



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2021-001363**  
**First-tier Tribunal No:**  
**PA/51849/2020**  
**IA/00334/2021**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 15 June 2023**

**Before**

**UPPER TRIBUNAL JUDGE KEBEDE**

**Between**

**SHS**  
**(Anonymity Order made)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr V Jagadesham, instructed by Greater Manchester Immigration Aid Unit

For the Respondent: Mr C Bates, Senior Home Office Presenting Officer

**Heard at Manchester Civil Justice Centre on 6 June 2023**

**DECISION AND REASONS**

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision to refuse his protection and human rights claim.

2. The appellant is a citizen of Iraq of Kurdish ethnicity, born on 10 April 1979 in the governate of Sulaymaniyah in the IKR. He arrived in the UK on 6 November 2017 and claimed asylum the same day.

3. The appellant claimed that he worked as a policeman in Iraq for the Patriotic Union of Kurdistan, having joined the police in 2006, and that his main role was to guard petrol stations. He claimed that his problems began in 2008 when he was delegated to the intelligence force. He had to be alert to anything suspicious and report to a man named AR who also belonged to the intelligence force in Sulaymaniyah. One day, AR approached him and asked him to go and kill someone. He did not respond as he was speechless and he continued with his work. However after work he stayed home for a week and then decided to leave the country because he feared the government and he feared that AR might harm his brothers. He feared being captured or killed by the government and AR if he returned to Iraq and he also feared returning because of his Kurdish ethnicity. He went to Norway and claimed asylum there in September 2008 but his claim was refused in 2011 and he returned to Iraq in June 2016. He came to the UK in November 2019.

4. The respondent refused the appellant's claim on 3 June 2020. The respondent considered that the appellant had failed to provide a consistent account of being in the police and noted discrepancies in the documents upon which he relied. The respondent considered further that the appellant had given an inconsistent account of how he knew AR and did not accept his account of having had problems with the government or AR. It was not accepted that the appellant was at risk on return to Iraq on that basis or on the basis of his ethnicity.

5. The appellant appealed against that decision and his appeal was heard on 25 August 2021 by First-tier Tribunal Judge Birrell. Judge Birrell heard oral evidence from the appellant. She was provided with a country expert report from Sheri Laizer. The judge accepted that the appellant was a policeman in Iraq as his account was internally consistent and was consistent with Ms Laizer's report. However she did not accept the appellant's account of his work as an intelligence officer and his involvement with AR. She found the appellant's knowledge of AR's role and rank to be vague and highly speculative in his interview, statement and oral evidence and considered that if his claim was credible he would have known more about AR's role and rank given his account of AR having visited his base every two months and talked to the officers. She also found the credibility of the appellant's account to be undermined by the fact that he made no effort to find out if the request made by AR was genuine or a test and that he made no enquiries of anyone. The judge further found the general credibility of the appellant's account to be undermined by the apparent absence of any interest in him or his family in the nine days that followed the order from AR and in the years that followed other than the sighting by his sister-in-law of a black BMW outside the family home. She found the circumstances in which the appellant left the country undermined his general credibility further and noted the absence of any evidence from the appellant of his asylum claim made in Norway which would have been helpful had the same claim been advanced. The judge found that the appellant had failed to show that there was any interest in him in Iraq and concluded that he would be at no risk on return. She dismissed the appeal in a decision of 21 September 2021.

6. The appellant sought permission to appeal against that decision on the grounds that the judge had failed to take account of relevant parts of Ms Laizer's report and that she had followed an inappropriate approach to credibility.

7. Permission was granted in the First-tier Tribunal. The respondent filed a rule 24 response opposing the appeal.

8. The matter then came before me. Both parties made submissions, Mr Jagadeshm relying and expanding upon the grounds and Mr Bates relying upon the rule 24 response and opposing the grounds. I shall address the submissions fully in my discussion below.

## **Discussion**

9. The appellant's first ground was a challenge to the judge's approach to the expert report of Sheri Laizer, on the basis that the judge's reasons for rejecting the appellant's account were at odds with aspects of Ms Laizer's expert evidence.

10. The first point made by Mr Jagadeshm in that regard was in relation to the judge's adverse findings at [35] about the appellant's account of who AR was and why he came to the conclusion that AR was a member of the intelligence services, Asayish, and was asking him to commit murder on behalf of the government. Judge Birrell noted that the appellant appeared to have drawn the conclusion that AR was a high-ranking member of the security services based on the fact that he wore plain clothes and met with his senior officer on a regular basis but found that that was not an adequate basis upon which to accept the appellant's account. In regard to that finding, Mr Jagadeshm accepted that the judge had considered Ms Laizer's views on the plausibility of the appellant's claim about AR and the risk he faced when assessing the credibility of the appellant's account. However, it was his submission that, in doing so, and in concluding that there was no proper analysis by Ms Laizer of what entitled her or the appellant to conclude that AR was a member of Asayish, the judge had failed to address the part of Ms Laizer's report where she justified that view and highlighted how that kind of activity had become a routine manner of operation of the KRG security services in actions against their enemies and targets.

11. Essentially, therefore, Mr Jagadeshm's argument was that the judge had failed to consider the appellant's own personal knowledge alongside the country information. I do not accept that suggestion. I agree with Mr Bates that it was not the case that the judge had ignored or overlooked such aspects of Ms Laizer's report. On the contrary, the judge specifically alluded at [36] to Ms Laizer's evidence in her report about such assignments being a test of loyalty. As Mr Bates submitted, the point made by the judge was not that there was anything implausible about the appellant's account in regard to the 'modus operandi' of Asayish, but rather that his lack of knowledge and vague evidence about AR's role and rank undermined the credibility of his account. As Mr Bates submitted, Ms Laizer did not go so far as to identify AR and confirm that she was aware that he was indeed Asayish, and it was for the judge, therefore, to find whether the appellant's account of that person and his involvement with that person was a reliable one. Having given full regard to the country evidence and the expert's report, and having considered the appellant's own account alongside that background evidence and Ms Laizer's view of the plausibility of his account, the judge concluded that it was not. That was a conclusion she was entitled to reach.

