



**Upper Tribunal  
(Immigration and Asylum Chamber)    Appeal Number: UI-2024-  
003668**

**PA/56867/2023**

**THE IMMIGRATION ACTS**

**Decision and Reasons  
Promulgated  
On the 12 February 2025**

**Before**

**Deputy Upper Tribunal Judge MANUELL**

**Between**

**R M  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Heard at FIELD HOUSE  
on 31 January 2025**

**Representation:**

For the Appellant: Mr J Greer, Counsel  
(instructed by Broudie Jackson Canter)

For the Respondent: Ms S Rushforth, Senior Home Office Presenting  
Officer

## **DECISION AND REASONS**

### *Introduction*

1. The Appellant appealed with permission granted by Upper Tribunal Judge Owens on 28 August 2024 against the decision of First-tier Tribunal Judge C J Williams who had dismissed the appeal of the Appellant against the refusal of his international protection claim. The decision and reasons was promulgated on 6 June 2024.
2. The Appellant is a national of Iraq of Kurdish ethnicity, born on 8 June 1998. He claimed in summary that he fears involuntary return because he would become a victim of honour killing, due to his being in an anti-Islamic and anti-cultural, adulterous relationship with his ex-fiancée Ms Gasheen Twana Hamma (“G”). Her powerful PUK father and her family are looking for him to exact retribution. The Appellant also fears the PUK, KDP and the KRG due to his anti-regime political opinion and participation in demonstrations in Iraq, which he continued in the United Kingdom via his *sur place* activities.
3. After reviewing the evidence the Appellant presented and the account he provided, including his immigration history, Judge Williams found that (a) the Appellant’s claimed relationship with G was not credible; (b) the Appellant had not been politically active in Iraq; (c) his *sur place* activities in the United Kingdom were unlikely to come to the notice of the Iraqi authorities; and (d) the Appellant would be able to obtain the identity documents (CSID or INID card) he needed on his return to Iraq. Hence the appeal was dismissed.
4. Permission to appeal was initially refused in the First-tier Tribunal. Nevertheless Upper Tribunal Judge Owens considered that it was at least arguably procedurally unfair for the Judge not to have put the adverse matters raised at [11] to [13] in the decision and reasons to the Appellant for his comment. The Judge arguably gave speculative reasons at [14], and at [15] of the decision and reasons and failed to take into account that the Appellant attempted to rectify mistakes which were made in his screening interview shortly after that interview. It was also arguable that the Judge failed to make a finding on a material matter, which was whether the Appellant’s political views were genuinely held.

5. The Respondent served a rule 24 notice in the following terms: In response to Ground 1, it was submitted that the Judge was entitled to note that aspects of the Appellant's account were entirely at odds with objective evidence, as seen at [11-13] of the decision and reasons. In response to Ground 2, the Appellant's bundle contained the 2017 and 2021 honour crimes CPINs at pages 134 and 164 respectively, which both refer to the prevalence of honour crimes against women in what is described as a patriarchal society. There is certainly no objective evidence contained in the Appellant's bundle which lent any support to the Appellant's evidence that the family would wait to kill the Appellant's partner so that they would be killed together. The grounds did not identify where there was evidence of this. As to Ground 3, it was accepted that the Judge appears to have overlooked [6] on page 980 of the stitched bundle, however it was submitted this was not a material error in light of all the other well-made adverse credibility findings. Ground 4 amounted to disagreement only, it was not perverse or irrational for a Judge to make findings in relation to discrepancies between the SCR and AIR and, contrary to the assertion made in the Grounds, the Judge was not required to find "further and better reasons". The reasons given were entirely adequate. Ground 5 was not made out, as the Judge dismissed the claim on either eventuality. However it was clear from the general adverse credibility findings and specifically at [15] that the Judge did not find the Appellant's political activity was genuinely motivated.

### *Submissions*

6. Mr Greer for the Appellant relied on five grounds of appeal, as set out in the skeleton argument he had prepared for the Upper Tribunal hearing. Counsel placed greater emphasis on Grounds 3, 4 and 5, which he addressed first.
7. Ground 3: Mistake of Fact

Counsel said that the Appellant's story was a common one, frequently heard in appeals from Northern Iraq, i.e., fear of his own family and that of G, and then his opposition political views. There had been two Home Office interviews. After the screening interview had been read back to the Appellant he had sent 15 paragraphs of corrections. The letter was in the Appellant's trial bundle.

