



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/11878/2017

**THE IMMIGRATION ACTS**

Heard at Field House  
On 3<sup>rd</sup> April 2018

Decision & Reasons Promulgated  
On 15<sup>th</sup> May 2018

Before

UPPER TRIBUNAL JUDGE REEDS

Between

AA  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr Saeed, Solicitor Advocate instructed on behalf of the Appellant

For the Respondent: Mr Jarvis, Senior Presenting Officer

**DECISION AND REASONS**

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings

1. The Appellant, with permission, appeals against the decision of the First-tier Tribunal, who, in a determination promulgated on the 4<sup>th</sup> January 2018, dismissed his claim for protection.
2. The Appellant's immigration history is set out within the determination at paragraphs 1-3, and in the papers before the Tribunal. The Appellant is a Palestinian national who comes from Lebanon. He entered the United Kingdom clandestinely on 19 June 2017 and claimed asylum on 27 June 2017. His journey to reach the United Kingdom has been a long one. His account was that he left Lebanon at the end of October 2015 and travelled to Turkey by sea. He remained there until March 2016 and then went to France. The Appellants claim was that in 2016 he arrived in Dover that was returned back to France. He was successful in the second attempt to enter the United Kingdom arriving as set out on 19 June 2017. The screening interview was undertaken on 27 June (see annex A) and corrections to that interview were noted and reproduced as annex B. A substantive interview took place on 12 October 2017 and set out at annex C in the Respondent's bundle.
3. The factual basis of the Appellant's claim is summarised from the documentation in the determination at paragraphs 4 - 11. It was accepted by the Respondent that the Appellant is a Palestinian refugee who was born and lived in Lebanon having been raised as a Sunni Muslim. He became involved with the XX scouts, which was a group run by Hezbollah. The Appellant was approximately 20 to 21 years of age when he first joined the group. He attended the camp on an annual basis staying at the camp about 25 days on each occasion. The activities undertaken at the camp were various sporting activities including swimming and running but also religious instruction would be given to encourage those present to follow Shia religious practices. Some friends had also gone to the same camp they were younger than the Appellant and had gone a year before him. In all, it was said that there were about 60 people that attend the camp at any one time and the person charge was named described as "Y". The Appellant was at no point instructed in fighting or any form of military training. He confirmed that he had been at the summer Scout camp in 2010 and had attended annually up to 2015.
4. In 2015 he was first told that he would be given military training so as to serve in the war in Syria. The Appellant took fright and fled the camp. He left under cover of darkness and made his way back to his home. He informed his family of what had taken place. The Appellant had also alerted others in the locality that the young person is being sent to the camp being prepared for military service. The Appellant could not stay at his home and arrangements were made to go and stay with a relative who was living in a refugee camp. Whilst at the refugee camp, his family home was searched by the authorities and his father was taken in for questioning.
5. The Appellant stated that Hezbollah were not permitted to enter the camp but after being in a refugee camp about two weeks, he discovered that they were aware of his presence there and took steps to leave making the journey across to Turkey by sea.

