



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-004115
First-tier Tribunal No:
PA/55229/2021
IA/15792/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 21 May 2023

Before

UPPER TRIBUNAL JUDGE STEPHEN SMITH
DEPUTY UPPER TRIBUNAL JUDGE FROMM

Between

GH (Palestine)
(ANONYMITY DIRECTION MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr S. Saeed, Solicitor Advocate,
For the Respondent: Mr A. Basra, Home Office Presenting Officer

Heard at Field House on 11 May 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. By a decision dated 28 May 2022 First-tier Tribunal Judge Peer (“the judge”) dismissed an appeal brought by the appellant, a citizen of the Palestinian territories, against a decision of the respondent dated 14 October 2021 refusing his asylum and humanitarian protection claim. The judge heard the appeal under

section 82(1) of the Nationality, Immigration and Asylum Act 2002 (“the 2002 Act”). The appellant now appeals against the decision of the judge with the permission of Upper Tribunal Judge Kamara.

Factual background

2. The appellant resided in a UN Works and Relief Agency (“UNRWA”) camp in Lebanon with his mother and brother. He claims that he had been recruited voluntarily by a militia group affiliated with Hezbollah, Ansraullah, to work as a guard in an office building, in February 2017. Later that year, his employers informed him that he had been selected for training in order to fight for Hezbollah in Syria. He did not want to do so. His mother arranged for him to leave the country with the help of an agent before he was due to report for training. He left Lebanon on 2 August 2017 for Turkey. On 14 August 2017, the family home where he lived with his mother was raided by Ansarullah militia looking for him.
3. From Turkey, the appellant spent time in Spain, Germany and France, before arriving clandestinely in the United Kingdom in July 2020. He claimed asylum very shortly after his arrival, on the basis that he would be at risk from Hezbollah in Lebanon upon his return. He had claimed asylum in Germany on the same basis, unsuccessfully.
4. In support of his asylum claim to the Secretary of State, the appellant provided two letters that the ‘Popular Committee’ had sent to his mother at the UNRWA camp dated 12 October 2020. The Popular Committee is part of the Palestine Liberation Organisation and provides informal governance and security in the camps. One of the letters gave a description of the appellant’s home being raided on 14 August 2017 by an armed group who were looking for him. The other gave a more general description of the work of the Committee, adding that there had been reports such as “house raids by some armed organisations”, over which it had no power or authority.
5. The judge dismissed the appeal against the Secretary of State’s decision on a number of bases. First, the judge considered that the background evidence concerning Hezbollah’s recruitment practices was not consistent with the account given by the appellant (para. 45). It was, according to the background evidence, “improbable” that Hezbollah would recruit by force. The focus of the group was on those ideologically close to Hezbollah. A 2014 report from the Danish Immigration Service suggested that the recruitment process took between two to three years and included intensive training in Shiite Islamic ideology (para. 46).
6. The judge said at para. 47 that it was “important to note the potential shift in recruitment practices” as outlined in a number of background materials relied upon by the appellant. A report by the Immigration and Refugee Board of Canada dated 6 November 2018 suggested that Hezbollah had broadened its recruitment criteria to include Christians, Druze, and Sunni Muslims. As for the links between Hezbollah and Ansraullah, the judge said that a February 2020 report by the European Asylum Support Office (“EASO”) provided the only link between the two groups. She added, at para. 48:

“The only documentary evidence before me which clearly links Ansarullah and Hezbollah is a letter from the appellant’s mother.”
7. That was a reference to a statement from the appellant’s mother, dated 12 October 2020, describing the raid on the family home on 14 August 2017.
8. The judge concluded that the appellant’s account was inconsistent with the background materials. He claimed to have worked for Ansarullah for only a short

period of time before being selected for military training, which was inconsistent with the background evidence concerning Hezbollah's reported processes in selecting its fighters, and the associated religious practices of the group. She added, at paragraph 49:

"I find this to be the case even if in more recent times there are threads that practices may be changing. Further, the background evidence available to me does not contemplate forced recruitment of the type the appellant suggests he faces in that if he returns, he will either be forced to train and/or fight or subject to imprisonment by Hezbollah if he does not."