Counsel submitted that the Judge had erred by ignoring that letter. The Respondent accepted that this was an error of law, although not a material one. The Judge found that the Appellant's account was inconsistent, in that the Appellant changed his evidence about his reasons for being unable to find work, and his girlfriend's family reaction to this. The Judge found that the Appellant failed to mention the fact of his political opinion causing him difficulties in holding down employment. This overlooks the fact that the Appellant wrote to the Respondent saying just that after the Appellant's screening interview and before his substantive interview. Fairness required that to be considered. It was a matter which went to the heart of the appeal and the Judge's mistaken finding at [10] tainted all the other findings.

8. Ground 4: Perversity/inadequate reasons

This ground followed and was linked to Ground 3. The Judge's finding that the Appellant's past detention and ill treatment at [15] was inadequate. It rejects the entirety of this aspect of the Appellant's claim due to a single inconsistency between the Appellant's screening interview and his later account. Whilst weight is a matter for the Judge, this discrete aspect of the Appellant's claim warranted closer examination and further and better reasons. In particular, the Judge was obliged to engage with the Appellant's attempts to put the record straight and his claim that he did mention this aspect of his claim at the earliest possible opportunity.

9. Ground 5: Failure to resolve a dispute between the parties

The Judge failed to make any finding about the risk upon return the Appellant would face as a political activist. HJ (Iran) [2010] UKSC 31 applied. The question of whether the Appellant was opposed to the Kurdish Parties was an important matter when determining how he would be likely to behave upon return and whether his behaviour upon return would attract the adverse attention of the authorities. The Judge misdirected himself and failed to determine this question and so fell into material legal error.

10. Ground 1: Procedural unfairness:

The Judge was under a duty to put the matters raised at [11] - [13] of the determination to the Appellant. The Appellant could not reasonably have anticipated that these matters, which are quite abstract and peripheral concerns about the reliability of his account, would be taken against him.

11. Ground 2: Inadequate reasoning/Giving weight to immaterial considerations.

From the Judge's discussion of the inherent probability of the Appellant's account it was wholly unclear what was the background evidence which did not support the Appellant's claim. The Appellant's claim was broadly plausible when set against the background evidence before the Judge. The decision was faulty, and should be set aside and remitted to the First-tier Tribunal for rehearing before another judge.

12. Ms Rushforth for the Respondent relied on the Rule 24 notice (as summarised above) and submitted that there was no material error of law, merely disagreement with a decision properly open to the Judge. As to Ground 1, the deficiencies identified by the Judge at [11] to [13] of the decision had all been raised in the reasons for refusal letter so that the Appellant was on clear notice of them and had the opportunity to respond. There had been no unfairness.
13. As to Ground 2, there had been no country background evidence produced by the Appellant to support his claim that he and G would be killed together, and that this would await his return. The Judge was entitled to find that the Appellant had failed to prove his claim.
14. As to Ground 3, the Appellant had produced a massive bundle of documents, extending to over 1,000 pages. The Judge could not be expected to refer to every paragraph. Any error of law was minor and immaterial. There was no cross-infection of the Judge's other findings.
15. As to Ground 4, there had been no overlap. The Appellant had not tried to correct that point about his claimed detention following his screening interview.
16. As to Ground 5, it was plain that the Judge had not accepted that the Appellant's claimed political

commitment was genuine, as he had rejected almost all of the Appellant's claims. The appeal should be dismissed.

17. Mr Greer in reply submitted that on any rational view the evidence showed that the Appellant had come to the adverse attention of the authorities. The evidence showed that he had participated in demonstrations. The inference was that he was genuinely politically committed. The fact that the Judge had disbelieved what the Appellant had said about his relationship with G was not enough to justify giving no weight to the Appellant's political activity in the United Kingdom. That showed the likelihood of the Appellant's future participation in political activism in Northern Iraq.

*No material error of law finding*

18. The Tribunal reserved its decision, which now follows. The Tribunal is not persuaded by any of the submissions as to material error of law made on behalf of the Appellant. In the Tribunal's view, the errors asserted to exist in the decision are based on misapprehensions and a failure to read the decision and reasons with proper attention.
19. The Judge highlighted that there were two strands to the Appellant's evidence, the "star-crossed lovers" and the Appellant's claimed political opinion: see [4] of the decision. (The identity documents issue arises as a free-standing issue in almost all Iraqi Kurdish claims.) The Judge examined the Appellant's claims against the country background evidence produced (not in itself contested between the parties) and against the timeline of the claim. In particular the Judge found that Section 8 considerations applied because of the Appellant's failure to claim asylum at the first reasonable opportunity. That finding was not challenged.
20. The plain inconsistencies in the Appellant's evidence were first raised by the Respondent in the reasons for refusal letter and that position was firmly maintained in the Respondent's pre-hearing review. The Appellant was on clear notice that inconsistency was an issue and he had ample time to respond. He did so at [7] of his witness statement dated 22 January 2024, where he replied to the reasons for refusal letter and denied having given an alternative account.

