifted. I am satisfied that the anonymity order should continue on account of the protection issues in this appeal.

### **Factual and Procedural Background**

3. The appellant is a Nigerian national born on 22 June 1975. She arrived in the UK in July or August 2011. On 30 October 2013 she was refused leave to remain outside the Rules on compliance grounds with no right of appeal. On 26 January 2015 the appellant raised a human rights claim relying on Article 8 ECHR. This was refused on 29 October 2015. On 10 October 2016 the appellant submitted further submissions in respect of Article 8 ECHR. They were refused on 26 October 2016. On 3 December 2016 the appellant submitted further submissions in respect of Article 8 ECHR and they were refused on 6 February 2017.
4. On 23 June 2017 the appellant claimed asylum. The appellant claimed to be a member of the Indigenous People of Biafra (IPOB) in the UK and that she feared persecution on return to Nigeria on account of her political opinion. On 21 February 2018 the appellant's asylum claim was refused. On 26 June 2017 the appellant was referred to the National Referral Mechanism as a potential victim of trafficking. On 29 June 2017 she was found by the Single Competent Authority not to be a victim of trafficking.
5. On 25 June 2018 the appellant's appeal to the First-tier Tribunal in respect of the refusal of her asylum claim was dismissed by First-tier Tribunal Judge Burnett.
6. On 9 July 2019 the appellant submitted further submissions asking them to be treated as a fresh protection and/or human rights claim. They were refused with no right of appeal on 27 February 2020. On 29 October 2020 the appellant submitted further submissions asking them to be treated as a fresh protection and/or human rights claim. They were refused with a right of appeal on 3 February 2023. The appellant appealed against that decision.
7. The appellant's appeal came before First-tier Tribunal Judge Craft on 15 December 2023. The appellant gave oral evidence and Dr U-L, who was the National Co-ordinator of IPOB UK from 2017 to 2020 and who is presently serving as its Director of Medical also gave evidence. First-tier Tribunal Judge Craft dismissed the appellant's appeal.
8. The appellant applied for permission to appeal to the Upper Tribunal on the following grounds. By a decision issued on 23 September 2024 I set aside the decision of the First tier Tribunal dismissing the appellant's appeal.

### **The evidence**

#### **The appellant's evidence**

9. The appellant adopted her witness statement dated 13 June 2023. In her witness statement, the appellant stated that she was a member of her local IPOB Unit and a member of IPOB globally. She explained that it was a criminal offence to be a member of IPOB or associate with them. She confirmed that since the designation of IPOB as a terrorist organisation on 20 September 2017 by the Nigerian government, the persecution of members, supporters and sympathisers has increased. She outlined her activities since joining IPOB and explained that

she has attended protests, rallies and public campaigns. The appellant also identified specific roles in IPOB she claims to have undertaken. I have not recorded these claimed roles in this decision. The appellant has been granted anonymity and to do so may identify her. She explained that when they protest at the Nigerian High Commission they have their photos taken and she has also noticed that there is CCTV. She confirmed that she believes that all IPOB members are at risk in Nigeria. She explained that at present Nigerian security have embarked on mass arrest of IPOB members and that she has read about IPOB members being arrested at the airport and “being disappeared.”

10. In cross examination the appellant explained that she had continued being politically active in the UK since the hearing before the First tier Tribunal, but she had been told her case would be decided on the material she had already provided. She explained that she knew that the CCTV captured the protestors because they all walked past it. She confirmed that she did not have a record of IPOB members who had returned to Nigeria and accepted that she had no evidence their meetings were recorded. She confirmed that her parents and siblings were in Nigeria and had not had any problems with the Nigerian authorities. She explained that was because they were not IPOB members. The appellant explained that she had met Dr U-L at a rally in Trafalgar Square in May 2016, they had met at other rallies and were part of the same local IPOB Unit. They had previously been in separate local IPOB units, but their local units had merged after the pandemic. She explained that she did not know how to use twitter, but she helped organise meetings with other members of the group.