6. In support of his claim he produced a letter exhibited at pages 17 and 18 of the Appellant's bundle purportedly from the Palestine Liberation Organisation. The document was to the effect that the committee had asserted that an armed group from Lebanese Hezbollah had raided the Appellant's family home on 1 September 2015, looking for the Appellant. The Appellant's father, who was then identified, was arrested and taken to an unknown destination that was released the following day without charge. He was interviewed about his son's disappearance from the Scout camp and his son's role in incitement against Hezbollah. The document went on to state that the Appellant had surrendered himself to the Lebanese authorities in order to be investigated about a security matter.
7. The Respondent refused his claim for protection in a decision letter dated 31 October 2017. The determination of the FTT summarised the contents of the decision letter at paragraphs 12-17 the determination.
8. He appeal came before the FTT on the 14<sup>th</sup> December 2017 and in a decision promulgated on the 4<sup>th</sup> January 2018 his appeal was dismissed.
9. The judge set out his findings and conclusions at paragraphs 27 - 35. They can be summarised as follows:-
  1. It was accepted by the Respondent that the Appellant was a Palestinian refugee who was born and brought up in Lebanon.
  2. The judge accepted his account that he had attended a scouting camp run by Hezbollah for a number of years 2010 up to 2015 and that it was only in 2015, after being present at the camp for about 10 days, that the Appellant was informed that he and others would have to undergo military training with a view to serving in Syria. The judge found that the Appellant had given a detailed and consistent account of going to the camp, how it was structured and how he made the physical journey there and what had taken place there and as the judge was satisfied to the lower standard that he had been "entirely truthful" about his presence at the camp ( see [30]).
  3. The judge accepted also that the Appellant left the camp when he was told that he was a candidate to go forward to training and that he did not wish to participate in the war in Syria and thus left the camp (see [30]).
  4. The judge found that the Appellant was not under any duty to attend the Scout camp and that it was not compulsory to attend the Scout camp during summer. He found that much of the activity carried on there was sporting but that there was an element of religious instruction, particularly addressed to those who were Sunni Muslims to convert them to be Shia's before preparing to serve in the military (see [31]).
  5. The Judge found that the Appellant was "naïve" in his approach as he did not understand the part of the purpose of the camp was to prepare young men to serve in the war (see [31]).

6. The Judge accepted that he got away from the company early in the morning in the way that he had described; the camp was not guarded, there was no perimeter fence or anything of that nature. He knew where he was going because he had made that journey on several occasions previously (see [31]).
7. The Judge accepted that he did not remain at home and found shelter in the short term in a refugee camp where his aunt was living (paragraph [31]).
8. He found that the Appellant had “in the main been an accurate and reliable witness”. However the judge observed that there was one feature of the narrative which was “striking in the extreme”. In this context he made reference to the document purportedly from the PLO which related to his father’s short-term detention. This document stated that the popular committee had asserted that an armed group from Lebanese Hezbollah had raided the Appellant’s home on 1 September 2015, looking for him. A search had taken place and some of the Appellant’s belongings were seized. His father, who was identified, was arrested and taken to an unknown destination but was released the following day without charge. The Appellant’s father was interviewed about the disappearance of his son from the Scout camp and about his son’s role in incitement against Hezbollah. The document went on to state that the Appellant had to surrender himself to the Lebanese authorities in order to be investigated about security matter. The judge recorded at [19] that at the bottom of the document there was a website address and that the presenting officer had checked that website prior to the hearing and rather than finding any reference to the PLO, the presenting officer produced a document from a Chinese company.
9. The judge therefore considered the document carried “absolutely no weight” given that the Respondent had checked the website indicated on the document and rather than revealing a reference to the PLO, showed up details relating to a cement company. The judge found that to be a “complete fiction” (see [32]).
10. The judge went on to state at [33] that what troubled him was that it was not addressed by the Appellant or by his representative on his behalf. He found that whilst there had been an attempt to mislead by producing the PLO document or what purported to be a PLO document, that it did not detract from what was a perfectly plausible and credible element of his case which related to attendance at the Scout camp, receiving religious instruction, carrying out sporting activities when faced with the prospect of military training, deciding that it was not him and fleeing.
11. Based on those factual findings, at paragraph 34 the judge directed himself to what he described as the “critical question “as to what level of risk there would be for the Appellant who comes from the Lebanon and would be returned there, from Hezbollah. The judge found that it had not been made out that despite the Appellant’s actions of leaving the camp prematurely, he is really someone in whom Hezbollah had any active interest. The judge

supported that conclusion by reference to the factual account and that his attendance at the camp was purely voluntary and if the Appellant chose to leave the camp for whatever reason because it was not for him, then the judge did not say that that would excite such interest in Hezbollah to bring about a situation where there is a real risk of persecution. The judge had found on the facts of the case that there was a lack of obligation upon the Appellant to participate in attendance at the camp and that there was no evidence brought the judge's attention which he found credible to show that those who, for one reason or another, have left the camp, would be targeted for retaliation by Hezbollah and be mistreated to the point of persecution.

