

IN THE UPPER TRIBUNAL IMMIGRATION AND CHAMBER

<u>ASYLUM</u>

Case No: UI-2020-000019 First-tier Tribunal No: PA/00637/2020

THE IMMIGRATION ACTS

Decision & Reasons Issued: On the 12 October 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE SHEPHERD

Between

KHA (IRAQ) (ANONYMITY ORDER MADE)

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

<u>Representation</u>: For the Appellant: Mr Khan, Kings Law Solicitors For the Respondent: Mrs Arif, Senior Home Office Presenting Officer

Heard at Birmingham Civil Justice Centre on 19 September 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant is further 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

<u>Appellant</u>

Background

- 1. This matter concerns an appeal against the Respondent's decision letter of 9 January 2020, refusing the Appellant's protection claim made on 3 January 2017.
- 2. The Appellant claims that he has a well-founded fear of persecution in Iraq due to being someone of Kurdish ethnicity and a Muslim who worked as a peshmerga and who had a secret relationship with the daughter of his boss, HK; HK discovered the relationship, threatened the Appellant and issued a warrant for his arrest. The Appellant claims that on return to Iraq he will be killed by HK and will not obtain sufficiency of protection or be able to internally relocate due to HK's links with the authorities.
- 3. The Respondent refused the Appellant's claim on the basis that his account was internally inconsistent and/or implausible and parts of it could not be externally verified.
- 4. The Appellant appealed the refusal decision.
- 5. His appeal was heard by First-tier Tribunal Judge Fox ("the Judge") at Birmingham on 21 October 2020, who later dismissed the appeal in its entirety in a decision promulgated on 2 November 2020. At the hearing before the Judge, the Appellant was represented by Ms Sepulveda of Fountain Solicitors and the Respondent was represented by Home Office Presenting Officer Ms Tabassum.
- 6. The Appellant applied for permission to appeal to this Tribunal on two grounds as follows:
 - "1) Ground One: Irrational material findings of fact/ Inadequate reasoning

1.1 At [51] – [79] of the FTT determination, the FTT Judge has provided inadequate reasons for dismissing the Appellant's claim in its entirety.

1.2 At [53] of the FTT determination, the FTT Judge has found that [HK] had not taken any meaningful action to prevent the Appellant's departure from the room, the house, or the grounds. It is respectfully contended that the FTT Judge has failed to explain what may be considered as meaningful action. It is submitted that the Appellant is entitled to know the reasons, as to why his account has not been accepted.

1.3 At [54] of the FTT determination, the FTT Judge has implied that the Appellant has provided two different accounts of his ability to dress, following his contact with [HK]. It is submitted that the FTT Judge has failed to identify and reference, the claimed different accounts within the Appellant's evidence.

1.4 At [55] of the FTT determination, the FTT Judge has found that [HK]'s guard's derogation of duty went further when they failed to attend the Appellant's home at any time according to the available evidence. However, at [56] – [59] of the FTT determination, the FTT Judge has acknowledged that the Appellant had claimed that his house was raided on two occasions following the incident at [HK]'s house on 25.08.2016. It is respectfully contended that the FTT Judge has misdirected himself with regard to recalling the Appellant's account of events at [55] of the FTT determination.

1.5 At [56] of the FTT determination, it is respectfully contended that the FTT Judge has misdirected himself with regard to recalling the Appellant's account of events.

1.6 At [56] of the FTT determination, the FTT Judge states that the Appellant had claimed that he had returned home following the incident, and that after a period of around 6-7 hours an agent arrived to take him from the country. However, it is contended that the Appellant's account of events were recorded at [Q131] – [Q132], and [Q144] of the Appellant's asylum interview record, dated 30.10.2019 (AIR), and that his account was that he did not return home following the incident, and that he instead went to the woods around Ranya.

1.7 At [57] of the FTT determination, it is respectfully contended that the FTT Judge has failed to acknowledge and consider the Appellant's explanation of why he had not asked his father for further details of the two raids on his home. The Appellant had explained at [Q117] -[Q118] (AIR), that he had only had one conversation with his father about the two raids on his house and had further explained that he has had limited contact with his father.

1.8 At [63] of the FTT determination, the FTT Judge has failed to make findings on whether weight can be placed on the Appellant's military identity card, in assessing whether the Appellant was a member of the peshmerga as claimed. It is submitted that the FTT Judge has made no findings within the FTT determination on whether the Appellant was a member of the peshmerga as claimed.

