IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-004473

First-tier Tribunal No: PA/55089/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

3rd January 2025

Before

UPPER TRIBUNAL JUDGE STEPHEN SMITH

Between

KK
(ANONYMITY DIRECTION MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:
For the Appellant: Mr A. Eaton, Counsel, instructed by Fisher Jones Greenwood LLP
For the Respondent: Ms S. McKenzie, Senior Home Office Presenting Officer

Heard at Field House on 28 November 2024

DECISION AND REASONS

1. The First-tier Tribunal made an order for anonymity in these proceedings. I maintain that order. It is necessary to do so on account of the appellant's protection claim and the need to ensure that the publication of this decision does not expose him to a risk that he would not otherwise face.

Factual and procedural background

2. This is an appeal against a decision of First-tier Tribunal Judge Loughridge ("the judge") promulgated on 26 June 2024 dismissing an appeal brought by the appellant, a citizen of Iraq born on 20 September 2004, against a decision of the Secretary of State dated 20 July 2023 to refuse his protection claim made on 24 December 2021.

3. The judge heard the appeal under section 82(1) of the Nationality, Immigration and Asylum Act 2002. The appellant now appeals against the decision of the judge with the permission of First-tier Tribunal Judge Choudhury.

4. The appellant is a Kurdish citizen of Iraq. He arrived in the UK clandestinely in December 2024. He claimed asylum on the basis that he faces a real risk of serious harm or persecution from the PKK in the IKR region. His case, which was largely accepted by the judge, was that he was complicit in the desertion of a young woman named L from her role at a PKK fighter training camp, while he was still a child. L had fled the camp following her punishment by camp officials for engaging in an illicit relationship with the appellant. It is the appellant's case that he had to flee the country because he had helped L to desert, and that L also fled because she was a deserter. His family had had to leave their home in the area as a result. He lost contact with L on the journey to the UK, and subsequently lost contact with his family.

Issues before the Upper Tribunal

5. The principal controversial issues in this appeal to the Upper Tribunal are whether the judge:

> (1) mischaracterised the risk the appellant claimed to face, by analysing the claim as though it were based on an illicit relationship, rather than the risk arising through helping L to desert;
>
> (2) failed to give sufficient reasons for finding that the appellant remains in contact with his family, and for finding that his family continue to reside in their home area, near the PKK camp;
>
> (3) failed to follow the requirements of the Joint Presidential Guidance Note No. 2 of 2010 concerning vulnerable witnesses and appellants, and whether the judge failed to take sufficient account of a letter from the appellant's psychological therapist; and
>
> (4) erred when addressing the prospect of internal relocation within the IKR region.

The decision of the First-tier Tribunal

6. In summary, the judge accepted the appellant to be a broadly credible witness in respect of his account of the events which took place prior to his departure from Iraq, but not in respect of the events that followed his departure. The judge found that the appellant's family remained in his home area, R, near the camp, and that the appellant could return there without difficulty, obtaining the necessary documentation, such as an INID card, from the family home. He was still in contact with his family.

7. Any risk that was faced as a result of the desertion by L was faced by L alone, the judge found. The appellant would not face a real risk of serious harm at the hands of the PKK. The judge dismissed the appeal.

Preliminary jurisdictional issue: scope of proceedings

8. In granting permission to appeal, First-tier Tribunal Judge Choudhury stated in the operative part of his decision that permission to appeal was "granted" without qualification. However, in the reasoning which accompanied the grant of permission, the judge purported to grant permission only on limited grounds (and even then there was some confusion over which grounds were the subject of the grant, since the judge expressly granted permission on ground 2, but later said

that permission was granted on ground 4 alone). This raised the question as to whether the appellant needed to renew the application for permission to appeal in respect of those grounds upon which he was apparently unsuccessful before Judge Choudhury.

9. I ruled at the hearing that, since the grant of permission to appeal was in its operative part unrestricted, the appellant enjoyed permission to appeal on all grounds. It was not necessary to renew the application to the Upper Tribunal. There was nothing to renew. See para. (2) of the headnote to *Safi and others (permission to appeal decisions)* [2018] UKUT 388 (IAC).

Findings and analysis

10. I will approach my analysis by addressing, first, whether the judge erred on account of the appellant's vulnerability (issue (3)); secondly, whether the judge gave sufficient reasons for rejecting the appellant's claims to have lost contact with his family (issue (2)); thirdly, whether the judge mischaracterised the risk the appellant claimed to face (issue (1)); and fourthly, whether the judge erred in relation to the prospect of the appellant being able to relocate internally within the IKR (issue (4)).

Issue (3): no error in relation to the Joint Presidential Guidance Note No. 2 of 2010

11. The Joint Presidential Guidance Note No. 2 of 2010 summarises some of the principles applicable to assessing the credibility of witnesses and appellants who are vulnerable and who have experienced trauma. The judge also had a single page letter dated 13 December 2023 from a psychological therapist with the Refugee Council, Becky Ridgewell, who had been involved in providing six wellbeing support sessions for the appellant. Ms Ridgewell's letter said that the appellant's presentation was consistent with him having experienced trauma.