9. In relation to the appellant's oral evidence, the judge found (para. 51) that the appellant was able to recall only basic details concerning his claim. On his own account, he knew nothing about Hezbollah. He had been unable to give any "real details" of the contract he claimed to have entered into with Ansarullah and gave no details of what "precisely" he was contracting to do or what he would receive, and the background evidence referred to pay, she found. The appellant had not said that he had accepted any level of pay or other benefit "that might motivate pursuit of him individually". His account concerning the work he had conducted for Ansarullah had been inconsistent, in that he had claimed both to have worked as a guard and to have worked in an office. The account lacked detail of the work that he had done and the circumstances in which he had been selected for training to fight in Syria. He had been able to leave Lebanon without difficulty, whereas the background materials suggested that the reach of Hezbollah in the country was extensive, particularly in the south.
10. As for the letters the appellant had provided, they had been written three years after the alleged events were said to have occurred. There were self-serving and lacked details as to the source of the corroborative account of the raid on the appellant's mother's house. She added:

"The armed group may have been attending his home to collect him for the course given the timing. They may well have vowed to find him. There is no detail or threat beyond that recorded in the letter. There is no detail of the risk faced in the circumstances or explanatory context provided by the second letter. The link with Hezbollah and the level of risk alleged to arise the appellant is to be found only in the mother's letter. The contents of the letters from the committees therefore give some credence to the pound's account to have agreed to attend military training with Ansarullah and that Ansarullah came to find him to take him to the training and upon finding he was not there vowed to find him. The contents of the letters do not provide any corroboration as to the risk arising from Hezbollah or that the threats from Ansarullah were stronger than trying to find a person who had said he would attend the military training at this point in time the training was due to take place." (Para. 53)

11. At para. 55, the judge said:

"Even if the content of the second letter is accepted as reliable, it does little to materially corroborate the appellant's claims to be of adverse interest to and at risk of serious harm or persecution from Ansraullah/Hezbollah if he returns to Lebanon... The letters are self-serving and in particular the mother's letter in the sense that they present as entirely constructed to provide support for the appellant's

assertions and bolster his claim. Overall, I have concluded that the appellant is not credible and that the letters cannot be relied upon having assessed all the evidence in the round.”

12. The judge dismissed the appeal on Refugee Convention, humanitarian protection and human rights grounds.

Issues on appeal to the Upper Tribunal

13. There are two grounds of appeal. The first is that the judge failed fully to consider the documentary evidence that was before her. The second is that the judge failed to address the documentary evidence, in particular the Popular Committee letters, in the round, in light of the background materials.
14. Judge Kamara granted permission to appeal primarily in relation to the first ground of appeal, observing that it was arguable that the judge may not have taken all the evidence into consideration.
15. Developing ground one, Mr Saeed submitted that the judge was wrong to say there was no documentary evidence linking Ansarullah and Hezbollah. The appellant had given details of those links in his Preliminary Information Questionnaire dated 15 September 2020 (“PIQ”) and in the Asylum Interview Record dated 7 October 2021 (“AIR”), to which the judge made no reference in her operative findings. Similarly, many of the details which the judge criticised the appellant for omitting were covered in those documents. It was incorrect to conclude that the appellant had provided no details concerning the work he was contracted to perform for Ansarullah, or the rate of pay, since he addressed those matters in the documents which the judge overlooked. The judge was mistaken when she found that the appellant’s account of either having worked as a guard, or in an office, were inconsistent; the appellant’s case was that he worked as a guard at an office; there was no inconsistency. As to the appellant’s ability to leave the country despite having been selected for military training, the judge overlooked the basic point that the appellant had left the country before his training was due to start.
16. In relation to ground 2, Mr Saeed submitted that the judge failed to consider that the purpose of the Popular Committee letters was to record the attendance of Ansarullah at the appellant’s home, and that it was erroneous for the judge to have looked for confirmation of Hezbollah’s role in that incident. Para. 13 of the grounds of appeal states:

“...according to a longstanding agreement between the Lebanese authorities and the Palestinian authorities, Lebanese organisations such as Hezbollah and the Lebanese army do not enter the Palestinian refugee camps and the FTT failed to take this fact into consideration when considering the letters from the popular committees.”
17. Mr Saeed also submitted that the judge overlooked the background evidence which demonstrates that Hezbollah punishes its members who refuse to fight in Syria, and failed to assess the documents in the round, contrary to *Tanveer Ahmed v Secretary of State for the Home Department* [2002] UKIAT 00439.
18. Resisting the appeal, Mr Basra submitted that the judge of the documentary evidence in mind throughout her decision, stated that she had considered all the evidence, in the round, before reaching her conclusions, and reach findings that were rationally open to her on the evidence she heard.