1.9 At [63] of the FTT determination, the FTT judge has provided inadequate reasons, as to why only limited weight can be placed upon the military identity card as reliable evidence to support the core of the Appellant's claim.

1.10 At [65] of the FTT determination, the FTT Judge has failed to identify the source in which he has relied upon, in reaching his finding that the security features on the passport pages appear inconsistent with a travel document issued by the Respondent.

1.11 At [67] of the FTT determination, the FTT Judge has found that the Appellant's evidence does not possess the features of eyewitness detail, but has failed to state what may be considered as features of eye-witness detail. It is submitted that the Appellant is entitled to know the reasons, as to why his account has not been accepted.

1.12 At [68] of the FTT determination, the FTT Judge has provided inadequate reasons, for finding that the Appellant's arrest warrant is of limited probative value.

2) Ground Two: Paragraph 276ADE (HC 395 as amended)/ Article (8) (ECHR)

2.1 At [76] – [79] of the FTT determination, the FTT Judge has provided inadequate reasons, as to why the Appellant's human rights claim under Paragraph 276 ADE (1) (vi) (HC 395 as amended) and Article (8) (ECHR) was not made out."

7. Permission to appeal was granted by First-tier Tribunal Judge Keane on 18 December 2020, stating:

"1. The grounds disclosed an arguable error of law but for which the outcome of the appeal might have been different. The judge considered whether the appellant had given a credible account to have been caught having sexual intercourse with [T] in [HK]'s house on 25 August 2016 at paragraphs 52 to 74 inclusive of the decision. In finding that the appellant had not given a credible account the judge relied overwhelmingly on concerns in the evidence which were fairly characterised as concerns about the plausibility of the appellant's account. The judge arguably did not assess the weight to be accorded a military identity card in the round

(paragraph 63 of the decision). The judge arguably founded the judge's finding that the document was not fairly deserving of weight by having recourse on the judge's previously announced finding that the appellant had not been a credible witness and had given vague and evasive evidence. The judge arguably perpetrated a procedural irregularity in speculating as to the security features which might be expected on a passport (paragraph 65 of the decision). The judge seemingly relied on the judge's own opinion as the presentation of security features without adverting to evidence on which such a finding may reasonably have been based. The application for permission is granted."

8. The Respondent did not file a response to the appeal.

The Hearing

- 9. The matter came before me for hearing on 19 September 2023. Mr Khan attended on behalf of the Appellant and Mrs Arif attended on behalf of the Respondent.
- 10. It serves no purpose to recite the submissions in full here as they are a matter of record and I address them within my findings.
- 11. There was a preliminary discussion concerning the grant of permission to appeal containing observations which went beyond the matters raised in the grounds of appeal. Essentially, Mr Khan argued that these concerns were 'Robinson obvious' and needed to be dealt with. Mrs Arif did not raise any argument to say they should not be so addressed. Both parties proceeded to provide submissions in respect to these additional concerns before also addressing the grounds as stated in the application for permission to appeal, set out above. During this discussion, it was noted that the grounds of appeal were lengthy and somewhat unparticularised. Mr Khan was reminded of the importance of, and need for, clear, focused drafting of grounds of appeal in order to ensure the issues on appeal were clear and could be narrowed as far as possible.
- 12. At the end of the hearing, I reserved my decision.

Discussion and Findings

13. The headnotes of the recent decision of this Tribunal in Lata (FtT: principal controversial issues) [2023] UKUT 00163 (IAC) state:

"7. Unless a point was one which was Robinson obvious, a judge's decision cannot be alleged to contain an error of law on the basis that a judge failed to take account of a point that was never raised for their consideration as an issue in an appeal. Such an approach would undermine the principles clearly laid out in the Procedure Rules.

8. A party that fails to identify an issue before the First-tier Tribunal is unlikely to have a good ground of appeal before the Upper Tribunal."

- 14. As indicated above, the grant of permission raised three concerns with the Judge's decision, as follows:
 - (a) That the Judge raised concerns about the plausibility rather than credibility of the Appellant's account.