12. In my judgment, the judge would have been well aware of the appellant's past trauma, having accepted his account of L being physically punished and chastised on account of having been seen with him, prior to his (and her) departure from Iraq. It was not necessary for the judge expressly to refer to Ms Ridgewell's letter in order to take into account the trauma that this young person would have experienced when fleeing from those events.

13. I accept that judge did not, in terms, say that he had applied the Joint Presidential Guidance. He was, however, invited to do so by Mr Eaton at paras 4 and 5 of the appeal skeleton argument dated 3 January 2024. As I find below, the judge clearly engaged with Mr Eaton's skeleton argument. There is no basis to conclude that he engaged with some parts of it and not others. It is clear from the judge's analysis that he extended the benefit of that guidance to the appellant when assessing his evidence. For example, the judge disregarded many of the credibility concerns raised by the Secretary of State in the refusal letter, finding that the appellant was a largely reliable witness in relation to what took place in Iraq prior to his departure. The judge would have had the above guidance firmly in mind when reaching that conclusion. For example, at para. 22, the judge disregarded inconsistencies relied upon by the Secretary of State, and at para. 23 said that the appellant's lack of detailed knowledge about L was not a factor affecting his credibility.

14. The judge was sitting as an expert judge in a specialist tribunal and can be presumed to have known how to have done his job. That is especially so where, as here, the judge's decision is careful and thorough. It is well structured and

clearly reasoned. There is every indication in the judge's approach to taking his decision in this case that he did so diligently, manifesting the expertise that is expected from judges of this specialist tribunal. His approach to the evidence of the appellant in this respect is no different.

Issue (2): insufficient reasons given for rejecting appellant's claims relating to his family

15. Resisting this ground of appeal, Ms McKenzie submitted that the judge was entitled to conclude that the appellant's claim to have lost touch with his family, and that his family had moved, lacked credibility. The judge had been entitled to have credibility concerns for the reasons given in the decision.

16. I find that the judge was entitled to conclude that the appellant lacked credibility in relation to this aspect of his claim; that was the terminology used by the judge at para. 21, when stating that the appellant's pre-departure account was credible, but that the appellant had not been a reliable witness in relation to what happened after his departure. This was an after-departure part of the appellant's case.

17. The judge structured his decision by setting out a series of factual findings (paras 10 to 20) followed by detailed reasoned analysis at para. 21 and following. In relation to this issue, the judge said:

> "19. The Appellant contacted his father on arrival in the UK via Facebook Messenger. He did so using someone else's phone. Despite his claim to the contrary I find that his father can still be contacted via the same means.
>
> 20. The Appellant's family remain living in R, again despite the Appellant's claim to the contrary. The PKK have made no contact with the Appellant's father in connection with L."

18. Pausing here, I accept that whether the appellant's family remained in their home area, R, was a significant issue in assessing the appellant's risk profile. Had they remained at the family home near the PKK camp, that would have been relevant to the assessment of any risk the appellant would face upon his return. His core claim for asylum had been that his father had helped or arranged L to leave the camp, rather than him. That was significant in light of the appellant's case to face a risk of reprisals for helping L to desert from the camp, not least because it was his case that it had been his father who had actually made the arrangements. If his father faced no continued risk from the PKK, then that may have undermined the appellant's claim to face a risk on his own account upon his return. This issue was, therefore, a crucial feature in the case.

19. The partially addressed this issue at para. 33, in the context of the appellant's Iraqi identity documentation. Rejecting the appellant's case to have lost contact with his family, the judge said:

> "His [the appellant's] suggestion that his father has deleted his Facebook profile lacks credibility - there is simply no reason for him to have done so particularly if it was the only channel of communication between them. Alternatively, given my finding that the Appellant's father remains living at the family home in Ranya he can be contacted there by post."

20. That was a sound reason that was open to the judge on the materials before him.

21. In *English v Emery Reimbold & Strick Ltd. (Practice Note)* [2002] EWCA Civ 605, it was held at para. 118 that:

> "…an unsuccessful party should not seek to upset a judgment on the ground of inadequacy of reasons unless, despite the advantage of considering the judgment with knowledge of the evidence given and submissions made at the trial, that party is unable to understand why it is that the Judge has reached an adverse decision."

22. Accordingly, I look to the materials that were before the judge for assistance on this issue. The Respondent's Review said, at para. 9:

> "The [Secretary of State] noted that in his new witness statement, A states that in the contact he had with his father since arriving in the UK he had no indication whether his father had moved from their house or area, or if the family had relocated (AB, page 50, WS para 12). This is internally inconsistent with A's first witness statement in which he stated that his father told him that the family had left [the R area] (RB, page 74, WS para 28). The R submits that this further damages A's credibility."

23. In his asylum witness statement dated 20 April 2022, the appellant said, at para. 28:

> "I have very limited contact with my family. I tried to assure them that I had arrived. It was a short conversation with my father. He said they had left R. I understood that my family were in danger too. I no longer have contact. The contact with my father was by Facebook messenger on someone else's mobile he is no longer contactable. I wonder if he has removed his profile."

