IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No.: UI-2024-000876
First-tier Tribunal No: PA/00505/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 03 July 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE SHEPHERD

Between

RA (IRAQ)
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Ahmad, Hanson Law Limited solicitors
For the Respondent: Mr Walker, Senior Home Office Presenting Officer

Heard at Field House on 13 June 2024

DECISION AND REASONS

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Alis promulgated on 11 January 2024 in which he dismissed the appellant's appeal against a decision of the Secretary of State made on 2 February 2023.

Background

2. The appellant is a national of Iraq of Kurdish ethnicity who entered the UK on 23 September 2019 and claimed asylum on 25 September 2019. His claim is on the basis of having a well-founded fear of persecution due to his political opinion. He claims to have been targeted by the PKK and ordered to provide food to them in return for payment; he was detained by the PUK and tortured to gain information about the PKK; he was also detained by the KRG due to alleged involvement with the assassination of a Turkish ambassador; the PKK came to his home in search of him and he sought the protection of Asayish; he fears that on return he will be killed by the PKK or forced to work for Asayish.

3. In a letter dated 2 February 2023 ("the Refusal Letter") the respondent rejected the appellant's claims. The letter accepted the appellant's nationality and ethnicity but rejected his account due to alleged inconsistency, vagueness and implausibility, as well as due to his credibility having been damaged by failing to claim asylum whilst in France. The respondent considered the appellant could return to the KRI (Zhawara); he admitted having documentation which he left in Iraq and there was no reason for him not to be in contact with his family who could provide him with this, or he could return on a Laissez passer and his family could meet him to assist with re-documentation.

4. The appellant appealed the refusal decision. His appeal was heard by First-Tier Tribunal Judge Alis ("the Judge") at Manchester on 11 December 2023, after which the Judge's decision was promulgated on 11 January 2024. The Judge dismissed the appeal on all grounds.

5. The appellant applied to the First-tier Tribunal for permission to appeal. Permission was refused by First-tier Tribunal Judge Chohan on 14 February 2023, who considered the grounds of appeal amounted to mere disagreement with the Judge's decision.

Grounds of appeal

6. On 28 February 2024 the appellant applied for permission to appeal from the Upper Tribunal on grounds headed as follows:

   Ground 1: The Judge failed to consider the CSID part of the Appellant's claim adequately

   Ground 2: The Judge's consideration of the sur place activities is flawed

   Ground 3: The Judge fails to make any findings as to being detained

   Ground 4: The Judge misdirects himself as to the objective evidence

   Ground 5: The Judge misdirects himself to Dr Johnson's evidence

   Ground 6: SCR IV.

7. On 9 April 2024, Deputy Upper Tribunal Judge Chamberlain granted permission to appeal, saying:

> "1. The appellant applied in time for permission to appeal against the decision of First-tier Tribunal Judge Alis, promulgated on 11 January 2024, in which he dismissed the appellant's appeal against the respondent's decision to refuse his protection and human rights claim.
>
> 2. Ground 2 asserts that the Judge's consideration of the appellant's sur place activities is flawed. At [78] the Judge accepts that there may have been some content which was in the public domain. It is arguable that the Judge has erred in his assessment of what evidence was in the public domain, and that he has failed to engage with the submissions set out at [36] regarding the authorities' approach to demonstrators. It is arguable that he has erred in rejecting the expert's opinion without reference to the background evidence cited. Ground 2 is arguable.
>
> 3. It is arguable that the Judge has failed to make adequate findings that the appellant was detained, especially given the contradiction between his initial finding

that he was not detained, and his later reference to "I accept that when detained he did not have….." at [85].

Ground 3 is arguable.

4. I find less merit in the other grounds. Ground 1 asserts that the Judge failed to consider redocumentation adequately. However, the Judge found that the appellant had told the respondent that his CSID was with his family. The Judge did not accept that the appellant had lost contact with his family. His findings at [71] and [85] that the appellant's family could send him his CSID or that they could meet him with his CSID on return to Iraq were open to him. This is in line with SMO(2).