12. The judge therefore found that the Appellant, despite having been at the camp for those years, had not made out a case to the lower standard that he would be at a real risk of persecution at the hands of Hezbollah.
13. The judge found that his judgement was reinforced by knowing that the Appellant's father was not abused or mistreated by those who questioned him, if there had been any truth at all in the assertion that his father had been questioned. However he observed that he left that open because an extremely serious question had been raised over whether or not the father of the Appellant has at any time been the subject of interest by Hezbollah because of the false document put forward purportedly from the PLO.
14. The judge found that the Appellant could return and do so in safety to his family in Lebanon; that they had not suffered any ill treatment because of the actions of the Appellant.
15. On the evidence he did not find it was a situation where there was compulsory conscription into the military which the Appellant was seeking to avoid and that the attendance at the scouting camp was "essentially voluntary." He found that was wholly consistent with what was known about the actions of Hezbollah which is that they were encouraging young men to follow their cause and to fight in Syria by offering financial inducements and that was consistent with what the Appellant had stated to the judge. However it had not been made out that the refusal to participate would result in such serious mistreatment being meted out to the Appellant such that he would be entitled to international protection.

10. Thus the judge dismissed his appeal.

11. The Appellant sought permission to appeal that decision and permission was granted by the First-tier Tribunal Judge Baker on the 29<sup>th</sup> January 2018 as follows:

"Ground two has merit. Namely, that the Appellant claimed he was responsible for parents of people at the camp finding out what was happening there and that would be at risk upon return to Lebanon as a result, as set out in paragraph 6 of the judge's decision, but no findings made on the credibility of that aspect of the Appellant's account. It is arguable that in not assessing the credibility of that account nor if appropriate risk on return as result of this materially affect the outcome of the appeal.

Ground three is also arguable, a document relied on by the Respondent was produced at the outset of the hearing, in Chinese mostly, it was noted to be untranslated, save for a few words. However, the judge admitted and placed reliance on it, a document for the Chinese cement company, found by the judge not contain any reference whatsoever to the PLO, contrary to the Appellant's evidence {paragraph19 decision}. {Paragraph32} the judge plainly states of the document, in the circumstances carried absolutely no weight with the judge in assisting the Appellant, describing it as "basically a complete fiction." It is arguable that in admitting a document which had not been translated, not in accordance with the procedure rules, placing weight on it adverse the Appellant, when the whole document had not been read in English translation, the judge arguably materially erred in law.

Ground one has less merit. It is plain for the Respondents submissions noted in the decision that the issue of risk on return was "live". Had the Appellant's counsel understood that the refusal letter did not challenge return ability in the event of the Appellant's whole account was found credible, and that the appeal should therefore succeed if positive findings are credibility and history were made, it's surprising the skeleton argument did not reflect this late, post hearing, assertion. The refusal letter of the judge noted was confused in some respects. The judge cannot reasonably be criticised for determining the issues presented to him in submissions as live issues."

12. Thus the appeal came before the Upper Tribunal. Mr Saeed, who had represented the Appellant before the FTT appeared before the Upper Tribunal and relied upon the grounds as drafted and a skeleton argument which he produced at the hearing. I was also able to hear submissions from Mr Jarvis, Senior Presenting Officer on behalf of the Respondent.
13. After hearing their respective submissions, I reserved my decision.
14. I will deal their respective submissions when addressing the grounds.

### Ground 3:

15. It is convenient to begin by considering ground 3 which relates to a document produced on behalf of the Appellant. The Appellant submitted a bundle of documents for the appeal hearing on the 11 December 2017, for the hearing which took place on 14 December. In the bundle was a letter from the committee and its translation at pages 17 - 18, and in the bundle was a copy envelope in which it was said the documents were sent (pages 19 - 20) on a date in July 2017. The contents of the document set out that the committee "asserts that an armed group from the Lebanese Hezbollah raided AA's house on the 1/9/2015 looking for AA." It gave details that the group searched the house, seized some of his belongings and then arrested the Appellant's father took him to an unknown area due to security matter related to his son. He was released the second day without charge. The letter states "it was found that Hezbollah had interrogated xx about the case with some fleeing from the scouting camp and his's role of inciting against Hezbollah." The committee confirmed that the Lebanese authorities informed them on 20 September 2015 to inform AA to surrender himself to the Lebanese authorities in order to be investigated about security. It further stated that

the committee informed AAs father about the request as his son was not home at the time.