24. In the appeal witness statement dated 2 February 2024, the appellant said, at para. 11:

> "I am not in touch with my family. At first I was able to speak to my father when I was in a hotel or hostel once when someone else let me use their phone and I spoke to my father briefly. This was through messenger. After I was able to sort my own mobile phone I tried searching for him on Facebook in the same way that I had before but the account was no longer there… My father did not tell me where he was. The purpose of the conversation was to let him know I was safe. I had no indication of whether he had moved from our house or our area. I don't know if the family relocated…"

25. Thus there were at least two accounts before the judge of what the appellant claimed to have been the only conversation he held with his father after leaving Iraq (any other account having been given in oral evidence, which the judge was pre-eminently best placed to assess, and in relation to which there is no transcript or other evidence of what took place below). In the first written account, the appellant claimed that his father told him that they had left R, whereas in the second, the appellant said that the topic of where his family were living had not been mentioned. That was a plain inconsistency. It had been drawn to the judge's attention in the Respondent's Review. The judge had concluded that the appellant was not a reliable witness in relation to his account of what took place after he had left Iraq. That was an observation that the judge made

having heard the appellant's oral evidence, having considered the whole sea of evidence in the case, and having been invited to do so by the Respondent's Review. It was tolerably clear why the judge found the appellant to lack credibility on this issue. I therefore dismiss this ground of appeal.

Issue (1): no mischaracterisation of risk

26. Mr Eaton submitted that the judge mischaracterised the risk faced by the appellant, and that he had approached his analysis on the footing that the appellant claimed to be at risk from reprisals arising from an illicit relationship with L, rather than for helping a PKK fighter to desert.

27. I reject this criticism. This is a criticism which seeks to re-characterise the approach the judge took, and is one of form over substance.

28. First, the way in which the judge described the risk the appellant claimed to face was entirely consistent with the way Mr Eaton characterised it in the appeal skeleton argument before the First-tier Tribunal. See para 6.1 under the heading "*Issues to be considered*":

> "Whether the A has a well-founded fear of persecution due to his relationship with L. He would not be able to safely internally relocate in Iraq and sufficiency of protection is not available to him."

29. Mr Eaton plainly considered that it was sufficient to summarise the appellant's case by reference to "his relationship with L", and to the extent the judge also did so, he was doing no more than Mr Eaton himself had done.

30. Secondly, to the extent a different nuance was required when expressing the appellant's case, the judge correctly recognised that dimension of the case at para. 27, in the following terms:

> "In his skeleton argument Mr Eaton describes how the Respondent has incorrectly analysed the Appellant's claim to be a claim that he faces a risk from Layla's family - and he goes on to say that the risk the Appellant faces is from the PKK. He then says:
>
> > '16. The PKK operates a system of unwavering obedience from its fighters [27] (§13-5). Relationships between PKK fighters and outsiders are strictly prohibited [32] (§13-8). The PKK take transgressions of these rules very seriously [42-44] (§11-3 & §11-6).'"

31. Thirdly, the way in which the judge summarised the appellant's case throughout the operative reasoning of the decision was consistent with the manner in which Mr Eaton characterised it before me. For example, at para. 24, the judge found that the appellant's father may have felt some responsibility towards L "because of the circumstances leading to her difficulties in terms of punishment by the PKK…"

32. At para. 28, the judge quoted extensively from the report of Dr Qader, including an extract from para. 11-6 which addressed what Dr Qader described as the appellant's:

> "crime [of] violating the privacy of a banned and extremist organisation known for its danger and cruelty in dealing with opponents, even in its dealings with rural residents who live near the party headquarters…"

33. At para. 31, the judge said, “I acknowledge that the timing of L’s escape from the camp potentially linked that event to the Appellant…”, thereby demonstrating his understanding of the appellant’s case that the PKK may impute responsibility for L’s disappearance to him. Ultimately, however, the judge was satisfied that there was no evidence that the appellant was at a real risk of such responsibility being imputed to him by the PKK.

34. The judge correctly understood the nature of the appellant’s claim. He did not mischaracterise it. I therefore find that this ground is without merit.

Issue (4): no error in the judge’s findings concerning internal relocation

35. This ground is parasitic on the judge’s approach to issues (1) and (2). The judge’s reference to the extent to which the PKK would still seek to prosecute a “relatively minor transgression of its rules several years ago by one of its members” must be read in the context of the judge’s overall findings that the risk faced by the appellant, and L, was not as great as the appellant claimed that it was. That was a conclusion that was open to the judge on the materials before him, and was based in part on the judge’s core analysis at para. 24. It was analysis that was open to the judge for the reasons he gave. That being so, he did not err in relation to his finding that the appellant would be able to relocate internally within the IKR.

Notice of Decision

This appeal is dismissed.

The decision of the First-tier Tribunal did not involve the making of an error of law.

Stephen H Smith

Judge of the Upper Tribunal
Immigration and Asylum Chamber

24 December 2024