The law

19. We turn to the relevant legal principles. The Presidential panel in *Joseph (permission to appeal requirements)* [2022] UKUT 218 (IAC) observed, at para. 13ff:

“13. The right of appeal to the Upper Tribunal is on any ‘point of law’ arising from a decision made by the First-tier Tribunal, other than an excluded decision: section 11(1) of the 2007 Act. There are many reported authorities, in this jurisdiction and from further afield, addressing the need for grounds of appeal to be pleaded properly and succinctly, and by reference to an arguable error of law. Maintaining the distinction between errors of law and disagreements of fact is essential; it reflects the jurisdictional delimitation between the first-instance role of the FTT and the appellate role of the UT, and reflects the institutional competence of the FTT as the primary fact-finding tribunal. The distinction, however, is often blurred, with unhelpful consequences. As Warby LJ put it in *AE (Iraq) v Secretary of State for the Home Department* [2021] EWCA Civ 948; [2021] Imm AR 1499 at [32]:

‘Commonly, the suggestion on appeal is that the FTT has misdirected itself in law. But it is not an error of law to make a finding of fact which the appellate tribunal might not make, or to draw an inference or reach a conclusion with which the UT disagrees. The temptation to dress up or re-package disagreement as a finding that there has been an error of law must be resisted.’

14. Warby LJ recalled the judgment of Floyd LJ in *UT (Sri Lanka) v Secretary of State for the Home Department* [2019] EWCA Civ 1095 at [19]:

‘...although ‘error of law’ is widely defined, it is not the case that the UT is entitled to remake the decision of the FTT simply because it does not agree with it, or because it thinks it can produce a better one. Thus, the reasons given for considering there to be an error of law really matter.’”

20. In *Fage UK Ltd v Chobani UK Ltd* [2014] EWCA Civ 5 at [114], Lewison LJ said that an appeal court was merely able to engage in “island hopping” when reviewing the evidence considered by the trial judge, in contrast to the trial judge’s role of considering “the whole sea of evidence.”

21. In *R (Iran) v Secretary of State for the Home Department* [2005] EWCA Civ 982 at [9] the Court of Appeal summarised the bases most frequently encountered in this jurisdiction when a finding of fact may amount to an error of law:

“i) Making perverse or irrational findings on a matter or matters that were material to the outcome (“material matters”);

ii) Failing to give reasons or any adequate reasons for findings on material matters;

iii) Failing to take into account and/or resolve conflicts of fact or opinion on material matters;

iv) Giving weight to immaterial matters;

v) Making a material misdirection of law on any material matter;

vi) Committing or permitting a procedural or other irregularity capable of making a material difference to the outcome or the fairness of the proceedings;

vii) Making a mistake as to a material fact which could be established by objective and uncontested evidence, where the appellant and/or his advisers were not responsible for the mistake, and where unfairness resulted from the fact that a mistake was made.”

No error of law in the First-tier Tribunal’s findings of fact

22. Properly understood, both counts are different facets of the same complaint, namely that the judge’s approach to the evidence failed to take into account documents that were before her, and that she thereby gave insufficient reasons for her conclusions.
23. In our judgment, the judge was entitled to conclude that there was inadequate documentary evidence in the background materials concerning the claimed links between Ansarullah and Hezbollah. We accept that she did not refer to the appellant’s PIQ or AIR answers in that part of her analysis, but that was not an error, for the following reasons.
24. First, from paras 41 to 49, the judge was addressing the background materials, not the appellant’s subjective understanding of the position; see the subheading, “*Background evidence*” preceding para. 41. The judge found that only the February 2020 EASO Report had drawn a link between Ansarullah and Hezbollah. We have examined that document; it provides minimal assistance on this point, since the linkage is discussed in the context of the forced recruitment of children, and in any event, it was very light on detail. The appellant’s case is not that he was forcibly recruited; it was that, having voluntarily chosen to join Ansraullah, he was subsequently given orders to train to fight. The EASO report thus shed little light on the issue at the heart of the appellant’s appeal. To the extent the report was relevant, it demonstrated that there was a degree of ideological linkage between Hezbollah and Ansraullah, as accepted by the judge. The judge accepted that the two organisations may be ideologically linked but found that there was no evidence of the deeper military and training links of the sort claimed by the appellant. We observe that there was an extensive quantity of background materials before the judge. Save for the brief reference in the EASO report, there was nothing to link Ansarullah and Hezbollah. It was therefore rationally open to the judge, on the evidence before her (and its relative silence on this point), to conclude that the appellant had not proved the link to the lower standard.
25. Secondly, while the appellant’s own subjective understanding in the PIQ and AIR was that there were links between Hezbollah and Ansraullah, his answers must be viewed alongside the judge’s analysis of his oral evidence, which commenced at para. 50. Having had the benefit of hearing the appellant be cross-examined, the judge found that his understanding of Hezbollah was limited. His limited knowledge of the group meant that it was:

“...unclear how he has formed the view that he will be of any adverse interest to Hezbollah.”

That observation was open to the judge. Nothing the appellant said in PIQ or the AIR revealed any further insight or knowledge on the part of the appellant into the claimed links between the two organisations. There was no need for the judge expressly to refer to those documents; they added nothing more to the appellant’s evidence or the judge’s overall analysis. It would be an exercise in

“island hopping” for us to purport to step into the shoes of the judge and conclude that her assessment of the evidence was in error.