#### Dr U-L's evidence

11. Dr U-L adopted his witness statement dated 20 June 2023. In his witness statement Dr U-L explained that he was the UK National Coordinator of IPOB, and was currently serving as the Director of Medical. He confirmed that he knows the appellant personally as an active member of IPOB and that he had seen her attending IPOB meetings and organised protests. He explained that their protests normally receive Nigerian media attention with photographs of protestors published online and aired on Nigerian television and Al Jazeera. Dr U-L also states that he has seen CCTV mounted outside the Nigeria House. He explained that their protests do not draw large crowds and that there are usually only 15-30 people who attend. The highest attendance would be approximately 100 people on occasions such as commemorative events. He stated that there are several reports of individuals with no profile with IPOB being arrested at airports in Nigeria for expressing their views on IPOB and since the designation of IPOB as a terrorist organisation on 20 September 2017 “individual members, supporters and associates of IPOB are at risk of arrest and detention in Nigeria.”
12. In cross examination, Dr U-L explained his role as Medical Director of IPOB. He said that if members of IPOB were injured or wounded in Nigeria he was contacted and he advised them on how to access treatment. Dr U-L confirmed that he was not an expert, but had experience and knew the experiences that people went through. Dr U-L explained that IPOB did not publish a list of members because it was a proscribed organisation, but that did not mean that members were not exposed. He confirmed that he did not know how many Biafrans were in detention in Nigeria. In respect, of the appellant Dr U-L explained that at the time of the appellant's appeal hearing before First tier Tribunal Judge Burnett he had met the appellant on several occasions and knew of her involvement with IPOB, otherwise he would not have come to court to say so. He did not know the detail

of her roles/activities at that time as they were not then in the same local unit, which they are now. Dr U-L estimated that there approximately 200-300 members of IPOB in the UK between 2017-2020, but he did not know how many it was at present. Dr U-L explained that he knew IPOB activities were broadcast on Nigerian TV channels because their commonwealth meeting in the UK was broadcast, Dr U-L was interviewed and it is available on YouTube. Dr U-L did not provide the link because it was not requested. Dr U-L explained that he knew the Nigerian authorities monitored their protests because he had seen them come out of the embassy and take their photographs. Dr U-L confirmed that he first met the appellant on 30 May 2016 at an event in Trafalgar Square and he described the roles that she had undertaken in IPOB.

### Respondent's Country Policy and Information Notes

#### Country Policy and Information Note on Nigeria: Separatist groups in the South-East, Version 3.0 March 2022 ('CPIN: Separatist groups')

13. The assessment section of the respondent's CPIN: Separatist groups, in which the respondent analyses the relevant evidence states that:

2.4.20 While there are reports that some IPOB supporters and leaders arrested have been charged with treason, sources do not indicate whether these cases have led to prosecutions and convictions for treason or other crimes. Sources claim that some of those arrested have been held without charge and incommunicado, but do not provide specific information about the length or treatment of members or supporters of IPOB in detention (see Clashes between state and secessionist groups, and Treatment of IPOB).

2.4.21 IPOB is a proscribed terrorist organisation in Nigeria and has been implicated in inciting and acts of violence against the state and other actors. The government has a legitimate interest in pursuing and arresting persons who are, or are suspected of being, involved with or supporting the group. In general, IPOB supporters or members who are fleeing prosecution or punishment for a criminal offence, including human rights violations, are not likely to be refugees.

2.4.22 However, prosecution may amount to persecution if it involves victimisation in its application by the authorities. For example, if it is the vehicle or excuse for persecution or if only certain groups are prosecuted for a particular offence and the consequences of that discrimination are sufficiently severe. Punishment which is cruel, inhuman or degrading (including punishment which is out of all proportion to the offence committed) may also amount to persecution (see the section on prosecution in the Asylum Instruction on Assessing credibility and refugee status).

2.4.23 Where a person is able to demonstrate that because of their links to IPOB they are likely to face prosecution or punishment which is disproportionate to the crime committed or discriminatory; or faces detention in degrading or inhuman conditions or torture then such treatment is likely to amount to persecution (see country policy and information note, Actors of protection and Country Background Note for more information about the criminal justice system, including detention conditions).

2.4.24 Each case will need to be carefully considered on its facts, taking into account the individual's behaviour and actions, previous state interest and conduct of family members.

14. Under a sub-heading Sur Place activity, the assessment section of the CPIN: Separatist groups states:

2.4.28 Open-source material suggests that the Nigerian government may monitor groups it considers a threat in Nigeria and that it may have blocked websites advocating 'Biafran' independence. However, there is no specific information in the sources consulted indicating that the Nigerian government monitors the activities of members of the Nigerian diaspora in the UK, including supporters of 'Biafran' separatist groups (see Separatist groups outside of Nigeria and Bibliography).