- (b) That the Judge arguably did not assess the weight to be accorded a military identity card in the round ([63] of the decision).
- (c) That the Judge speculated as to the security features which might be expected on a passport ([65] of the decision).
- 15. Mrs Arif took no issue with all of these concerns being 'Robinson obvious'. To the extent they were not already in the grounds of appeal, I accept that they are Robinson obvious because they concern findings going to the Appellant's credibility and the core of this account which therefore affect the Judge's decision as a whole.
- 16. Adding these concerns to the already lengthy grounds of appeal, the Judge's decision has been challenged on many points. I have considered and shall address all of them, but have structured my decision so as to first set out an error I have found to be revealed by the grant of permission to appeal raising a 'Robinson robvious' point, and then to set out an error I have found revealed in the written grounds of appeal. I finish with some comments as to the remaining grounds and nature of the Appellant's case.

Assessment of credibility

- 17. The observations of Judge Keane in the grant of permission essentially all go to the Judge's assessment of the Appellant's credibility.
- 18. As regards the first concern, Mr Khan submitted that the Judge needed to assess the credibility, not plausibility of the Appellant's account, and that by concentrating on plausibility, the Judge's consideration of the evidence is inadequate. Mrs Arif disagreed and argued that the Judge's assessment and reasoning were adequate.
- 19. It is correct that it fell to the Judge to assess the credibility of the Appellant's account i.e. whether it had been proved as believable to the required standard based on the evidence. Several cases have cautioned as to judging matters on the basis of their inherent plausibility or not, such as <u>Y v Secretary of State for the Home Department</u> [2006] EWCA Civ 1223 (26 July 2006) saying at para 27:

"A decision maker is entitled to regard an account as incredible by such standards, but he must take care not to do so merely because it would not seem reasonable if it had happened in this country. In essence, he must look through the spectacles provided by the information he has about conditions in the country in question."

20. That is not to say a Judge cannot find something to be not credible by virtue of an absence of evidence. That much is made clear by para 16 of <u>TK (Burundi) v</u> <u>Secretary of State for the Home Department</u> [2009] EWCA Civ 40 (04 February 2009) in saying:

> "Where evidence to support an account given by a party is or should readily be available, a Judge is, in my view, plainly entitled to take into account the failure to provide that evidence and any explanations for that failure. This may be a factor of considerable weight in relation to credibility where there are doubts about the credibility of a party for other reasons."

21. The question raised is whether the Judge in this appeal erred in finding matters to be implausible in themselves, rather than, for example, with reference to a lack of evidence.

- 22. The Judge correctly sets out the applicable law at [12]-[14] and burden and standard of proof at [15]-[17]. He cites the evidence before him at [18] [41] which includes a detailed description of the Appellant's oral evidence. The submissions are set out at [42]-[50] and I note that they included submissions by both representatives concerning plausibility ([42] and [47]).
- 23. The Judge commences his findings at [51] by saying that:

"The appellant has failed to satisfy the burden upon him to the lower standard of proof. The appellant has failed to provide a credible account of his claim to the lower standard of proof."

24. This indicates that it is credibility which the Judge has assessed, rather than plausibility. However, there are parts of his findings that follow which can be said to indicate the contrary, such as:

"[56] It is unusual at best that [HK] did not follow the appellant to his home, nor require his guards to do so but chose to allegedly conduct 2 raids at a later unknown date.

[59] It is an unusual feature of the evidence that neither of the 2 raids revealed these items and that the appellant's father took the decision to keep these items in the family home after the first raid.

[72] It is not credible that [HK] would not return to speak with the appellant's father to obtain further information of the appellant's location in circumstances where the appellant's whereabouts have been ascertained via Facebook".

- 25. In my judgment, the Judge is saying in these passages that he simply did not believe the Appellant would not have been followed to his home, that the Appellant's military card and telephone would not have been found in the raids, or that HK would not have questioned the Appellant's father about the Appellant's whereabouts. These findings appear to be based on an assumption or belief about what someone would or would not do in these situations, and not knowing any of the people involved, it is unclear on what these assumptions or beliefs were based. The finding about the raid is particularly troublesome as it assumes those raiding the property were looking for something more than the Appellant himself. It is unclear why this was assumed given the Appellant's oral evidence concerning the raids was that "An arrest warrant has been issued for the appellant and HK raided the appellant's home on 2 occasions" [34].
- 26. These findings, amongst others, lead to the Judge's conclusion at [74] that:

"When the available evidence is considered in the round I do not accept that the appellant has provided an honest or reliable account of his circumstances for all the reasons stated above. I do not accept that the female in the photograph is the appellant's lover or that she is otherwise associated with him as claimed. Nor do I accept that the appellant's home was raided on 2 occasions or that he received threats via facebook. The core of the appellant's claim is rejected in its entirety."