5. In relation to his treatment of the evidence addressed in grounds 4 and 5, the Judge has given adequate consideration to the evidence of the relationship between the PKK and PUK from [61] to [69], and given reasons for his conclusion. He has not disregarded the medical reports but has given reasons for finding that they do not assist regarding the appellant's claim to have been tortured in 2019 given the evidence of the injury in 2014. In relation to ground 6, the appellant expressly said in his screening interview that he had injured his arm in 2014, but failed to mention that he sustained injuries to the same arm through torture in 2019.

6. Despite finding less merit in these grounds, I do not limit the grant of permission to appeal.".

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

The Hearing

9. The appeal came before me on 13 June 2024.

10. The submissions are set out in the record of proceedings. The main points were as follows.

11. Mr Ahmad took me through the grounds of appeal, adding:

(a) Ground 1: it was not sufficient to say the appellant remains in contact with his family and there was no explanation as to how the Judge reached this conclusion. There is also no consideration of an enforced return to Baghdad, of laissez passer documents being confiscated at Baghdad or whom he could contact; if returned directly to the IKR, there would be checkpoints and he would need a CSID or INID. The Judge's reasoning is inadequate. I asked whether the appellant had explained why he had lost contact with his family, noting what the decision says at [22]. Mr Ahmad referred to paragraph 20 of the appellant's witness statement saying that the appellant does not have the means to contact them.

(b) Ground 2: it is unclear why the Judge finds that the expert report does not provide any tangible support for the appellant's case [79]; the expert was properly qualified and says the appellant would be at risk. I asked Mr Ahmad where in the bundle was the appellant's 'download your information' evidence from his Facebook account; he referred me to page 102 of the Upper Tribunal bundle showing the appellant's (first and middle) name and number of 'friends' etc. I asked what conclusion the expert came to concerning the monitoring of the appellant's social media activities. Mr Ahmad read out paragraph 53 of Dr Ghobadi's report but was unable to take

me to anything that tied the comments about monitoring to the Appellant specifically.

(c) Ground 3: the Judge has made inconsistent findings as to whether the appellant has been detained. I asked whether [85] can be read as the Judge saying that the appellant did not have his ID when he was detained in the UK, rather than in Iraq? Mr Ahmad disagreed with this interpretation, noting that DUTJ Chamberlain found the ground to be arguable.

(d) Ground 4: at [67] The Judge finds that the PUK and PKK tolerate each other but this is not consistent with the objective evidence he refers to at [62], [65] and [66]; he says PUK controlled areas are relatively safe but we do not know where this comes from. At [68] he criticises the appellant's evidence for being 20 months old but the respondent's evidence referred to in [63]-[64] was from the same time. Overall the objective evidence was sufficient to prove the appellant's case to a sufficient degree of likelihood.

(e) Ground 5: the evidence in Dr Johnson's report is not given any weight but the Judge does not consider the reasons given by Dr Johnson as to his conclusions. I asked how this was an error or material given the doctor merely confirms that he can only say that the scars are more than six months old. Mr Ahmad said the Judge does not consider the overall report confirming the consistency of the appellant's account.

(f) Ground 6: I asked whether the appellant had provided an explanation for failing to mention the 2019 injury in his screening interview? Mr Ahmad says the appellant's witness statement does not say specifically why he failed to refer to it in the screening interview but he clearly told Dr Johnson about the injury for his report.

12. Mr Ahmad submitted that if I found material error, the appeal should be remitted back to the First-tier Tribunal, but preserving the findings about the appellant being a shepherd and providing food to the PKK.

13. Mr Walker replied to say:

(a) In [85] a plain reading indicates the words 'on arrival' should have been included after 'when detained'; the Judge has erred in not including these words because when they are inserted, this sentence ties in with everything else the Judge has found concerning the CSID card. The error is not material to the outcome however.