2.4.29 Decision makers must consider each case on its facts, taking into account:

- the legal status, profile, size, and organisation of the group/organisation to which the person belongs and its activities
- whether a person in the UK would wish to continue their activism if returned to Nigeria (if not, why not)
- whether the group/organisation has a presence in Nigeria as well as outside of the country and any evidence that it is being monitored by the government
- the person's profile and political activities (including those online) and relevant documentary or other evidence
- the profile and activities of family members
- past treatment of the person
- evidence that their activities in the UK may have come to the attention of the Nigerian security agencies.

2.4.30 Decision makers will also need to take into account whether the person supports and is active on behalf of IPOB, which is a proscribed group in Nigeria, and whether they fear prosecution rather than persecution.

2.4.31 The onus is on the person to demonstrate that they are of interest to the government because of their profile and activities and are at risk of serious harm or persecution.

15. In the country information section of the report the respondent addresses the background to the political landscape cites the following evidence:

4.1.3

[...]

'IPOB leader Nnamdi Kanu was at the forefront of these demands. A British Nigerian political activist, Nnamdi Kanu is the director of London-based Radio Biafra, a broadcast outfit set up to propagate the demands of secessionists. He had been recruited by MASSOB leader Uwazuruike to run Radio Biafra in London. The pair fell out and Kanu later re-emerged as IPOB leader. The station broadcasts daily programmes in English and the Igbo language, including anti-Nigeria and pro-Biafra propaganda.

16. In the country information section of the report, the respondent cites evidence addressing the "proscription/legal status of IPOB", "clashes between state and IPOB", the "treatment of IPOB", the "break up/use of excessive force against demonstrations" and the "killings, discrimination, violence and harassment" and "arrest and detention" of IPOB members. Under the heading "Sur place activities of separatist groups" the respondent cites the following evidence:

10.4 Sur place activities of separatist groups

10.4.1 April 2018 footage available on YouTube shows a group protesting in London where they are calling for a referendum on 'Biafra'

[...]

10.4.4 Sahara Reporters in a June 2021 article reported 'Nigerians of Igbo extraction residing in the United Kingdom have barricaded the Parliament House in London to protest against the alleged genocide in the South East region.'

'In a video shared on Friday morning, the Biafra protesters demanded an end to the killing of Igbo youths in Nigeria...

'In the protest in London, protesters are seen with Biafra flags, polo shirts and wrist bands shouting 'stop killing our children, stop the genocide.'

10.4.5 The Nigerian newspaper Punch reported on its website in September 2021:

'Scores of female members of the proscribed Indigenous People of Biafra based in London have begun a three-day "mega rally" in the United Kingdom.

'The women are calling for the release of the embattled IPOB leader, Nnamdi Kanu, from the custody of the Department of State Service, according to a video posted by a Twitter user, @Emekannaoma.'

10.5 Monitoring of 'Biafra' groups in Nigeria and the UK

10.5.1 The Nigerian Nationality Security Agencies Act established the Nigerian intelligence services responsible detecting and preventing crimes against the state inside and outside of Nigeria (see Country Policy and Information Note: Nigeria - Actors of Protection). There is, however, no information in the sources consulted of the capability, presence and activities of the intelligences services in the UK (see Bibliography).

10.5.2 A Vanguard article from September 2016 reported on the alleged listing of a number of IPOB members in Nigeria and the diaspora as wanted by the Department of State Services (DSS) in Nigeria. The same allegations appeared in an article in the Nigerian news website Sun News online however no further details regarding these allegations were found in the sources consulted (see Bibliography).

*Country Policy and Information Note on Nigeria: Actors of Protection, Version 3.0 August 2024 ('CPIN: Actors of Protection')*

17. The assessment section of the respondent's CPIN: Actors of Protection states:

2.1.10 Sources report human rights violations by the security forces and vigilante groups, including enforced disappearances, unlawful killings and use of excessive force in dispersing protestors and apprehending criminals, and the use of arbitrary arrest and detention. Sources also report some air strikes by the military in countering insurgent groups and gangs in the North West have been indiscriminate or have killed civilians in error. Human Rights Watch reports that members of the military and other authorities sexually abused women and girls in camps for displaced people. Prison guards reportedly engaged in gender-based violence against women prisoners. Human rights violations are more frequent in areas where the military has been deployed to counter non-state armed groups, specifically in the North East, North West and South East (see Human rights violations).

