



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

Case No: UI-2024-002340

First-tier Tribunal No: PA/54485/2023  
LP/01653/2024

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 18 September 2024**

**Before**

**UPPER TRIBUNAL JUDGE MEAH**

**Between**

**AS  
(ANONYMITY ORDER MADE)**

Appellant

**and**

**Secretary of State for Home Department**

Respondent

**Representation:**

For the Appellant: Ms G Patel, Counsel, instructed by Parker Rhodes Hickmott Solicitors

For the Respondent: Mr S Walker, Senior Home Office Presenting Officer

**Heard at Field House on 5 September 2024**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the claimant has been granted anonymity, and is to be referred to in these proceedings by the initials AS. No-one shall publish or reveal any information, including the name or address of the claimant, likely to lead members of the public to identify the claimant.**

**Failure to comply with this order could amount to a contempt of court.**

## **DECISION AND REASONS**

### **Introduction and Background**

1. The appellant appeals against the decision of First-tier Tribunal Judge Moore promulgated on 16 April 2024 (“the decision”). By the decision, the Judge dismissed the appellant’s appeal against the respondent’s decision dated 07 July 2023 refusing her claim for asylum/protection.

### **The Grounds**

2. The grounds raised challenging the decision are that the Judge misdirected herself in law on the issues that needed deciding, and on the issue of internal relocation and she failed to consider material matters
3. Permission to appeal was granted by First-tier Tribunal Judge Haria on 19 May 2024, in the following terms:

“1. The application is in time.

2. The Appellant is a citizen of Mexico. She seeks permission to appeal against the dismissal of her appeal against the Respondent’s decision of 6 July 2023 to refuse her protection claim. The Appellant fears that if returned to Mexico her life and that of her daughter will be at risk because she was extorted by members of the El Cartel Del Golfo and she reported them to the police.

3. Ground one: It is acknowledged that the Judge correctly sets out the issues to be decided at [14] which include internal relocation and sufficiency of protection. The grounds assert that the Judge misdirected herself in law by failing to make finding on sufficiency of protection having made findings as to internal relocation.

4. There is little merit to the ground as the Judge finds the Appellant does not have a well founded fear of persecution by the gang and it would not be unduly harsh for the Appellant and her daughter to internally relocate to Mexico City at [31-39]. Accordingly, the Judge did not err by failing to make findings as to sufficiency of protection.

5. Ground two: It is asserted that the Judge misdirected herself in law in relation to the issue of internal relocation in particular in the consideration of background evidence and in her assessment of whether it would be unduly harsh for the Appellant and her daughter to internally relocate to Mexico City.

6. It is arguable that the Judge erred by failing to take into account relevant background evidence at pages 88 and 89 of the Appellant’s Bundle as to the profiles of individuals targeted and tracked by the criminal organisations and cartels, and that this finding infected the Judge’s findings as to whether it is unduly harsh for the Appellant and her daughter to internally relocate to Mexico City.

7. Ground three: There is little merit to this ground. Contrary to what is asserted the Judge does not suggest the Appellant should live with her friend in Mexico City. The Judge simply notes that the Appellant has at least one friend in Mexico city.

8. It is arguable, the Judge erred as asserted in ground two. Whilst there is little merit in the other grounds. For the sake of clarity permission is granted on all grounds.”

### **Discussion and Conclusions**

4. I had before me the appellant's composite bundle which included the bundle before the First-tier Tribunal together and a core bundle of documents relating to the appeal including the respondent's bundle.
5. Judge Haria stated in her grant of permission at [8] that the Judge had erred by failing to consider specific country background material which she references. This was the sole ground which led to her decision to grant permission on all grounds. This evidence was in fact considered by the Judge at [31] of her decision where she sets out here and in the subsequent paragraphs at [32]-[33], her consideration of the very document Judge Haria stated the Judge had failed to consider. Further, Judge Haria stated at [4] in her grant of permission that there was little merit in the Judge not having considered Sufficiency of Protection given the Judge's finding that the appellant did not have a well-founded fear of persecution.
6. I pointed out to the parties during preliminary discussions the apparent difficulty at [39] of the Judges' decision where she stated that:

"It follows that I am not satisfied, even to the lower standard of proof, that the Appellant has a well-founded fear of persecution in Mexico City (the place to which the Respondent has proposed she relocates) or that it would be unduly harsh and/or unreasonable to expect her to relocate there."
7. The Judge focusses on the appellant not having a well-founded fear of persecution in Mexico City only. She considers internal relocation only in this context, failing entirely to make any findings on the claim accepted by the respondent that the appellant feared a gang in her home area, which was a considerable distance from Mexico City. Therefore, consideration was required on whether that claim was well-founded and if so, whether there was a Sufficiency of Protection available in to the appellant in her home area, and if not, whether there was an Internal Relocation alternative available to her. The Judge skips assessment of Sufficiency of Protection altogether despite self-directing at [14] of her decision that this was one of two issues requiring consideration as had been agreed by the parties. Her comments at [28] are inadequate to demonstrate that she has properly addressed her mind or given anxious scrutiny to considering the availability and/or adequacy of any level state protection that might have been available to the appellant anywhere in Mexico.
8. Mr Walker accepted that the Judge was, in the circumstances of the appellant's case and her claim, required to consider the availability of sufficiency of protection in the appellant's home area first before moving on to considering Internal Relocation and its viability in Mexico City. She had materially erred in law by her failure to make any findings on this.
9. Though Judge Haria's grant of permission was premised on a misunderstanding of the grounds seeking permission, and thus a misreading of Judge Moore's decision, I am nonetheless satisfied Mr Walker's concession was fairly and sensibly made. The Judge's decision lacks any findings on Sufficiency of Protection which she was required to consider as key component in deciding the appeal. This amounts to a material error of law.
10. I therefore set aside the decision of the Judge.

11. Applying **AEB [2022] EWCA Civ 1512** and **Begum (Remaking or remittal) Bangladesh [2023] UKUT 46 (IAC)**, I have considered whether to retain the matter for remaking in the Upper Tribunal, in line with the general principle set out in statement 7 of the Senior President's Practice Statement. I consider, however, that it would be unfair for either party to be unable to avail themselves of the two-tier decision-making process.

### **Notice of Decision**

12. The decision of the First-tier Tribunal sent to the parties on 16 April 2024, involved the making of a material error of law. It is set aside in its entirety.
13. The appeal is remitted back to the First-tier Tribunal sitting at Birmingham to be heard by any judge other than First-tier Tribunal Judge Moore.

***S Meah***

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**05 September 2024**