26. Thirdly, it is not necessary for a judge expressly to refer to all the evidence she hears. See *Volpi v Volpi* [2022] EWCA Civ 464 at para. 2(iv), with emphasis added:

“The trial judge must of course consider all the material evidence **(although it need not all be discussed in his judgment)**. The weight which he gives to it is however pre-eminently a matter for him.”

27. The remaining complaints advanced by Mr Saeed are disagreements of fact and weight that disclose no error of law.

28. We accept that, in the appellant’s PIQ, he claimed to have worked as a guard *in an office*. That nuance appears to have evaded the appellant in the AIR, however, where he simply referred to having worked in an office: see Q46 (“*I was working with them in their office and attending a meeting*”), and Q51 (“*I was attending meetings and working in the office*”). He made no mention of having worked as a guard or having been trained to use a Kalashnikov. Mr Saeed has not criticised the judge for mishearing or misunderstanding the oral evidence, and nor has he provided a note of what took place at the hearing below in order, for example, to demonstrate that the judge’s recollection of the appellant’s evidence was wrong. Against that background, having heard the appellant’s oral evidence, we find that it was open to the judge to conclude at para. 51 that the appellant’s evidence was inconsistent on this point.

29. Mr Saeed also criticised the judge’s finding that “the appellant does not say he has accepted any level of pay or other benefit or has any particular information concerning Ansraullah/Hezbollah that might motivate pursuit of him individually”. The complaint here is that the appellant *had* said that he was working for reward, namely \$300 monthly. There is no merit to this criticism. The judge’s finding was that the appellant was not receiving such a high level of pay that it “might motivate pursuit of him individually”, not that he was working for nothing. As held in *Volpi* at para. 2(vi):

“An appeal court should not subject a judgment to narrow textual analysis. Nor should it be picked over or construed as though it was a piece of legislation or a contract.”

30. Mr Saeed was critical of the judge’s finding that the appellant’s evidence lacked detail concerning the prospective Hezbollah training; at questions 57 to 63 of the AIR, the appellant *had* provided detail, he submitted. Again, this is a complaint of fact and weight. The answers given by the appellant were brief, and the judge had the benefit of hearing him give oral evidence. While Mr Saeed may wish to characterise the appellant’s answers as having greater depth and detail than the judge’s assessment, in doing so he has not demonstrated that the judge reached findings of fact that no reasonable judge could have reached.

31. Mr Saeed also contended that the judge should have allowed the appeal, in light of the consistency of the appellant’s account with the background materials. He submitted that the account given by the appellant was consistent with the evolving approach of Hezbollah to recruitment, whereby broader categories of recruits have been sought in recent years. Again, this is a disagreement of fact and weight. The judge recognised that the account given by the appellant was, in some respects, consistent with the background materials: see, for example, paras 47 and 53. She addressed the import of the changing recruitment practices (see

para. 49), as part of her assessment in the round. But ultimately, she found that the background materials did not assist the appellant to the extent he sought, and (in a finding that has not been challenged) found him to lack credibility, at para. 55. The weight to be ascribed to the significance of those points of consistency, and the remaining evidence, was a matter for the judge, in the round. Her analysis featured no error of law.

32. Finally, we turn to Mr Saeed’s criticisms of the judge’s treatment of the Popular Committee letters. The judge did not fall into error. She correctly directed herself that the approach to assessing the reliability of documentary evidence was that summarised in *Tanveer Ahmed*: see para. 52. Her analysis was conducted in the round, rather than in a segmented fashion, as the judge made clear at paras 52 to 55. If any further clarity be needed, the judge confirmed at the outset of her operative analysis that she had not reached her conclusions before considering the entirety of the evidence, in the round: see para. 35. The thrust of Mr Saeed’s submission under this ground of appeal is that the judge failed to consider the claimed “longstanding agreement” between the Palestinian authorities and Lebanese organisations such as Hezbollah (see para. 16, above). However, Mr Saeed confirmed to us that there was no background evidence which pertained to the purported longstanding agreement; there was no such evidence before the judge, and there was none before us. It is certainly not a matter of which the judge should have taken judicial notice. There is therefore no basis for us to conclude that the judge erred by failing to make the requested findings. This aspect of ground two is without merit.

33. This appeal is dismissed.

Anonymity

34. The First-tier Tribunal made an order for anonymity. We consider that it is appropriate to maintain that order primarily to prevent the appellant being exposed to a risk he does not otherwise face upon his return through the publication of this decision.

Notice of Decision

The decision of Judge Peer did not involve the making of an error of law.

The appeal is dismissed.

Stephen H Smith

Judge of the Upper Tribunal
Immigration and Asylum Chamber

12 May 2023