2.1.11 Detention conditions generally are reportedly harsh, with significant overcrowding in prisons, and there are reports of torture of detainees and deaths in custody (see Human rights violations)

18. Under the heading 'Human rights violations by security forces' the country information section of the respondent's CPIN: Actors of Protection cites evidence demonstrating that the security forces used "excessive force" and that "Torture and other ill-treatment remained pervasive within the criminal justice system," "Prison and detention center conditions were harsh and life threatening." In respect of IPOB members the respondent notes the following evidence:

Arbitrary arrest and lack of due process

[...]

6.2.2 The FH report covering events in 2023 stated: 'Nigerians in the southeast risked arbitrary arrest during the government's campaign against the IPOB's [Indigenous People of Biafra] armed wing, which began in 2021.'

[...]

Enforced disappearances

6.6.1 The AI Nigeria annual report for 2022 stated:

'Several men were forcibly disappeared by the authorities in response to the activities of IPOB.'

### Country background evidence

19. The appellant relied on several reports and articles. All of which I have considered. I note in particular the following:

- a. An Amnesty International Press Release dated 5 August 2021 headlined 'Nigeria: At least 115 killed by security forces within four months in country's Southeast investigation,' records that:

"Allegations of torture and ill-treatment include secret detentions, extortion, burning of houses, theft, and extrajudicial executions of suspects.

Nigerian security forces have committed a catalogue of human rights violations and crimes under international law in their response to spiralling violence in Southeast Nigeria, carrying out a repressive campaign since January which has included sweeping mass arrests, excessive and unlawful force, and torture and other ill-treatment, said Amnesty International.

Nigeria's government has responded with a heavy hand to killings and violence widely attributed to the armed group calling itself Eastern Security Network, the armed wing of the Indigenous People of Biafra, a pro-Biafra movement.

According to government officials, the ESN killed dozens of security operatives and attacked at least ten public buildings, including prisons and police stations, from January to June. In response, security forces comprising military, police, and Department of State Services have killed dozens of gunmen, as well as civilians, where attacks have been committed.

Amnesty documented at least 115 persons killed by security forces between March and June. Many of the victims' relatives told Amnesty that they were not linked to the militants that were attacking security agents. Injured victims were placed at government hospitals in Imo and Abia state and, according to several hospital sources, all victims had bullet injuries."

- b. A Guardian article dated 18 August 2022 is titled 'IPOB raises the alarm over indiscriminate arrest of members, Igbo at airports' documents that according to a statement by IPOB spokesperson Emma Powerful Igbo passengers have been subjected to humiliating searches at airports and later arrested if found with any Biafra paraphernalia and includes the following quote:

"Any Biafran passenger who is unfortunate to have Biafra related content on his or her phone or even without these contents is arrested and detained by security personnel at the airports.

[...]

“Those illegally arrested at these airports were not allowed to speak to their families and lawyers and they were detained in different security facilities across Lagos and Abuja.”

- c. A Vanguard article dated 28 October 2022, reported “The International Society for Civil Liberties and the Rule of Law, Intersociety has alleged that no fewer than 150 defenseless women, from Southeast and Igo-speaking areas of River State, falsely labelled as members of Indigenous People of Biafra, IPOB and Eastern Security Network, ESN, have been arrested detained and not taken to court by Nigerian security agents.”

20. The above summary of the witness and country background evidence is not exhaustive. I have examined all the evidence with care and taken it all into account when making my decision.

### Submissions

21. I heard submissions from Mrs Ahmed and Mr Offiah, which I have fully considered. I reserved my decision which I now give.

### Findings and Conclusions

22. I am required to assess the appellant’s case taking account of the evidence as a whole, and asking whether it is reasonably likely that she will face a real risk of persecution on return.

23. Where there has been a prior judicial determination on the issues in the appeal, in principle that assessment represents the starting point for the subsequent appeal as set out in Devaseelan (D (Tamil)) [2002] UKIAT 00702): in short the prior determination is the authoritative historic resolution of the case, although a Judge is entitled to take account of subsequent facts, whilst treating the further evidence relating to the historic situation with circumspection, although this principle is modified where there is a very good reason for the failure to adduce any particular evidence in the earlier proceedings.

24. The starting point for this appeal is therefore the determination of the First-tier tribunal Judge Burnett dated 25 June 2018.