(b) Sur place activities – at [78] the Judge covers all aspects of this, noting there was no evidence of personal photos being in public domain, and what was in the public domain was just a couple of undated profile pictures. The Judge also finds the expert's comments about Iran cannot be compared to Iraq; there is no evidence to show the Iraqi authorities are as sophisticated in their consideration of posts and content as Iran so the Judge rejects that assumption. Overall the Judge has considered the sur place activities carefully and properly finds there is no risk.

(c) As regards the medical evidence and claims of torture, the Judge considers this and makes criticism concerning the lack of x-rays from either Iraq or the UK, finding the injuries are not credibly linked to detention such that the overall outcome is that the appellant was not detained. [85] does not refer

to the appellant being detained in Iraq. Again the Judge has considered all of the evidence and there is no error.

(d) CSID - the Judge's findings were open to him especially considering he finds that the appellant is still in contact with his family.

14. Mr Walker submitted that the appeal should only be remitted to the First-tier Tribunal if all of the grounds are made out, but otherwise if, say, only documentation were made out then the matter should be retained in the Upper Tribunal.

15. Mr Ahmad had no further substantive response to make, other than to say the matter should be remitted however many grounds were made out.

16. At the end of the hearing, I reserved my decision.

Discussion and Findings

17. I remind myself of the important guidance handed down by the Court of Appeal that an appellate court must not interfere in a decision of a judge below without good reason. The power of the Upper Tribunal to set aside a decision of the First-tier Tribunal and to proceed to remake the decision only arises in law, if it is found that the tribunal below has made a genuine error of law that is material to the outcome of the appeal.

18. There is no dispute that the Judge refers to the correct law and applies the correct burdens and standards of proof to the various aspects of the appeal. There is also no dispute about the accuracy of the Judge's descriptions of the appellant's case in [11]-[23] and submissions in [24]-[38]. At [41] the Judge confirms he has looked at all the evidence as a whole and in the round, as he is obliged to do.

19. Taking each ground in turn:

Ground 1

20. The appellant says that the Judge does not properly consider the application of the case of SMO and KSP (Civil status documentation, article 15) (CG) [2022] UKUT 00110 ("SMO2"), the case of SA(removal destination; Iraq; undertakings(Iraq [2022] UKUT00037 ("SA") nor the Country Policy and Information Note concerning returns when he finds in [71] that the appellant remains in contact with his family and could therefore be documented.

21. I note that, when granting permission to appeal, DUTJ Chamberlain was of the view that the Judge's findings at [71] and [85] were open to him and were in line with SMO2. I agree.

22. The Judge's finding at [71] is as follows:

> "As for his CSID I am satisfied that he remains in contact with his family and also therefore has access to this document as he stated he had left his CSID with his family in Iraq. His family can either return the document to him or alternatively meet him at the airport in Sulaymaniyah. Following the latest guidance he would be able to obtain a laissez passer to return direct to this airport."

23. Earlier in the decision the Judge had noted the appellant's evidence concerning his documents and contact with his family as follows:

> "[12] He stated that when he left Iraq he left behind his parents and two siblings. He remained in contact with his parents by mobile until October 2022, but contact ceased as he had no means of contacting them anymore.
>
> [17] He left his CSID in Iraq with his family when he fled the country.
>
> [22] He was no longer in contact with his family and hadn't been since December 2022. Prior to this he accepted he had been in contact with his parents."

24. The appellant's representative's submission, recorded in [38], was that:

> "Any return would be enforced. SMO(2) makes it clear he needs documents to leave the airport. He would be returned to Sulaymaniyah or Erbil. His CSA office is the IKR but look at section 9.2.3 of October 2023 CPIN there is a checkpoint at the airport. As no document he would need an INID which cannot be obtained through family members. He always claimed he had no documents and no contact with them".

25. Mr Ahmad before me referred to the appellant's witness statement for an explanation as to why he had lost contact with his parents. I note that paragraph 20 of this statement says:

> "I confirm that I had my father, mother, brother and sister in Iraq, who all lived Zhawara [sic]. I last had contact with them in October 2022 approx., a month before my asylum interview. Contact has stopped because we don't have means to contact, I am not aware of where they are. When I contact them, the phone does not go through 'WhatsApp' and 'Viber'."