- 27. The rejection of the raids appears to be key. As above this rejection was due in part, to a failure to find the Appellant's ID or telephone, which assumes these things were being sought in the first place. Overall, I find the Judge has erred by assessing plausibility rather than credibility.
- 28. As regards the Appellant's military identity card, the Judge finds at [63] that:

"The appellant's credibility and the vague and evasive nature of his evidence lead me to place limited weight upon the military identity card as reliable evidence to support the core of the claim; Tanveer Ahmed applied."

- 29. It is clear from this passage that the Judge dismisses the military ID card because he has already found the Appellant not to be credible whereas what he should have done is assess the ID card as evidence going to credibility. To use a colloquialism, he has put the cart before the horse. This is an error.
- 30. He has also failed to assess the military ID card itself. The Judge refers in [63] to <u>Tanveer Ahmed</u> (Documents unreliable and forged) Pakistan * [2002] UKIAT 00439. This case confirms that it is for an individual claimant to show that a document on which he seeks to rely can be relied on, and that a decision maker should consider whether a document is one on which reliance should properly be placed after looking at all the evidence in the round.
- 31. I cannot see any indication in the decision that the Judge assessed the military card in terms of its qualities as a document. There is no comment on its appearance, format or content and whether any of these things accords with any country evidence provided. He appears to attribute limited weight to it because of how the Appellant obtained it in the UK, following it having not been discovered in the alleged raids on the house in Iraq. By failing to assess the document itself and failing to do so in light of the evidence as a whole, the Judge is failing to look at all of the evidence in the round.
- 32. The third concern raised in the grant of permission is that the Judge speculated as to the security features which might be expected on a passport. The Judge finds at [65] that:

"The security features on the passport pages appear inconsistent with a travel document issued by the respondent..."

- 33. Mr Khan said it was unclear what this finding is based on given the Judge was not an expert in passports. Mrs Arif said this was but one of several findings made concerning the passport, which also included that the Judge had not been provided with the whole passport for reasons that had not been explained.
- 34. I agree that the Judge has not provided any reasons for his finding that the security features on the passport appear inconsistent with a travel document. He does not state what any inconsistencies are nor what his views of what a passport should contain are based on. This is an error.
- 35. It is difficult to see that this error would have been, in itself, material given other reasons are provided in [64]-[65] for rejecting the passport evidence and given the passport was just one piece of evidence/factor considered in reaching the overall conclusion that the Appellant's account was rejected. However, as it is treated in the same way as the military ID i.e. it is assessed after the Appellant is found not to be credible, the findings concerning it are tainted for the same reasons as the ID.
- 36. To summarise, the Judge erred in failing to properly assess both the military ID and the passport in terms of their qualities as the documents they purported to be against the evidence as a whole, and for turning to assess them only after finding the Appellant not to be credible. He also erred in finding aspects of the Appellant's account implausible for reasons which are unclear or appear to be

based on unparticularised assumptions. These errors are material as they undermine the assessment of the Appellant's credibility, upon which the decision is, for the most part (if not entirely), based.

Assessment of Arrest Warrant

- 37. Turning to the written grounds of appeal, I find that they also disclose an error.
- 38. Ground 1.12 asserts that at [68] of his decision, the Judge provides inadequate reasons for finding that the Appellant's arrest warrant is of limited probative value. I agree.
- 39. The Appellant relies on the warrant as evidence that [HK] is pursuing him [34], saying he obtained it from his friend [35]. The Respondent's representative submitted to the Judge that no reason had been given for the warrant's issue, about which the Appellant had speculated [42]. The Appellant's representative submitted that the warrant must relate to the core of the claim as the Appellant had no other difficulties [49].
- 40. The Judge states at [68] that:

"The appellant also relies upon an arrest warrant though the basis upon which is has been issued is not stated. When the available evidence is considered in the round the arrest warrant is of limited probative value in the round."

