



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

Appeal number: PA/09753/2019 (P)

THE IMMIGRATION ACTS

Decided under rule 34

**Decision & Reasons Promulgated
On 25 June 2020**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

P K

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DETERMINATION AND REASONS

1. This determination is to be read with:
 - (i) The respondent's decision dated 23 September 2019.
 - (ii) The appellant's grounds of appeal to the First-tier Tribunal.
 - (iii) The decision of FtT Judge Turnock, promulgated on 20 December 2019.
 - (iv) The appellant's grounds of appeal to the UT, stated in the application for permission to appeal filed on 3 January 2020.
 - (v) The grant of permission by the FtT, dated 20 February 2020.

- (vi) The UT's note and directions, issued on 6 April 2020, with a view to deciding without a hearing whether the FtT erred in law and, if so, whether its decision should be set aside.
 - (vii) The appellant's written submissions in response, filed on 20 April 2020.
 - (viii) The SSHD's response, filed on 28 April 2020.
 - (ix) The appellant's notification on 4 May 2020 of no further submissions.
2. Parties have raised no objection to a decision without a hearing, as contemplated above. It is appropriate to proceed accordingly.
 3. The first and main point in the grounds, which triggered the grant of permission, is also contained at [6] of the appellant's written submission: whether the FtT erred at [61 - 64] by taking "section 8 issues" as the starting point.
 4. The decision at [61 - 63] is essentially narrative. The judge's point at [64] is based not on failure to claim in other safe countries, but on the appellant's motivation to vary his claim from one which had failed in Sweden, and on lies told at screening interview (although later corrected).
 5. Prior to that passage, the FtT directed itself at [59 - 60] on general principles of credibility assessment, with no suggestion that "section 8 issues" had any priority.
 6. At [65] the FtT referred to case law that section 8 is not a starting point.
 7. Absence of a claim in other countries is mentioned early on, but matters have to be addressed in some order.
 8. As the SSHD submits, the decision was based on numerous and cumulative reasons.
 9. The decision does not disclose that the FtT fell into the error against which it expressly directed itself.
 10. Ground 2 does not specify any failure to consider the evidence in the round, or any error of principle by reference to *TF & MA*. This is not an appellant who sought to show that he is a believing and practising Christian. He said that he is indifferent to both Christianity and Islam. He claimed "conversion", such as it was, came not from conviction but with a view to marriage. I accept that some cases of even formal or perceived apostasy might present a risk in Iraq; but the appellant was not in the class of persons envisaged by *TF & MA*, and the FtT did take an holistic approach.
 11. Ground 3 complains of "cherry-picking" by overlooking background evidence about the law against conversion from Islam, and about

persecution of apostates; but this overlooks that the appellant failed to show that he is an apostate, or likely to be perceived as one.

12. Grounds 2 and 3, in any event, show nothing wrong with the alternative finding at [110-111] based on relative tolerance in Kurdistan.
13. The grounds do not show that the FtT erred on any point of law. Its decision shall stand.
14. The FtT made an anonymity direction. Parties have not addressed that matter in the UT. Anonymity is preserved herein.
15. The date of this determination is to be taken as the date it is issued to parties.

Hugh Macleman

UT Judge Macleman

15 June 2020

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. **A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.**
6. **The date when the decision is "sent" is that appearing on the covering letter or covering email.**