



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: PA/06874/2019 (P)

**THE IMMIGRATION ACTS**

**Decided on the papers**

**Decision and Reasons  
Promulgated  
On 13 July 2020**

**Before**

**UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**CH  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**DECISION AND REASONS**

1. The Appellant is a national of Iraq born in 1990. She appeals against the decision of the First-tier Tribunal (Judge Clapham) to dismiss her protection and human rights appeal.
2. This decision has, with the consent of the parties, been made on the papers under Rule 34 of the Tribunal Procedure (Upper Tribunal) Rules 2008. It follows the parties' responses to Directions made by Upper Tribunal Judge O'Callaghan on the 7<sup>th</sup> April 2020.

3. The Appellant's grounds contend that Judge Clapham's decision is flawed for four material mistakes of fact, which render the credibility findings unsafe. In particular:
- (i) The First-tier Tribunal found that the Appellant had failed to mention in her screening interview that she had separated from her husband. This is incorrect - it is mentioned at Q1.19 of the amended record.
  - (ii) The First-tier Tribunal found that the Appellant had belatedly embellished her claim by stating in her witness statement matters that she failed to mention at her asylum interview, namely that her former in-laws had threatened her. This is incorrect - the statement in fact predated the asylum interview.
  - (iii) The First-tier Tribunal found that there was no evidence to support the Appellant's claim that her former in-laws would wish to forcibly remove the children from her. This is incorrect - there was country background evidence before the Tribunal indicating that this practice does occur in Iraq, viz the Finnish Immigration Service Overview.
  - (iv) The First-tier Tribunal draws negative inference from its own finding that the Appellant claimed asylum in Switzerland on the basis that she was involved in a land dispute. This is incorrect - that claim was made by her husband.
4. By his written submissions dated the 4<sup>th</sup> May 2020 the Secretary of State accepts that all four alleged errors are made out. It is accepted that the First-tier Tribunal overlooked or misunderstood evidence before it, and that it failed to have regard to country background material capable of demonstrating that the claim was plausible in the context of Iraqi society.
5. The parties therefore agree that the decision of Judge Clapham must be set aside. I am invited to remit the matter to the First-tier Tribunal for hearing *de novo*. In light of the fundamental misunderstanding of the Appellant's case in the first decision I agree that this is the most appropriate disposal.

### **Anonymity**

6. The Appellant seeks international protection. As such I am satisfied, having had regard to the guidance in the *Presidential Guidance Note No 1 of 2013: Anonymity Orders*, that it would be appropriate to make an order in accordance with Rule 14 of the *Tribunal Procedure (Upper Tribunal) Rules 2008* in the following terms:
- "Unless and until a tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies to, amongst others, both the Appellant and the Respondent. Failure to comply with this direction could lead to contempt of court proceedings"

**Decisions**

7. The decision of the First-tier Tribunal contains errors of law such that it must be set aside in its entirety.
8. The decision in the appeal is to be remade *de novo* in the First-tier Tribunal.
9. There is an order for anonymity.

A handwritten signature in black ink, appearing to read 'CBE', is positioned to the right of the list of decisions.

Upper Tribunal Judge Bruce  
30<sup>th</sup> June 2020