21. One of the main inconsistencies in the evidence was the Appellant's declaration that he had not been detained in Northern Iraq (screening interview Q.5.4) and his claim in his asylum interview (Qq 76 to 79) that he had been arrested and detained overnight after attending a demonstration. The Judge observed at [10] of his decision that the Appellant's witness statement conflicted with the asylum interview record. At [17] the Judge observed that the Appellant's claim that G would not be killed until he returned when they would be killed together had no support in any of the country background evidence. That was no challenge to that at the error of law hearing. The Appellant's claim that his family had disowned him and was prepared to see him dead was wholly inconsistent with their raising \$15,000 for him to leave Iraq. The Appellant's claim that he had been politically active in Iraq can be seen as inconsistent with his statement that he belonged to no political party or organisation.
22. These matters were dealt with by the Judge as follows:

"12. The catalyst the Appellant points to is an event after their breakup, when G came to stay at his home without the permission of her parents (AIR 56). It appears from his witness statement that his family were aware of G being in their home. I do not find it plausible the appellant's family, no doubt aware of G's father and his position, and the overall prevalence of honour crimes in Kurdistan, would have sheltered G in this way for 4 days.

"13. I am further troubled by the Appellant's apparent discrepancy in how the situation was handled by his own family. It seems that although disapproving, they tolerated G's presence within their home. They then appear to approve of the Appellant's death, but also then fund his exit from Iraq (p.980, SB). I am not of the view the Appellant's family would have allowed G in their home and not contemplated the negative outcome of this situation."
23. There was no unfairness to the Appellant at all as the matters and issues discussed in [11] to [13] of the decision were not new. They had all been raised before, the Appellant was represented and the Appellant had given his response, which the Judge was entitled to find attracted little or no weight.

24. Despite the Respondent's concession in the Rule 24 notice that the Judge had failed to consider the letter of explanation sent following the Appellant's screening interview, the Tribunal is not bound to accept any such concession. As the Tribunal considers that there is nothing in the Judge's decision to suggest any factual error in his examination of the claim, the Tribunal rejects the concession. The Appellant's bundle was lengthy, probably excessively so, and the Judge was required to discuss only the parts which seemed to him of relevance and importance. The asylum interview record, the Appellant's witness statement and the Appellant's oral evidence, all of which post-dated the letter of correction, were plainly such items and they were fully addressed.
25. The submission that the Judge had made no finding about whether the Appellant would continue his political activities or to express his claimed opposition views on return to Northern Iraq is not well-founded. The Judge rejected the Appellant's claimed political commitment at [20] of the decision. His statement that the Appellant's motivation was irrelevant, i.e., that the question was one of perception by the authorities, was an accurate reference to the well-known case of Danian [1999] EWCA Civ 3000. The Judge found that the Appellant had had no political involvement in Iraq and had never come to the notice of the authorities there. Thus the Appellant's claim of conscience-driven political activity was rejected. The Appellant's *sur place* activities in the United Kingdom were unlikely to come to the attention of the Northern Iraqi authorities either. Thus the Judge dealt sufficiently with this issue in the context of a claim which was found incredible for multiple sustainable reasons.
26. As the Judge found that the Appellant could contact his family without fear, it followed that he was not at real risk on return for lack of documents which his family could help him replace. That finding was supported by the latest country background information. Thus the return element of the Appellant's claim also failed.
27. In the Tribunal's view, the submissions advanced on the Appellant's behalf amounted to no more than disagreement with the Judge's conclusions. The Tribunal finds that there was no material error of law in the decision challenged. The onwards appeal is dismissed.



**DECISION**

The appeal is dismissed\_

The making of the previous decision did not involve the making of a material error on a point of law. The decision stands unchanged, including the anonymity direction.

**Signed R J Manuell**                      **Dated** 4 February 2025  
**Deputy Upper Tribunal Judge Manuell**