16. It is common ground that after receiving the bundle of documents, the presenting officer produced at the hearing a document he sought to rely on by way of rebuttal evidence. It consisted of one sheet produced from a webpage which at the top had written in English "Pingliang Qilianshan cement Co Ltd". In the middle of the document there was some writing and cement bags depicted and at the bottom written in English on the left-hand side was the web address for the company. This is the same web address found at the bottom of the PLO letter.
17. The judge recorded what happened at the hearing at paragraph 19, noting the inclusion in the bundle of the document. He went on to state; "at the bottom of that document there was a website and what Mr Ahmad, on behalf of the Respondent, had done was to check that website prior to the hearing on 14 December 2017. Quite remarkably, rather than finding any reference whatsoever to the PLO, Mr Ahmad produced a document from the cement company, plainly a Chinese company. I afforded Mr Saeed a proper opportunity to take instruction on that point. He duly did so and the case then proceeded...."
18. Mr Saeed confirmed that the contents of paragraph 19 correct and that he was given the opportunity to consider the document and that he proceeded without requesting an adjournment.
19. The judge set out his conclusions after hearing all the evidence at paragraphs 27 - 35 of the determination. I have summarised those findings earlier in this decision. It is plain that he carefully considered the core of the Appellant's account and in the light of the credibility points raised against the Appellant, but nonetheless reached a positive finding on credibility as to the account of having attended at the camp, what had occurred at the Scout camp and accepted how he had left the camp. However, whilst he found him to be "in the main, accurate and reliable" the judge considered the documentary evidence (see paragraph 19) and at paragraphs 30 to 33 considered that the document produced carried no weight and that the information contained in it (which was the website) was that of a cement company and that the "document spoke for itself" and he concluded that "this part of the evidence was is basically a complete fiction." Further at paragraph 33 the judge went on to observe that the documentary evidence had "troubled him" and it had not been addressed by the Appellant or his representative. The judge went on to find that although there had been an attempt to mislead the Tribunal by producing the PLO document, it did not detract from the credible elements of his case and at paragraph 34, he went on to address the evidence were considering whether he was at risk on return.
20. In his oral submissions, Mr Saeed made reference to the determination at paragraph 32 and the document produced by the presenting officer at the outset of the hearing. He submitted that the judge erred in law by considering and placing reliance upon that printout because the document was almost exclusively in Chinese. He referred the Tribunal to the Procedure Rules and Rules 12(5) (b) of the Tribunal Procedure (First-

tier Tribunal) (Immigration and Asylum chamber) Rules 2014 states that “ ... If a document provided to the Tribunal is not written in English, it must be accompanied by an English translation.” As there was no translation provided by the Respondent, the rule implies that it should not be considered. He submitted the purpose of the rules to make sure that all documents are in a language that everyone can understand and for the purposes of the hearing is English. He therefore submitted that as the rule did not explicitly say what should be done if a document was not accompanied by translation, any such document should not be taken into account at all or at the very minimum, the weight to be attached the document should be reduced. However he submitted that the rule implies that if it is not complied with then documents that are not translated are not acceptable or admissible.

21. He therefore submitted that the judge should not have placed reliance upon the document which had not been translated and that this was a material error because it was the only reason why the FTTJ rejected the letter from the committee and the only reason why the judge rejected the Appellant’s account that his father was detained and questioned.
22. I have therefore considered the relevant Procedure Rules. They are set out as follows.
  2. - (1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.
    - (2) Dealing with a case fairly and justly includes –
      - (a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and of the Tribunal;
      - (b) avoiding unnecessary formality and seeking flexibility in the proceedings;
      - (c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;
      - (d) using any special expertise of the Tribunal effectively; and
      - (e) avoiding delay, so far as compatible with proper consideration of the issues.
    - (3) The Tribunal must seek to give effect to the overriding objective when it –
      - (a) exercises any power under these Rules; or
      - (b) interprets any rule or practice direction.
    - (4) Parties must –
      - (a) help the Tribunal to further the overriding objective; and
      - (b) co-operate with the Tribunal generally.
23. The Tribunal has wide case management powers as set out below.

