



IAC-AH-SAR-V1

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

Appeal Number: PA/04161/2018

**THE IMMIGRATION ACTS**

**Heard at Bradford**

**On 26 February 2019**

**Decision & Reasons  
Promulgated**

**On 04 March 2019**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**AKH  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Simo, Simo Law Firm

For the Respondent: Mrs Pettersen, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, AKH, was born in 1990 and is a female citizen of Iraq. She entered the United Kingdom in 2017 and claimed asylum. By a decision dated 15 March 2018, respondent refused the application for protection. The appellant appealed the first-tier tribunal (Judge Arullendran) which, in a decision promulgated on 9 May 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The appellant claims that, if she returns to Iraq, she faces the real risk of being a victim of honour crime. That claim was rejected by the judge. Granting permission, Judge Chalkley made it clear that permission was only granted in respect of the challenge to the judge's findings on Article 8 ECHR. Although at the heading of the permission grant, the judge states that 'permission to appeal is granted' at the foot of the document he makes it clear that permission is only granted in respect of the first challenge (there is a typical graphical error; it is clear that the judge in referring to the 'fifth' challenge intended to return refer to the 'first' challenge). Having regard to the principles set out in the decision in *Safi and others* (permission to appeal decisions) [2018] UKUT 388 (IAC), I consider that the judge has granted permission only in respect of the challenge on Article 8. The asylum and Article 3 ECHR grounds shall not be revisited.
3. I do not find that the appeal has merit. The grounds raise the analysis of the judge in respect of section 55 of the Borders, Citizenship and Immigration Act 2009 but do no more than to assert that the children have made good progress in school. The judge accepted that the appellant is in a relationship with Mr M, who is the natural father of the appellant's two children, although the couple of never married. However, as the judge observed at [75], there was no evidence to show that Mr M and any involvement with the welfare and upbringing of the children prior to their arrival in the United Kingdom. The judge's finding that Mr M may return to Iraq with the appellant and the children, should he wish to do so, is not subject to a grant permission to this tribunal. Further, it was open to the judge to find that the children were integrated into the culture and society of Iraq and the fact that the youngest child is of pre—school age and the eldest only five years old entitled the judge to find that the best interests of the children would be met by their returning to Iraq with the sole carer, the appellant. The assertion in the grounds that the judge's assessment of best interests is flawed is wholly without merit.
4. Mr Simo, for the appellant, submitted that that there had been no proper assessment by the judge of the immigration rules under which the appellant and the children might qualify for leave to remain. That submission ignores the findings of the judge at [73].
5. Granting permission, Judge Chalkley was concerned that that there was no assessment outside the immigration rules of family life. It is true that the judge has proceeded from a consideration of the immigration rules at [73] to analysis of the children's best interests and the judgement that removal would be proportionate. However, having found that the appellant and the children could not meet the requirements of Appendix FM, the judge's conclusion that the appellant and children and, if he so wishes, Mr M may return together return to Iraq, was inevitable.
6. In the circumstances, the appeal is dismissed.

### **Notice of Decision**

**This appeal is dismissed.**

**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 or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 28 February 2019

Upper Tribunal Judge Lane