- 41. As with the military ID, I cannot see any indication in the decision that the Judge assessed the arrest warrant in terms of its qualities as a document as there is no comment on its appearance, format or content, nor any discussion as to whether there was any background evidence appertaining to such a document. The Judge appears to dismiss the warrant solely because the basis on which it has been issued had not been stated, thereby accepting the Respondent's submission without addressing that made by the Appellant. Whilst it may be that the Judge was dismissing the warrant on the basis that it was, along with the military ID, produced by a friend of the Appellant and the explanations about that friend had not been accepted, he does not say this. Even if the friend did bring the two documents and the explanation about the circumstances of that was rejected for sound reasons, it still fell to the Judge to look at the document itself. More was also needed to explain its rejection than what has been stated.
- 42. Failing to assess the document for what it purported to be, and failing to provide sufficient reasons for its rejection are errors which I find to be material. The warrant goes to the risk posed to the Appellant by [HK], which in turn goes to the core of his account. Had the Judge found the warrant to be reliable, it cannot be said with certainty that he still would have found the Appellant not to be credible and rejected his account accordingly. As such, I find this error infects the Judge's findings concerning the Appellant's credibility as a whole.

Other grounds

- 43. Given I have found the Judge's decision to be infected with material errors, the remainder of the grounds are academic but I shall comment on them for the sake of completeness.
- 44. I start with some observations as to the nature of the Appellant's claim that was before the Judge, as there was some discussion about this at the hearing. 1.8 of

the grounds, in raising the concern about assessment of the military ID, says the Judge failed to make a finding as to whether the Appellant was a peshmerga. I agree there is no finding on this point, but it is unclear why this finding was needed.

- 45. I asked Mr Khan where the Appellant made clear that being a peshmerga was a core part of his case or one which was argued in isolation from the secret relationship with [T]. Mr Khan referred me to para 8 of the Appellant's witness statement, but I cannot see that this assists particularly, as it only discusses how the ID was sent to the Appellant in the UK. Mrs Arif submitted simply that the Judge was entitled to make the findings he did in [63].
- 46. I cannot see that the Appellant argued that being a peshmerga who deserted his post was enough, without the secret relationship and threats from [HK], to put him at risk on return. Indeed, I cannot see that the Appellant ever explained in clear terms why it made any difference that he was a peshmerga. Even if he was a peshmerga, he states that he was a driver such that it is unclear how any desertion would have been treated. I was not taken to any evidence that was before the Judge concerning the likely consequences of such desertion.
- 47. Rather, the Appellant's case was that he was in a secret relationship with [HK]'s daughter, and that [HK] was his superior within the peshmerga such that [HK] could use his links within the authorities to seek out and harm the Appellant. Without the relationship, [HK] would have no reason to personally pursue the Appellant.
- 48. It is clear that the refusal letter considered this to be the Appellant's only case because it states that:

"11. You have claimed that on return to Iraq you will be killed by HK because you slept with his daughter.

23. I have considered your claim to be as an Iraqi male who fears honour killing by your ex boss; [HK] as you had a sexual relationship with his daughter; [T] outside wedlock, and whether this means you are a member of a particular social group...

80. Although you have claimed to be at risk of serious harm in Ranya from a rogue state actor...

49. It is also clear that the Judge considered this to be the case as he states at [3] under the heading 'Appellant's claim' that:

"The appellant claims that he was a driver with the Peshmerga assigned to a highranking official named [HK]. The appellant established a secret relationship with [HK]'s daughter [T] and they were found by [HK] engaged in sexual intercourse on 25 August 2016 at [HK]'s home. The appellant immediately fled and left Iraq on the same day."

50. And at [51] that:

"The core of the claim relates to an alleged incident on 25 August 2016 when he was discovered having sexual intercourse with [T] in [HK]'s home".

51. I cannot see that the skeleton argument argued that the Appellant would be at risk due to being a peshmerga (who has deserted) in itself. Nor do the

submissions of the Appellant's representative described at [46] – [50] make this point.