**Case management powers**

4. - (1) Subject to the provisions of the 2007 Act and any other enactment, the Tribunal may regulate its own procedure.



- (2) The Tribunal may give a direction in relation to the conduct or disposal of proceedings at any time, including a direction amending, suspending or setting aside an earlier direction.
- (3) In particular, and without restricting the general powers in paragraphs (1) and (2), the Tribunal may –
- (a) extend or shorten the time for complying with any rule, practice direction or direction;
  - (b) consolidate or hear together two or more sets of proceedings or parts of proceedings raising common issues;
  - (c) permit or require a party to amend a document;
  - (d) permit or require a party or another person to provide documents, information, evidence or submissions to the Tribunal or a party;
  - (e) provide for a particular matter to be dealt with as a preliminary issue;
  - (f) hold a hearing to consider any matter, including a case management issue;
  - (g) decide the form of any hearing;
  - (h) adjourn or postpone a hearing;
  - (i) require a party to produce a bundle for a hearing;
  - (j) stay (or, in Scotland, sist) proceedings;
  - (k) transfer proceedings to another court or Tribunal if that other court or Tribunal has jurisdiction in relation to the proceedings and –
    - (i) because of a change of circumstances since the proceedings were started, the Tribunal no longer has jurisdiction in relation to the proceedings; or
    - (ii) the Tribunal considers that the other court or Tribunal is a more appropriate forum for the determination of the case; or
  - (l) suspend the effect of its own decision pending the determination by the Tribunal or the Upper Tribunal of an application for permission to appeal against, and any appeal or review of, that decision.

24. Any failure to comply with rules is set out at rule 6.

**Failure to comply with rules etc**

6. - (1) An irregularity resulting from a failure to comply with any requirement in these Rules, a practice direction or a direction does not of itself render void the proceedings or any step taken in the proceedings.
- (2) If a party has failed to comply with a requirement in these Rules, a practice direction or a direction, the Tribunal may take such action as it considers just, which may include –
- (a) waiving the requirement;
  - (b) requiring the failure to be remedied; or
  - (c) exercising its power under paragraph (3).

## 25. Sending, delivery and language of documents

- 12.** -(1) Any document to be provided to the Tribunal or any person under these Rules, a practice direction or a direction must be –
- (a) delivered, or sent by post, to an address;
  - (b) sent via a document exchange to a document exchange number or address;
  - (c) sent by fax to a fax number;
  - (d) sent by e-mail to an e-mail address; or
  - (e) sent or delivered by any other method, identified for that purpose by the Tribunal or person to whom the document is directed.
- (2) A document to be provided to an individual may be provided by leaving it with that individual.
- (3) If the Respondent believes that the address specified under paragraph (1) for the provision of documents to the Appellant is not appropriate for that purpose, the Respondent must notify the Tribunal in writing of that fact and, if aware of it, an address which would be appropriate.
- (4) If any document is provided to a person who has notified the Tribunal that they are acting as the representative of a party, it shall be deemed to have been provided to that party.
- (5) Subject to paragraph (6) –
- (a) any notice of appeal or application notice provided to the Tribunal must be completed in English; and
  - (b) if a document provided to the Tribunal is not written in English, it must be accompanied by an English translation.
- (6) In proceedings that are in Wales or have a connection with Wales, a document or translation may be provided to the Tribunal in Welsh.

## 26. Evidence and submissions

- 14.** -(1) Without restriction on the general powers in rule 4 (case management powers), the Tribunal may give directions as to –
- (a) issues on which it requires evidence or submissions;
  - (b) the nature of the evidence or submissions it requires;
  - (c) whether the parties are permitted or required to provide expert evidence;
  - (d) any limit on the number of witnesses whose evidence a party may put forward, whether in relation to a particular issue or generally;
  - (e) the manner in which any evidence or submissions are to be provided, which may include a direction for them to be given –
    - (i) orally at a hearing; or
    - (ii) by witness statement or written submissions; and
  - (f) the time at which any evidence or submissions are to be provided.

