



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

Appeal Number: PA/02636/2018

**THE IMMIGRATION ACTS**

**Heard at Birmingham Civil Justice  
Centre  
On 3 May 2019**

**Decision & Reasons  
Promulgated  
On 15 May 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE I A LEWIS**

**Between**

**MR SAFAR ARSALAN MAHMOD  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr J Howard of Fountain Solicitors (Walsall)

For the Respondent: Mr D Mills, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal against the decision of First-tier Tribunal Judge A K Hussain promulgated on 9 April 2018 dismissing an appeal against a decision of the Respondent dated 9 February 2018 refusing a protection claim.
2. The Appellant is a citizen of Iraq whose date of birth is given as 1 January 1996. He is Kurdish and originates from what is now the IKR. His application for asylum was based on his claimed conversion from Islam to Christianity; he expressed his fear specifically in terms of a risk from his father.

3. The application for asylum was rejected by the Respondent for reasons set out in a 'reasons for refusal' letter ('RFRL') dated 9 February 2018. The Respondent did not accept the basis of the claim in any material respect. It was not accepted that the Appellant was a religious convert as claimed; in any event, the Respondent considered that there would be a sufficiency of protection (paragraphs 48 to 50 of the RFRL); in the alternative, internal relocation was a reasonable and viable option - including relocation within the IKR.
4. The Appellant appealed to the IAC.
5. The appeal was dismissed for reasons set out in the decision of Judge Hussain.
6. Judge Hussain found that whilst he did not accept the Appellant's account of a religious conversion whilst in Iraq, he did accept that the Appellant had converted to Christianity whilst in the United Kingdom. Nonetheless, the appeal was refused for the reasons set out in the Decision.
7. In the application for permission to appeal to the Upper Tribunal the Appellant raised a single basis of challenge. The challenge is focused on the Judge's consideration of country information materials and in particular what is stated in this regard at paragraphs 23 and 24 of the Decision. Those paragraphs appear under the subheading 'Objective evidence about Christians in the IKR', and are in these terms:

*"23. The Appellant was a Sunni Muslim and converted to Christianity. This is not against Iraqi Penal Law which permits conversion from Islam. But this does not mean that there is no animosity towards converts from Islam. Such conversions would, according to the Home Office Country Information and Guidance Iraq: Religious Minorities August 2016, likely result in ostracism and/or violence at the hands of the converts community, tribe or family. Many reportedly believe that apostasy from Islam is punishable by death or even that the killing of an apostate is a religious duty. However that is to state the general position. The position in the IKR is very different. The UN Special Rapporteur on minority issues said on 1 March 2016: "what the [IKR] has done for minorities and different ethnic and religious groups who have fled to this region is very well appreciated and recognised internationally".*

*24. The Special Rapporteur was there referring in part to the law passed in 2015, referred to in the Secretary of State's refusal*

*letter, where followers of religion have the right to declare their religion, practise the rituals, and found their places of worship. And whilst the law does not address the issue of converting from one religion to another, there were no reported cases in Kurdish courts of anyone being tried for changing their religion. The appellant himself confirmed the relaxed attitude towards Christians in Shaqlara from the local populace. There is no reason why this should be any different in any other town in the IKR where there was a sizeable Christian population.”*

8. The challenge - and in turn the grant of permission to appeal - is entirely focused on an assertion that the UN Special Rapporteur's report or statement of 1 March 2016 was not material that was before the First-tier Tribunal; it is submitted that in such a circumstance there was procedural unfairness in that the Appellant had not been afforded the opportunity of commenting upon it.
9. In a Rule 24 response dated 6 September 2018 - which for reasons that are unclear has not seemingly made its way to the appeal file, and of which Mr Howard was unaware until the morning of the hearing - the Respondent points out that the quotation from the UN Special Rapporteur at paragraph 23 of the Decision of the First-tier Tribunal is to be found in the Country Information and Guidance report 'Iraq: Religious Minorities' of August 2016, to which the Judge had just referred. In this context, Mr Mills has taken me to the Appellant's bundle before the First-tier Tribunal, in which the Country Information and Guidance Report is reproduced (starting at page 183). At paragraph 7.2.1 under the heading 'Kurdistan Regional Government (KRG)' reference is indeed made to the UN Special Rapporteur on Minority Issues, and the quotation that appears in the decision of the First-tier Tribunal at paragraph 23 is set out.
10. Consequently it is plain that the premise of the challenge to the decision of the First-tier Tribunal is factually misconceived. In such circumstances, I find that the ground of appeal is not made out. The comments of the UN Special Rapporteur were before the First-tier Tribunal - and indeed had been placed before the First-tier Tribunal by the Appellant himself. Necessarily, it does not behove him to say in such circumstances that he has not had the opportunity to comment on such materials.
11. For completeness I note that Mr Howard on behalf of the Appellant has valiantly invited my attention to the fact that the full report of the UN Special Rapporteur was not before the Tribunal, and to that extent, it is not possible to see whether or not the quotation in the Country Information report - and in turn the First-tier Tribunal Judge's decision - is in some way a misrepresentation of the overall report, or is materially out

of context. Whilst it is correct that the full statement or report of the Special Rapporteur was not before the First-tier Tribunal, neither is it before the Upper Tribunal and so the Appellant cannot point to anything indicative of *material* error. In any event, given the scope of the challenge before the Upper Tribunal, such an argument is not one that can avail the Appellant.

12. In any event, it seems to me that it is difficult to see from the Decision that internal relocation was being considered as anything other than an alternative finding: the Judge had in substance found that the Appellant's only fear was in respect of his father, and did not accept that the Appellant's father "*holds an animus towards him*" (paragraph 22). In this context, the Judge also noted that the Appellant, when specifically questioned by the Home Office Presenting Officer before the First-tier Tribunal, "*admitted that were it not for the fear of his father he would have no qualms about returning to the IKR to practise his religion there*" (paragraph 25).
13. It also seems to me that this latter quotation renders essentially empty any technical or abstract arguments based on the safety for Christian converts in IKR, by way of relocation or otherwise, on the facts of this particular case. It is difficult to see how the Appellant can establish a subjective fear - never mind an objectively well-founded fear - if he himself acknowledges that there would be no difficulties for him practising his religion as a Christian convert in the IKR but for the localised difficulty with his father.
14. For all these reasons, I reject the challenge to the decision of the First-tier Tribunal.

### **Notice of Decision**

15. The decision of the First-tier Tribunal contained no error of law and stands.
16. The Appellant's appeal remains dismissed.
17. No anonymity direction is sought or made.

*The above represents a corrected transcript of ex tempore reasons given at the conclusion of the hearing.*

Signed:

Date: **14 May 2019**

**Deputy Upper Tribunal Judge I A Lewis**