- 52. Therefore, the Appellant's identity as a peshmerga was secondary and incidental to, the question of whether he was in a relationship with HK's daughter.
- 53. As to the rest of the grounds:
- 54. 1.1 is a general statement without particularisation. 1.5 was also unexplained and Mr Khan was unable to assist me as to its meaning.
- 55. 1.2 says the Judge fails to explain what is meant by 'meaningful action' in [53] and that the Appellant is entitled to know why his account has not been accepted. I disagree that the findings in [53] are insufficiently reasoned. It is clear that the Judge is simply saying the Appellant was not prevented from leaving HK's house despite it being "specifically designed with a protective purpose in mind and had the benefit of security guards". It is reasonable for the Judge to have queried how the Appellant could leave such a house, particularly given he discusses at [54] the Appellant's account that HK had also shouted at the time.
- 56. 1.3 Mr Khan was helpful in conceding that this ground does not allege any error consequent upon any failure by the Judge to identify differing accounts from the Appellant. Mr Khan simply said there was only one version of events, in the Appellant's witness statement such that any reference to more than one version was wrong. It was agreed that a judge need not cite each and every piece of evidence considered. It is not clear to me that the Judge is saying either that there was more than one version of events or that if there were, this was something he held against the Appellant.
- 57. 1.4 Mr Khan confirmed that both raids are said by the Appellant to have happened after he left the country. On my reading, the Judge at [55] is saying that the guards at HK's house both failed to stop the Appellant leaving the house, and also later failed to attend the Appellant's house to apprehend him before he left the country. Given it is confirmed that the raids happened after the Appellant left the country, the finding at [55] was one open to the Judge to make.
- 58. 1.6 This ground appears to say that the Judge erred in finding at [56] that the Appellant returned home after fleeing HK's house, whereas he said in interview that he instead went into the woods. I have reviewed the bundles that were before the Judge and cannot see that a copy of the asylum interview questions was provided. I therefore cannot make a finding as to whether or not the Judge misread or misunderstood the Appellant's account as to whether he returned home. However, given the Appellant confirms that he was not sought at his house before he left, it would have made no difference whether he went home or went to the woods.
- 59. 1.7 It was discussed with Mr Khan that whilst this ground alleges the Judge did not consider the Appellant's explanation as to why he had not asked his father for details of the raids, the Appellant had not actually provided such an explanation. Rather, the Appellant had stated that he had two short conversations/limited contact with his father. As there was no evidence that in these conversations the Appellant had in fact asked his father about the raids, the Judge was entitled to find that "It is reasonable to expect that the appellant would ask for information as basic as when these alleged raids took place".

- 60. 1.8, 1.9 and 1.10 are discussed in my main findings above.
- 61. 1.11 I accept that the meaning of the Judge's sentence in [67] that "The appellant's evidence does not possess the features of eye-witness detail" is not clear and is not explained. However, the sentence that follows it, and its finding that the "appellant seeks to improvise his evidence as defects are presented to him", appear to be related to the preceding sentence which discusses the appellant amending his evidence. Finding that the Appellant sought to improvise his evidence because he had in fact amended his evidence would have been a finding open to the Judge to make, had he not erred in the overall assessment of credibility.
- 62. Ground 2: Mr Khan conceded at the hearing begore me that the Appellant's claims concerning immigration rule 276ADE and article 8 ECHR had been predicated solely on risk such that they stood or fell with the protection claim. As the Judge had dismissed the protection claim, he was entitled to find these claims had also not been made out. No error would therefore have been disclosed, but for the Judge's findings concerning the protection claim having been infected by error as set out above.
- 63. Overall, I find the errors identified infects the decision as a whole such that it cannot stand.

Conclusion

- 64. I am satisfied the decision of the First-tier Tribunal did involve the making of errors of law.
- 65. Given that the material errors identified fatally undermine the findings of fact as a whole, I set aside the decision of the Judge and preserve no findings.
- 66. In the light of the need for extensive judicial fact-finding, I am satisfied that the appropriate course of action is to remit the appeal to the First-tier Tribunal to be heard afresh by a judge other than Judge Fox.

Notice of Decision

- 67. The decision of the First-tier Tribunal involved the making of an error of law and I set it aside.
- 68. I remit the appeal to the First-tier Tribunal for a fresh decision on all issues. No findings of fact are preserved.
- 69. Given the Appellant seeks international protection, at present I am satisfied that his protected rights under article 8 ECHR outweigh the public interest in details of these proceedings being generally disseminated, such that I make an anonymity order.

L.Shepherd

Deputy Judge of the Upper Tribunal Immigration and Asylum Chamber 27 September 2023