- (2) The Tribunal may admit evidence whether or not –
  - (a) the evidence would be admissible in a civil trial in the United Kingdom;  
or
  - (b) subject to section 85A(4) of the 2002 Act, the evidence was available to the decision maker.
- (3) The Tribunal may consent to a witness giving, or require any witness to give, evidence on oath or affirmation, and may administer an oath or affirmation for that purpose.

27. Mr Saeed is correct that rule 15(5)(b) whilst setting out that a document must be accompanied by the translation, does not say that if it is not so submitted it is inadmissible as evidence. In my judgement the rule should be seen in the context of the rules as a whole which include wide case management provisions, which include permitting a party to provide documents (see rule 4(3) (d) which could include the document in dispute). Furthermore rule 6 considers the failure to comply with the rules generally and the Tribunal has a power to waive any failure or irregularity to comply with the rules. Rule 14 (2) (a) deals with general admissibility of evidence and that the Tribunal may consider evidence that would not be admissible in other proceedings. All of those rules are set against the overriding objective set out at rule 2.
28. I consider that the submission made by Mr Jarvis has force. When looking at the procedure rules in general terms there are no strict rules as to evidence and Rule 14(2) (a) refers to admissibility of evidence and that there is power in the rules to waive any failure to comply with the rules and directions. He submitted that the inherent flexibility of the Tribunal is part and parcel of the Tribunal duties. Thus the document was not inadmissible per se.
29. I also consider that it is important to remember the context in which the document had been presented. The presenting officer relied upon the document in the bundle which had a website address at the bottom of the PLO letter which was not in Chinese but is in English. Whilst the middle part of the document was in Chinese, there was no reliance upon the content of the document and the only reliance was placed on the website address given in English. The copy webpage shows the heading “Pingliang Qulianshan Cement Co Ltd” in English and at the bottom left of the webpage gives the name in English. The presenting officer’s argument was that the document provided gave a website address but when checked did not correspond with the PLO website but that of a Chinese company. Therefore the context in which the document was advanced was that the website of the PLO did not link to the data given in the document. Thus the document should be given little weight.
30. I reject the submission made that the Rule should lead to the decision not to admit the document because the only content in the document relied upon was in fact English.
31. In furtherance of the overriding objective and the requirement of “anxious scrutiny”, any applicant in general terms of fairness should be given the opportunity to challenge the document should they wish to do so by the provision of further documents or

evidence which may necessitate an adjournment. The procedure rules allow for adjournments of the proceedings alongside the case management powers.

32. As Mr Jarvis submitted, in terms of procedure, the judge gave time to the Appellant's advocate to consider what options to take. Mr Saeed submitted in his submissions that he had made no adjournment request and that the Appellant was content to proceed on the basis stated. In my judgement the Appellant had an opportunity to ask for an adjournment and for the document to be translated.
33. The judge returned to this issue at paragraph 33 of the decision in which he stated that the document that had been relied upon which he found had been wholly undermined had not been addressed by the Appellant or his representative and that that had "troubled him." I have considered the document and it is difficult to see what difference it would make to the judge's assessment if the document had been translated. As set out above, the top part of the document is written in English and relates to the name of the cement company. The web address of the company is in English at the bottom and it was this which corresponded to the website address from the document. As the website is in English and the similar website address on the document in the Appellant's bundle is in English, and the webpage address does not link to the PLO, it is difficult to see how a full translation would assist the Tribunal. Indeed there has been no further evidence produced under rule 15(2A) of the Upper Tribunal Procedure Rules for the provision of further evidence to undermine the judge's finding or to undermine the document produced by the presenting officer. Nor is there any explanation given as to why the web address corresponds to that of the cement company.
34. However whilst the judge found that there had been an attempt to mislead by producing that document, the judge fairly stated that it did not detract from the credible elements that he had found in favour of the Appellant. He then went on at paragraph 34 to address the issue of risk in the light of the evidence given by the Appellant and also by reference to the document. He found that the act of leaving the camp prematurely would not have given rise to any adverse interest by Hezbollah given that there was a lack of obligation to participate in the attendance of the camp and there was no evidence to show that for one reason or another those who had left the camp would be targeted for retaliation by Hezbollah and mistreated to the point of persecution. The judge did refer to the document stating that his conclusions were supported by the fact that the Appellant's father was not abused or mistreated by those who questioned if there was any truth at all in the assertion that his father was questioned.
35. I therefore do not find any error of law in the judge's assessment of the documentary evidence in the context of the factual claim made by the Appellant.