26. The appellant therefore admits that he left his CSID in Iraq when he fled the country, and that he was in contact with his family until October 2022. No real explanation is provided as to why he no longer has the means to contact them. Rather it appears that the appellant does still have the means to contact them (i.e. by phone) but the phone is not connecting, for reasons that are unexplained. Given this background, and against the wider background of aspects of the appellant's account not having been accepted as credible, I consider the Judge was entitled to make the findings in [71] that he did.

27. There is nothing in these findings which goes against the country guidance contained in SMO2 nor the objective evidence. The Judge finds that the appellant's family can either return the CSID to him or alternatively meet him at the airport in Sulaymaniyah to give it to him. Headnote 11 of SMO2 confirms that (my emphasis in bold):

> "The CSID is being replaced with a new biometric Iraqi National Identity Card –the INID. As a general matter, it is necessary for an individual **to have one of these two documents** in order to live and travel within Iraq without encountering treatment or conditions which are contrary to Article 3 ECHR. Many of the checkpoints in the country are manned by Shia militia who are not controlled by the GOI and are unlikely to permit an individual without a CSID or an INID to pass".

28. [12] of the decision records that the Appellant's hometown is in Sulaymaniyah, which is in the IKR. [33] records that the respondent's representative confirmed that the appellant would be returned directly to the IKR (which is in accordance with the Refusal Letter). The Home Office Country Policy and Information Note:

Iraq; internal relocation, civil documentation and returns version 13.0 July 2022 (referred to in the Refusal Letter), confirms at 2.6.8 that:

> "Those persons whose return is feasible and who would arrive in Iraq or the IKR in possession of a CSID or an INID, or could be provided with an original or replacement document soon or shortly after arrival, would be able to return to their home governorate via the various security checkpoints and are, in general, unlikely to encounter treatment or conditions which are contrary to paragraphs 339C and 339CA(iii) of the Immigration Rules/Article 3 of the ECHR."

29. It is correct that the Judge does not consider whether the return would be enforced as opposed to voluntary and whether this impacted on the point of return (i.e. the IKR or Baghdad), but this is irrelevant if the appellant is able to obtain his CSID, because that document will enable travel to either location and through any checkpoints (see 2.8.10 and 2.8.11 of said CPIN following SMO1 as upheld by SMO2).

30. No error is disclosed, ground 1 is in the nature of disagreement.

Ground 2:

31. The appellant says that the Judge incorrectly finds Dr Ghobadi's report does not take into account that there is no evidence that the appellant's photos are in the public domain, and that the Judge is also incorrect in saying that Dr Ghobadi's report is speculative as to the Iraqi authorities' ability and capability to monitor online activities.

32. The Judge analyses the appellant's evidence concerning his social media and demonstration activities in [71]-[76], making the following findings:

    (a) The appellant has not provided a download of his Facebook evidence but has only provided selected content from his phone and Facebook account. There are pictures of the Appellant attending demonstrations which are apparently photographs from his phone [73]

    (b) His Facebook evidence is limited to two undated profile pictures and one political post [75]

    (c) The appellant's evidence is that he played a limited role in demonstrations and is not a member of a political party [76].

33. No challenge has been brought against these findings. Looking at the evidence, the Judge was entitled to make them.

34. The Judge goes on to analyse Dr Ghobadi's report in [77]-[79] noting in [77] that the report confirms:

    (a) the Kurdish Government's capability to monitor online activities and the scale of such surveillance is unknown [77]

    (b) whether someone is at risk from their social media posts would largely depend on the content and the severity of the criticism and the social and political status of the person criticised [77]

    (c) the PUK tolerates criticism as long as their red lines are not crossed [77]

(d) it is "impossible to state with certainty whether the Appellant's activities have come to the attention of Kurdish authorities."

