



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-004649

First-tier Tribunal No: PA/00103/2024

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 3 January 2025

Before

UPPER TRIBUNAL JUDGE HIRST

Between

RA
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Lynes, counsel instructed by Barnes Harrild & Dyer Solicitors
For the Respondent: Mr Lindsay, Senior Home Office Presenting Officer

Heard at Field House on 11 December 2024

Order Regarding Anonymity

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

1. The Appellant appeals from the decision of First Tier Tribunal Judge Abebrese dated 13 August 2024, dismissing his appeal against the rejection of his protection and human rights claim.

Background to the appeal

2. The Appellant is an Iraqi national. He claimed asylum in the UK on or shortly after arrival on 10 October 2021. The basis of his claim was that he had previously worked as a bodyguard for Zeyad Baweani, a member of the PUK, and was threatened when he informed his colleagues of his anti-government activities; the Appellant also relied on his *sur place* political activity in the UK as a member of the .
3. The Appellant's asylum claim was refused on 12 December 2023 and his appeal came before the First Tier Tribunal on 25 June 2024. In a determination promulgated on 13 August 2024 the Tribunal dismissed his appeal. The judge found that the Appellant was not a credible witness and rejected both his account of his experiences in Iraq and his *sur place* activities in the UK.
4. Permission to appeal was granted on 8 October 2024 by First Tier Tribunal Judge Beach. The Appellant's grounds of appeal were as follows:
 - a. The judge failed to give anxious scrutiny to the Appellant's claim to be undocumented and misdirected himself by reference to *SMO & KSP (Civil status documentation; article 15) Iraq CG [2022] UKUT 00110*;
 - b. The judge's assessment of risk due to the Appellant's *sur place* political activity was flawed. In particular, on the evidence before the judge he was required to make a finding as to whether the Appellant would conceal his political activities from the Iraqi authorities;
 - c. The judge failed to make findings on, or determine, the Appellant's claim that he would be at risk on return as a 'Westernised' individual due to his imputed religious and political beliefs: *YMKA & Ors [2022] UKUT 00016*;
 - d. The judge erred by failing to assess credibility in the round.
5. The appeal came before me at an error of law hearing on 11 December 2024.

Error of law

6. There was no Rule 24 response on behalf of the Respondent, but at the outset of the hearing Mr Lindsay indicated that the Respondent accepted that the judge had materially erred in law.
7. I agree. Although it is not appropriate to 'pick over' a first instance determination or to subject it to detailed textual analysis, I consider that the reasoning of the judge was not adequate in several material respects. In particular:
 - a. The judge had accepted that the Appellant did not have a CSID/INID identity document and it was incumbent on him to apply *SMO & KSP* as relevant country guidance. Beyond a passing reference to the Appellant being returned to Baghdad, the judge did not do so;
 - b. In relation to the Appellant's *sur place* activity, the judge noted that the Appellant had been on a demonstration but failed to make any findings as to whether the Appellant was likely to continue his activities in Iraq and whether he would conceal them from the authorities;

- c. The judge did not refer to, or make any relevant findings on, the Appellant's claim to be at risk because of his 'Westernisation', which was clearly raised in the Appellant's skeleton argument for the First-tier Tribunal hearing.
8. The parties were agreed that the appropriate course was for the appeal to be remitted to the First Tier Tribunal for a *de novo* hearing with no findings preserved.

Notice of Decision

The decision of the First-tier Tribunal involved the making of an error of law and is set aside. The appeal is remitted to the First-tier Tribunal for a *de novo* hearing before a judge other than First-tier Tribunal Judge Abebrese, with no findings preserved.

L Hirst

Judge of the Upper Tribunal
Immigration and Asylum Chamber

19 December 2024