



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

Appeal Number: PA/01841/2017

THE IMMIGRATION ACTS

Heard at Columbus House, Newport

**Decision &
Promulgated**

Reasons

On 17th August 2017

On 6th October 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVIDGE

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

NJ

(ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Mr Gobirolf Counsel instructed by Albany Solicitors

For the Respondent: Mr Mills Senior Home Office Presenting Officer

Extempore DECISION AND REASONS

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

1. Unless and until a Tribunal or a court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of their family. This order applies

both to the Appellant and to the Respondent. Failure to comply with this order could lead to contempt of court proceedings.

2. The Secretary of State is the Appellant in these proceedings and she appeals a decision of First-tier Tribunal Judge Suffield-Thompson promulgated on 27th March 2017 in which the judge allowed the Appellant's appeal on protection grounds relevant to the Refugee Convention.
3. The judge found that the Appellant was a member of a particular social group who on return to her Home Area would be at risk of persecution from her family, and insufficiently protected by the State.
4. The judge found that the Appellant could not relocate to the safe area of the Independent Kurdish Region. In doing so the judge took account that the Appellant was a single woman, returning either pregnant or with a baby.
5. The Secretary of State, dissatisfied with that decision, applied to appeal to the Upper Tribunal.
6. On 23rd May 2017 Upper Tribunal Judge Allen granted permission in the following terms:

“On balance, it is arguable that the judge erred in not factoring into potential risks facing the applicant, the fact that she has a partner who, like her, has no legal status, and the fact that their long-term plan is to live together as a family. The point is arguably relevant with regard to both risk and internal relocation”.
7. Before me both representatives were in agreement that the grant of permission identified a material error of law. The factual matrix of the Appellant having a new partner and, in light of his status in the United Kingdom, the likelihood of his return to Iraq, were considerations that the judge needed to address to see what impact, if any, the presence of her partner might have, both in terms of risk in her home area and elsewhere, and in terms of the possibility of relocation, and additionally in terms of the availability of documents that she might require in order to relocate, on return to Iraq.
8. There was a substantial factual matrix which was left unconsidered by the judge and which requires judicial consideration and fact-finding. In those circumstances, it is agreed that the matter should be remitted to the First-tier Tribunal, the error being the insufficiency of the consideration. I note for the record that the findings of fact made by Judge Suffield-Thompson in respect of the credibility of the Appellant's historical account at [34] were not challenged and are not infected by the error of law, and accordingly remain.

Decision

9. The Decision of the First-tier Tribunal reveals material error of law requiring it to be set aside and remade. In light of the substantial fact finding exercise to be undertaken the appeal is remitted to the First-tier Tribunal to be reheard.

Signed

Date 04 October 2017

Deputy Upper Tribunal Judge Davidge