



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-005226

First-tier Tribunal No: PA/50010/2023
LP/02161/2023

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 6 February 2024**

Before

UPPER TRIBUNAL JUDGE PICKUP

Between

**Amir Abdullah
(NO ANONYMITY ORDER MADE)**

Appellant

and

Secretary of State for the Home Department

Respondent

Decided on the papers at Field House on 5 February 2024

DECISION AND REASONS

1. By the decision of the First-tier Tribunal (Judge Moon) the appellant, a citizen of Iraq of Kurdish ethnicity, was granted permission to appeal to the Upper Tribunal against the decision of the First-tier Tribunal (Judge Sweet) promulgated 31.10.23 dismissing his appeal against the respondent's decision to refuse his claim made on 1.11.19 for international protection based on a fear of persecution on grounds of political opinion.
2. In summary, the grounds argued (i) error of law in the assessment of redocumentation asserting that the appeal would otherwise have been allowed on humanitarian protection grounds arising from the risk of return without relevant identity documentation; and (ii) error of law in failing to provide adequate reasoning for finding the appellant's account not credible.
3. However, the grant of permission was limited to the first ground only and permission was refused on the second ground.
4. The respondent's Rule 24 Reply, dated 12.12.23, does not oppose the appeal on the first ground and invited the Upper Tribunal to amend the First-tier Tribunal decision to allow the appeal on humanitarian protection grounds, suggesting that an error of law hearing was not necessary.

5. By email of 12.12.23, the appellant's legal representatives stated that they agreed with the respondent's Rule 24 Reply and confirmed the view that no error of law hearing was necessary. The appellant did not seek to pursue the second ground.
6. Some delay was occasioned because the Upper Tribunal did not have sight of the Rule 24 Reply, but this was provided on 14.12.23. The same date, the appellant's legal representatives asked for a written determination to enable the appellant to obtain the necessary residence paperwork and biometric registration.
7. In the Rule 24 Reply, the respondent accepts that there is a material error of law in that the First-tier Tribunal Judge "failed to adequately assess the country information, accepted facts and country guidance of SMO 2 on documentation. The RFRL at page 10, section 9 (Feasibility of return) does not dispute the fact the appellant gave his CSID and passport to the agent in Turkey. The appellant's home area is Jalawla which is within Diyala governate and from the latest CPIN (on Iraq Internal relocation, civil documentation and returns), it is more than likely his home CSA office has converted to issuing INIDs. Therefore, the appellant would need to appear in person in order to obtain an INID or a replacement CSID. The appellant would need to travel across government-controlled Iraq in order to be redocumented and without the necessary documentation as per SMO 2, that would give rise to a breach of Article 3.
8. In the circumstances, the Upper Tribunal agrees that no further hearing is necessary and that the appeal should be allowed on humanitarian protection grounds based on the issue of identity documentation only and for the reasons identified in the respondent's Rule 24 Reply. It follows that the reasons challenge of ground two fails, so that the findings and conclusion of the First-tier Tribunal rejecting the factual basis of the claim based on political opinion as not credible remain undisturbed and are preserved.

Notice of Decision

The appellant's appeal to the Upper Tribunal is allowed on humanitarian protection grounds pursuant to article 3 ECHR.

The decision of the First-tier Tribunal is set aside in the limited terms set out above and remade by allowing the appeal on humanitarian protection grounds only.

The appeal remains dismissed on both asylum and article 8 ECHR grounds.

I make no order as to costs.

DMW Pickup

DMW Pickup

Judge of the Upper Tribunal
Immigration and Asylum Chamber

5 February 2024