#### Ground 2:

36. This leads me to ground 2. Mr Saeed submitted that the Appellant's account was not only that he was at risk because he had escaped from the scouting camp but because

the other parents of people at the camp had found out what was happening due to the Appellant. This was set out at paragraph 6 of the determination and in the refusal letter at paragraphs 38-43 and the asylum interview questions 92 – 107. However the judge made no reference to this part of his account and this was a material error because it was relevant to establishing risk upon return.

37. As Mr Saeed pointed out, the judge was aware of the Appellant's account that he had alerted others in the locality that young people were being sent to the camp and being prepared for military service (see paragraph 6) and also that his account was that when he was at the refugee camp, the family home was searched by the authorities and his father was taken in questioning (see paragraph 8).
38. The document at page 18 (PLO letter) relied upon by the Appellant gives detail as to what had happened to the Appellant after leaving the camp which includes information relating to his father being interrogated and released and the factual aspects relied upon in ground 2. The judge had considered the letter to be completely unreliable at paragraph 32 of the determination, having found this part of the evidence to be a "complete fiction". The judge was referring to the contents of the letter which included "inciting against Hezbollah" which is the factual content of ground 2. Furthermore the judge considered in broad terms the objective country information at paragraph 35, noting that this was not a situation where there is compulsory conscription into the military which the Appellant was seeking to avoid and that what was known about the actions of Hezbollah is that they were encouraging young men to follow their cause and to fight in Syria by offering financial inducements and that that was consistent with the Appellants evidence. It is also consistent with the objective material set out in the Appellant's bundle at page 234 onwards. That information makes reference to the long and strict recruitment process for Hezbollah and the lack of credible evidence that there is forced recruitment because there were no problems recruiting people on a voluntary basis. Whilst Mr Saeed points to some material in a report dated one year later in 2015 at page 183 of the bundle, that talks of disappearances of those individuals who refuse to join Hezbollah, the report goes on to say that corroborating information could not be found amongst the sources consulted. Consequently on the basis of the objective country information, it did not support forced recruitment from others, and the judge having found that the PLO document was wholly undermined, it is plain that he did not find as credible that Hezbollah retained any adverse interest in him which is the substance of Ground 2.
39. The judge stated at paragraph 33 the effect of the PLO document and that it did not detract from the credible part of his account. At paragraph 34 the judge gave cogent reasons as to why he would not be at adverse interest to Hezbollah. Therefore I am not satisfied that ground 2 is made out.

#### Ground 1:

40. Dealing with ground 1, Mr Saeed submitted that the judge had found the Appellant credible regarding his account of being part of the Scouts, and attending the camp and leaving the camp for the reasons given by the Appellant. Thus he had accepted the

Appellant's account. However the judge then went on to consider whether there was any risk to the Appellant upon return to Lebanon. He submitted that the FTTJ was wrong to ask that question because when the Respondent refused the application for asylum, she did so only on the grounds of credibility. He made reference to the decision letter at paragraphs 29 – 37 in which the Respondent had given reasons why she considered his account to be internally inconsistent. As to being a person of interest to Hezbollah, at paragraphs 38 – 44 the Respondent rejected "at the outset" that he had come to Hezbollah as a result of leaving the camp and informing others of the situation. Paragraph 48 stated that as the core of the claim had been rejected, it was considered that he could return to Lebanon without a real risk of persecution.