12. The second point made by Mr Jagadeshm was in relation to the judge's approach to the expert evidence when drawing adverse conclusions from the lack of interest in the appellant's family following his refusal to carry out AR's order. The judge, at [37], had relied upon background material referred to at paragraph 3(vi) of Ms Laizer's report, under the heading "VI. Asayish violations of due process", which

reported that it was not uncommon for family members of those in whom Asayish had an interest to be held in lieu of the relatives being sought. Mr Jagadeshm submitted that, in so doing, the judge had ignored that part of Ms Laizer's report at paragraph 4(i) where she made it clear that this was a secret intelligence matter and not an issue for family members to be involved in or targeted, as occurred with 'honour' cases and blood feuds; at paragraph 3(viii) where Ms Laizer referred to Asayish exercising leverage over the appellant by threatening or harming his family if he had remained there, whereas he was no longer in the country; and at paragraph 3(x) where Ms Laizer referred to the fact that it was the appellant's knowledge of the events and refusal to cooperate which posed the risk to him on return. Mr Bates offered various responses to those points, namely that the security services may believe that the appellant had told his family of the 'secret intelligence matter', that they may not be aware that the appellant had left the country or that they may approach the appellant's family as leverage for him to return. Mr Jagadeshm submitted that those were not, however, matters which formed part of the judge's reasoning. Nevertheless it seems to me that the judge was perfectly entitled to draw adverse conclusions from the lack of interest in the appellant's family and that she was entitled to rely upon the country information referred to in the expert's own report, at paragraph 3(vi), to justify her conclusions. There is no reason to conclude that the judge did not have regard to the report as a whole. She was not required to make specific reference to each and every part of the report. As the respondent points out at [5] of the rule 24 response, the report was contradictory. The judge noted that the appellant's own evidence was that he believed he was putting his family at risk and that they could be punished for his actions. The judge was therefore perfectly entitled to rely upon that part of the expert evidence which supported that view.

13. The third assertion in ground one is a failure by the judge to address the expert evidence when making adverse findings on the lack of problems experienced by the appellant and his family despite the passage of time since the incident when AR gave him the order. Mr Jagadeshm relies on Sheri Laizer's report in that regard, whereby she referred at paragraph 4(ii) to the passing of time making little difference in Kurdish culture when issues are left unresolved and at paragraph 4(iii) to the PUK not forgetting, submitting that that was particularly relevant when considering the potential embarrassment the information held by the appellant could cause to AR and to the PUK. However as Mr Bates properly pointed out, the judge's reference to the passage of time at [37] and [40] was not in the context of the risk to the appellant and his family diminishing over time, but to the fact that there had been ample time for the family to be targeted if the appellant's account were true and if Asayish had any real and genuine interest in him. I agree with Mr Bates that the judge was fully and properly entitled to take that into account as a relevant and material consideration in her assessment of the credibility of the appellant's claim. Likewise I find no merit in the fourth point made by the appellant, namely that the judge's suggestion, that the appellant should have made enquiries about AR or reported him, ignored the expert evidence about AR's likely links with the PUK at the highest level and the evidence about corruption within the authorities. I see no reason why the judge was not entitled to give weight to such matters and to draw adverse conclusions from the lack of any further clarification sought by the appellant before taking the step to leave the country.

14. In the circumstances I find no merit in the first ground. The judge clearly had full regard to the report of Ms Laizer and applied her expert evidence to the appellant's circumstances in making her overall assessment of the credibility of the appellant's claim. She was entitled to give the report the weight that she did. The grounds are

simply seeking a different outcome to that which the judge reached on the evidence before her.

15. Turning to the second ground, the appellant asserts that the judge's approach to credibility was inappropriate. Mr Jagadeshm submitted that the judge's adverse findings were predicated on what she would have expected the appellant to do after receiving AR's order and her own perceptions of reasonability. He relied upon the findings in KB & AH (credibility-structured approach) Pakistan [2017] UKUT 491 which cautioned against credibility findings made solely on the grounds of plausibility. However, as consistent with the approach set out in that case, the judge assessed the appellant's account as a whole and considered it against the expert report and country evidence, providing cogent reasons for concluding that the account was not a credible or reliable one. I reject the assertion that the judge was relying upon her own perceptions of reasonableness when clearly that was not the case. Likewise I do not accept the assertion that the judge adopted an overly restrictive approach when drawing adverse findings from the fact that the appellant was not targeted during the nine days prior to his departure from the country. The grounds are simply seeking to re-argue the point and to present a different view. The judge undertook a full and careful assessment of all the evidence and considered the various aspects of the appellant's claim in the round together with the background evidence. She was perfectly entitled to make the adverse findings that she did. The conclusion that she reached was fully and properly open to her on the evidence before her.

16. For all these reasons I find no merit in the grounds. The judge was entitled to reach the decision that she did. The grounds do not identify any errors of law in her decision. Accordingly I uphold her decision.

### **Notice of Decision**

17. The making of the decision of the First-tier Tribunal did not involve a material error on a point of law requiring it to be set aside. The decision to dismiss the appeals stands.

### **Anonymity**

The anonymity direction made by the First-tier Tribunal is maintained.

Signed: S Kebede  
Upper Tribunal Judge Kebede

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

15 June 2023