35. The Judge is correct to find in [78] that there is no evidence of the personal photographs being in the public domain, because these are found in [73] to have come from the appellant's phone rather than being on his Facebook pages. The Judge had already noted in [73] that the appellant had not provided a download of his Facebook evidence (in accordance with the guidance in XX concerning Facebook generally). In [78] the Judge refers back to his earlier finding that the only things likely to be in the public domain are a couple of undated profile pictures and one post from November 2021. Based on this, he finds that Dr Ghobadi's "assumption in paragraph [49] that he had come to the attention of the authorities is pure speculation" and that "His comment about the Iranian authorities approach to demonstrators cannot be compared to the Iraqi authorities approach".

36. I think it worth setting out the pertinent part of paragraph 49 of Dr Ghobadi's report, as follows (with my emphasis in bold):

> "While the ability and scale of monitoring social media accounts of Iraqis by the Iraqi and Kurdish governments remains unknown, **it is obvious that the Kurdish and Iraqi authorities are mostly interested in, among others, high-profile activists, journalists, writers and celebrities**. In other words, they mainly fear well-known individuals with big number of followings on social media who are able to influence people. Yet it is impossible to state with certainty whether the appellant's activities on social media brought her [sic] to the adverse attention of Kurdish authorities. In the light of the above **and assuming that the appellant has come to the adverse attention** of Kurdish authorities due to criticising the Kurdish government on social media, it is likely that on return to Iraq she will be mistreated, detained or even prosecuted for criticising the Kurdish government (carrying the risks described above).

37. It can be seen that the Judge was correct to say that Dr Ghobadi *assumes* the appellant would come to the adverse attention of the Kurdish authorities, without giving any reasons as to why he would come to such attention, especially since he precedes this by saying that the authorities are mostly interested in high-profile/well-known people. As discussed at the hearing before me, Mr Ahmad was unable to take me to anything in Dr Ghobadi's report that ties his comments about monitoring to the Appellant's specific activities/attributes.

38. The Judge was also entitled to reject Dr Ghobadi's view that the Iranian country guidance case of XX can equally be applied to Iraq for the very reason that the Judge gives, being that "The fact they may monitor posts does not mean they are as sophisticated as the Iranian authorities". Much of the general guidance in XX concerning the nature of Facebook as a platform can be applied to different countries if the nature of the platform is the same wherever it is accessible, but the ability and resources available to access and monitor the content shown on the platform of course depends on the capabilities of the relevant country. At paragraph 53 of his report Dr Ghobadi specifically says that "the scale of such surveillance is unknown".

39. It follows that no error is disclosed; ground 2 is in the nature of disagreement.

Ground 3

40. The appellant says that the Judge does not make a finding on whether the appellant was detained. Confusingly the ground goes on to say that the Judge finds at [70iv] that the appellant was not detained, which is in contradiction to the finding at [85] that the appellant did not have his CSID or an INID when he was detained.

41. It is well established that particular passages in a decision should not be analysed as though they emanated from a Parliamentary draftsman: Y v SSHD [2006] EWCA Civ 1223, at [24]. I consider that the focus on a single sentence in [85] is to ignore the clear findings made in the decision as a whole concerning detention.

42. The Judge expressly finds at [70iv] that:

> "I do not accept the Appellant has been detained by the authorities in Iraq"

43. The reasons for this finding are given in the preceding paragraphs i.e. the appellant did not mention his two injuries in his screening interview [45-48]; Dr Johnson's reports do not provide tangible support for the appellant's case [57]; the assassination of the ambassador was two years before the appellant says he was questioned about it [60]; PUK -controlled areas are a relatively safe haven for PKK fighters [66] and the evidence does not show that there was in 2019 or is now a conflict between the PKK and PUK [69]. Several reasons are therefore given for the finding that the Appellant was not detained in Iraq and the Judge was entitled to make this finding.