41. Thus he submitted that it was implied in the decision letter that if the Appellant was credible he was at risk upon return to the Lebanon. As the Respondents representative had relied upon the refusal letter, the judge having found the Appellant to be credible, the First-tier Tribunal judge should have allowed the appeal because there were no other issues outstanding. Therefore Mr Saeed submitted that by considering the issue of risk upon return, the judge had erred in law. He submitted that as the Respondent adopted the refusal letter, if the FTTJ wanted to continue the issue of risk on return then that should have been the subject of notice to the parties that given them the chance to address the issues.
42. Thus he submitted it was one of those cases that where credibility was assessed in favour of the Appellant he should have succeeded.
43. Mr Jarvis submitted that the Respondents refusal letter was not perfect but it could not be said that there was any concession either on the face of the decision letter or implied by the contents of the decision letter. He submitted that the last page of the record of proceedings attached to the skeleton argument simply refers to the representative developing arguments as to Hezbollah. There was no indication that the Appellant had found himself in any difficulties in dealing with the submissions made by the presenting officer and therefore the risk on return had to be the issue.
44. Therefore submitted that the Appellant's representative proceeded and made submissions which the judge disagreed with having found that there would be no adverse interest in him by Hezbollah. Therefore there could be no defect in his approach. It was important to note that the judge did accept the majority of his claim and consider the factual circumstances but rejected the PLO letter.
45. In his reply, Mr Saeed clarified his submissions in that he was not seeking to assert that there was any concession made by the Secretary of State but reiterated his submissions that in view of the positive credibility findings, risk on return was not a live issue before the FTTJ.
46. I have considered with care the submissions made by each advocate and in the light of the decision letter. It is plain from reading that decision letter that the Secretary of State had rejected the factual account of his case and therefore it followed that he had not discharged the burden on him to show to the lower standard, that there was a

reasonable likelihood that on return he would be of adverse interest to Hezbollah. There was no alternative consideration given on the basis of a positive credibility findings and it cannot properly be said that if the judge had found him credible that the appeal should be allowed. In fact, whilst the core of the account had been accepted by the judge, he did not accept that the Appellant was of adverse interest to Hezbollah having rejected the document therefore he had not found his account to be wholly credible.

47. As Mr Saeed submitted there are cases which come before the Tribunal in which it is accepted within the decision letter or by the presenting officer that if the Appellant's account is found to be credible that there is a reasonable likelihood of risk on return. It is plain that this was not one of those cases and it was open to the judge to consider the factual findings that he had made on the evidence before him and to consider those findings in the context of the country information as to whether or not the factual matrix gave rise to any risk on return.
48. At paragraph 34 the judge began his assessment of risk on the facts as he had found them to be. He identified what was the "critical question" as to "what the level of risk there is for the Appellant who is a Palestinian who comes of Lebanon and in going back now, would he face a real risk of persecution of any Convention reason at the hands of Hezbollah?" He then analysed the evidence that was before him and given by the Appellant. He considered that despite the Appellant having left the camp prematurely, this would not have led to any adverse or active interest in him. He reached that conclusion on the evidence before him that attendance at the camp was purely voluntary and that he chose, for whatever reason, to leave the camp because it was not for him, that that would not give rise to any adverse interest. He considered this against the background of the Appellant's own evidence that his participation in attendance at the camp was purely voluntary but importantly, that there was no credible evidence to show that those who would left the camp would be targeted from retaliation by Hezbollah and mistreated to the point of persecution.
49. At paragraph 35 he made a reference to the country information before him, that there was no compulsory conscription into the military, which the Appellant was seeking to avoid. There is no evidence before the Tribunal either that the scouting camp was compulsory or was part of any process of compulsory conscription. It was also open to the judge to reach the conclusion on the objective material that his finding was wholly consistent with what was known about the actions of Hezbollah in that they encourage young men to follow their cause and fight in Syria by offering financial inducements and thus there is no necessity to forcibly recruit people to join Hezbollah (see the country information in the Appellant's bundle at pages 234 onwards).
50. I therefore do not find that it is been demonstrated that there was any error of law in the judge's decision to consider the issue of risk on return in the way that he proceeded to do and that the assessment made by him was in accordance with the evidence.

**Decision:**

The decision of the First-tier Tribunal did not involve the making of an error on a point of law and the appeal is dismissed; the decision of the First-tier Tribunal shall stand.

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

*SM Reeds*

Signed

Date: 3rd May 2018

Upper Tribunal Judge Reeds