25. First-tier Tribunal Judge Burnett found that the appellant became involved with IPOB in September 2016 at the earliest and only did so in order to create a claim for asylum.

26. Dr U-L also gave evidence before First-tier tribunal Judge Burnett. Dr U-L explained that he was unaware if the appellant had any specific roles within the organisation and as a result First-tier tribunal Judge Burnett concluded that if the appellant was such a prominent and active member he would’ve expected Dr U-L to be more aware of her activities. In his evidence before me Dr U-L explained that he knew the appellant’s specific roles and activities now because they were in the same local unit and he was able to specify which roles she undertook. I accept that this is a very good reason why Dr U-L is able to provide more detail regarding the appellant’s roles before me than he was before First-tier tribunal Judge Burnett.

27. I found Dr U-L’s evidence in respect of his and the appellant’s involvement with IPOB to be reliable. I also accept that he genuinely believes that the appellant’s involvement in IPOB is motivated by genuine political opinion. I place limited



weight on Dr U-L's evidence regarding the country situation in Nigeria and what would happen to the appellant on return. I accept his evidence in that regard is based on his genuine belief. However, Dr U-L is not a country expert on Nigeria and he did not purport to be.

28. Taking First tier Tribunal Judge Burnett's findings as my starting point I find that the appellant has been involved with IPOB since September 2016 and that she has undertaken specific significant roles within the organisation as evidenced by her and Dr U-L's evidence.
29. There is no very good reason for me to depart from First tier Tribunal Judge Burnett's finding that the appellant's involvement with IPOB is in order to create a claim for asylum and that it does not represent a true reflection of her genuinely held political views. I therefore adopt that finding.
30. First tier Tribunal Judge Burnett, found that it was too early to state what the effect of the ban of IPOB would be. He found that it was likely that an individual with a high profile who had been identified as a vocal supporter and advocate of IPOB would face repercussions in Nigeria, but he was satisfied that the appellant's activities had not given her such a profile. He found there was no evidence before him to establish that the Nigerian authorities would have knowledge of the appellant's activities on behalf of IPOB in the UK.
31. The leader of IPOB Mazi Nnamdi Kanu is a dual British Nigerian who, until his arrest in Kenya and extradition to Nigeria in June 2021 was broadcasting what the CPIN: Separatist groups describes as 'anti-Nigeria and pro-Biafra propaganda' from a London based radio station. This is evidence of facts that post-dates the previous determination. I consider that his activities in London would have attracted the attention of the Nigerian security services who, given that they consider IPOB to be a terrorist organisation, would have sought to identify IPOB members and supporters within the UK diaspora.
32. I note that the respondent accepts, in her CPIN: Separatist groups, that "the Nigerian government may monitor groups it considers a threat in Nigeria" and that it cites an article "on the alleged listing of a number of IPOB members in Nigeria and the diaspora as wanted by the Department of State Services." It is cites evidence that there is footage of a protest available on YouTube.
33. The appellant has been a member of IPOB since September 2016, a period of over 8 years. During that time she has attended demonstrations, meetings and held significant roles within the organisation.
34. In these circumstances and in light of the evidence, applying the lower standard of proof, I find that there is a reasonable likelihood that the Appellant has been identified as an IPOB activist by the Nigerian security services and would be identified by the authorities on her arrival in Nigeria.
35. I note that the appellant's activities are not motivated by a genuinely held political belief and have considered whether she could avoid the risk on that basis. I find that she could not. It is clear from the country background evidence that the security services act arbitrarily and arrest, harm and detain those it believes may be involved with IPOB without conducting an assessment of the extent of their involvement or their motivation. I note in particular that it was reported in a Vanguard article, cited above, that in 2022 the security services

arrested and detained 150 women 'falsely labelled' as members of separatist groups.

36. I find that the appellant has already or would be identified as a member of IPOB, prior to or on arrival at the airport in Nigeria. Further or alternatively, I find that if the appellant were to leave the airport without being identified the security services would identify her at a later date. I find that this would be the case even though I do not accept that the appellant would continue with her IPOB activities in Nigeria because I do not accept that she is motivated by a genuine political belief.

### **Notice of Decision**

37. The appeal is allowed on the basis that the Appellant has a well-founded fear of persecution on account of her imputed political opinion arising from her involvement with IPOB in the UK.

**G. Loughran**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**23 December 2024**