44. As regards the mention of detention in [85], this paragraph reads:

> "I have considered whether Article 3 is engaged over his claimed lack of documents. I accept that when detained he did not have his CSID or an INID. However, he told the Respondent he left his CSID with his family. Given I have rejected his claim of events in Iraq and his claim to have lost contact with his family it is open to him to obtain his CSID from his family either by having it sent to him or by them meeting him at the airport."

45. I consider that the Judge in this paragraph is referring to detention in the UK rather than Iraq. This is because:

    (a) the Judge had already made a clear finding in [70iv] that the appellant had been detained *in Iraq.*

    (b) it would not have made any sense to refer to the appellant having his CSID or INID in detention in Iraq - the appellant said he was detained in Iraq because he was identified as someone who assisted the PKK such that the detaining authorities knew who he was in any case. It was not part of either party's case that the appellant did not have documentation with him when detained in Iraq so it is unclear where this could have come from and no reason for it to feature in the decision.

    (c) the disputed point was whether the appellant had, or could gain access to, a CSID or INID *in the UK* [6v] and the Judge records the appellant's own evidence in [17] that he had left his CSID in Iraq with his family when he fled the country. This fact is mentioned in [85] itself, ostensibly by way of explanation as to why the appellant did not have his CSID or INID with him when detained *in the UK*.

46. It follows that no error is disclosed; ground 3 is in the nature of mere disagreement.

Ground 4

47. The appellant says that the Judge wrongfully criticises the appellant's evidence of friction between the PKK and PUK as being 20 months old; the finding that the PUK and PKK tolerate each other is not consistent with the objective evidence, and the objective evidence is sufficient to prove the appellant's case to the lower standard.

48. I consider this ground to be both in the nature of disagreement and seeking to persuade me to reattribute weight to the different strands of evidence or 'island hopping' (see Volpi v. Volpi [2022] EWCA Civ 464).

49. I completely agree with the analysis of DUTJ Chamberlain in the grant of permission in saying the Judge has given adequate consideration to the evidence of the relationship between the PKK and PUK in [61]-[69], and given reasons for his conclusions.

50. The appellant's accusation that it is not clear where the finding concerning PUK-controlled areas being safe comes from is without foundation. The Judge clearly sets out the source for this comment in [65] as being page 215 of the report entitled "Iraq Security Situation Country of Origin Information Report" prepared by the European Union Agency for Asylum (formerly the European Asylum Support Office) dated January 2022.

51. The Judge is clearly cognisant of the evidence being relied upon by both parties as he describes it in some detail in [50]-[69]. He specifically finds in [67] that nothing in the two articles relied upon by the appellant detracts from the view that [66] "the evidence points to their being an ongoing dispute the PKK and the KDP but that PUK controlled areas were a relatively safe haven for PKK fighters". The point the Judge makes about one of the articles being 20 months old was not just that no update had been provided since then, but that the article concerned events which occurred after the appellant had left Iraq [68]. The Judge specifically confirms in [69] that he has looked at the totality of the evidence and reached his conclusion that it did not prove the appellant's case. The question of what weight to attribute the evidence is a matter for the fact-finding tribunal (see HA (Iraq) [2022] UKSC 22).

52. No error is disclosed.

Grounds 5 and 6

53. I shall deal with these grounds together as they both concern the appellant's medical evidence.

54. In ground 5 the appellant says the Judge failed to consider that Dr Johnson's two expert reports are clear and follow the Istanbul protocol.

55. In ground 6 the appellant says the Judge has forgotten, in holding against the appellant the fact that he didn't mention the 2019 injury/torture in his screening interview, that the appellant is a torture victim which means he may have had difficulty in recounting the details of past events.

56. As noted in headnote (3) of Durueke (PTA: AZ applied, proper approach) [2019] UKUT 197 (IAC) (my emphasis in bold):

> "Particular care should be taken before granting permission on the ground that the judge who decided the appeal did not "sufficiently consider" or "sufficiently analyse" certain evidence or certain aspects of a case. **Such complaints often turn out to be mere disagreements with the reasoning of the judge who decided the appeal because the implication is that the evidence or point in question was considered by the judge who decided the appeal but not to the extent desired by the author of the grounds or the judge considering the application for permission.** Permission should usually only be granted on such grounds if it is possible to state precisely how the assessment of the judge who decided the appeal is arguably lacking and why this is arguably material".

57. Again, I consider these grounds to be both in the nature of disagreement and seeking to persuade me to reattribute weight to the different strands of evidence and I agree with DUTJ Chamberlain in the grant of permission in saying the Judge has not disregarded the medical reports but has given reasons for finding they do not assist the appellant's claim, and he was also entitled to make the findings he has concerning the screening interview.

58. The Judge at [48] states that:

> "The other alleged inconsistency in his account centred around the injury to his arm. In his screening interview he stated he suffered the injury in 2014. He failed to mention suffering an injury in 2019 or being tortured in his screening interview. However, in his substantive interview he referred to receiving "marks of torture" on his body and on his arm from the PUK whilst detained. At Q116 he referred to his hand being broken. He provided a witness statement dated 11 December 2023 which was after his appointment with Dr Johnson. In this statement the only reference to his injury is in paragraph [15] where he simply relies on what Dr Johnson wrote to support his claim that the injury he suffered was as a result of the torture in 2019".

59. The description of paragraph 15 of the appellant's witness statement is correct. That paragraph simply says:

> "I also confirm that I have been to Dr Graham Johnson has provided evidence by way of a report to confirm that the injury I have suffered is as a result of the torture that I have received from the Asayish".

60. As above, at the hearing before me, other than referring to this paragraph, Mr Ahmad was unable to take me to any explanation provided by the appellant for failing to mention the 2019 injury/torture in his screening interview. The inconsistency therefore remains unexplained and the Judge was entitled to make the findings he did in relation to it. It does not take the matter anywhere to say the reason the appellant did not mention it is because he is a victim of torture, because that is circular. His evidence of the torture itself was found to be inconsistent, and the medical reports relied upon to support there having been torture were found not to add any tangible support.

61. It also takes the matter no further to say that Dr Johnson was an expert and his reports complied with the Istanbul Protocol. The Judge does not disagree with this. What the Judge finds is that the reports were prepared without any

reference to any of the medical notes from the private hospital in Iraq (where the appellant was treated in 2019) or without sight of all of the medical notes; the only attendance note recorded what the appellant himself had said to the medic [54]. The Judge in [54] also finds that Dr Johnson fails to consider any alternatives for the 2019 injury claim.

62. Further key reasoning as regards Dr Johnson's reports is contained in [56] when the Judge says:

> "The two medical reports do not address this inconsistency [*between the screening and substantive interviews] a*nd given Dr Johnson agrees that he all he can do is simply date the scarring as being at least six months old then this inconsistency becomes more significant because what the doctor says about the injury could equally apply to the 2014 injury if this was the Appellant's only injury. The doctor was unable to say that he actually suffered two fractures as he did not have access to any x-rays (from here or Iraq) or any of the original medical notes from Iraq."

63. It is therefore entirely clear why the Judge finds that the reports do not provide any tangible support for the appellant's case. The grounds of appeal completely ignore this reasoning and seek to reargue the weight the Judge attributed to the appellant's evidence.

64. No error is disclosed.

65. Overall, the Judge's decision is carefully written and thoughtfully reasoned and discloses no errors of law.

Conclusion

66. I find all of the grounds to be in the nature of mere disagreement and they disclose no error.

67. To conclude, I find the decision is not infected by any errors of law. The decision therefore stands.

Notice of Decision

1. The appeal to the Upper Tribunal is dismissed. The decision of First-tier Tribunal Judge Alis promulgated on 11 January 2024 is maintained.

2. Cognisant of the fact that the appellant may make an onward appeal, and his claim concerns issues of personal safety, I consider his human rights appertaining to his safety outweigh the principle of open justice such that an anonymity order is made.

Signed: L. Shepherd
Date: 28 June 2024

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber