



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

Case No: UI-2024-004844

First-tier Tribunal No: PA/57818/2023  
LP/03651/2024

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

10th January 2025

**Before**

**UPPER TRIBUNAL JUDGE KAMARA**

**Between**

**MSH**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Mr R Spurling, counsel instructed by Sriharans Solicitors  
For the Respondent: Ms A Ahmed, Senior Home Office Presenting Officer

**Heard at Field House on 23 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**

## Introduction

1. The appellant has been granted permission to appeal the decision of First-tier Tribunal Judge Sweet who dismissed his appeal following a hearing which took place on 23 August 2024.
2. Permission to appeal as well as an extension of time for appealing was granted by First-tier Tribunal Judge McMahon on 21 October 2024.

## Anonymity

3. No anonymity direction was made by the First-tier Tribunal however it is appropriate that this case is anonymised as it concerns a protection claim.

## Factual Background

4. The appellant is a national of Chad now aged twenty-seven. He left Chad in December 2018 and ultimately made an unsuccessful asylum claim in Luxembourg. He entered the United Kingdom clandestinely during March 2022. He received a positive reasonable grounds decision from the Single Competent Authority (SCA) on 25 July 2022, albeit his protection claim was refused by the respondent in a decision dated 22 September 2023.
5. The basis of the appellant's protection claim is his fear of persecution as a member of the Mahamid tribe. He is illiterate and worked herding animals. His village was serially attacked by members of the Ouaddai tribe who killed two of his brothers. The appellant was sought by government forces for his involvement in a retaliatory attack, with the intention that he should be handed over to the Ouaddai Tribe. He fled the country along with another brother and others accused of leading an attack on the Ouaddai Tribe. The Secretary of State accepted that the appellant had been involved in tribal conflicts but did not accept that he was of adverse interest to the government or at risk of persecution on return to Chad owing to concerns as to the credibility of aspects of his claim, the availability of internal relocation as well as that of state protection.
6. The decision of the First-tier Tribunal essentially adopted the conclusions of the Secretary of State in the decision letter and the appeal was dismissed.

## The appeal to the Upper Tribunal

7. The grounds of appeal contain criticism of the adequacy of the judge's reasons in relation to credibility, internal relocation and sufficiency of protection.
8. Permission to appeal was granted on the basis sought, with the judge granting permission remarking on the brevity of the findings of fact.
9. The respondent filed no Rule 24 response.

## The error of law hearing

10. The matter comes before the Upper Tribunal to determine whether the decision contains an error of law and, if it is so concluded, to either re-make the decision or remit the appeal to the First-tier Tribunal to do so.

11. A consolidated bundle was submitted by the appellant containing, inter alia, the core documents in the appeal, including the appellant's and respondent's bundles before the First-tier Tribunal.
12. The hearing was attended by representatives for both parties as above. Both representatives made submissions and the conclusions below reflect those arguments and submissions where necessary.
13. At the end of the hearing, I announced that I was satisfied that the decision of the First-tier Tribunal contained material errors of law and set the decision aside with no retained findings.

### Discussion

14. Given the succinctness of the judge's findings of fact set out at [11-12] of the decision, I reproduce them in full here.

The burden of proof is on the appellant, and the lower standard of proof, namely a reasonable degree of likelihood, applies. I am satisfied that the respondent's reasons for refusal remain in respect of this appeal. The appellant's credibility is at issue. Firstly, there is the issue as to why he had not reported his two brothers' murders to the police authorities, for which he said that the Wadai Tribe was integrally linked to the government, but there was no independent evidence of this link. He was also ambiguous as to whether he had left the country by the time the police arrived, or whether he left after he had been approached by the government. Furthermore, he did not claim asylum in Italy or France, which also goes to his credibility under Section 8 of the 2004 Act. His claim for asylum in Luxembourg was refused for the same reasons.

There is objective evidence that there is protection from the authorities, and there is no objective evidence why the appellant could not relocate within the country in any event. I accept that there is some objective evidence (in the 2022 Report on Human Rights practices: Chad) that there are issues as to freedom of movement, arbitrary arrest and detention, but in my view, these do not go to support the appellant's claim, which in any event concerns events which took place several years ago. His family have not faced any interest from the Wadai tribe or the government in the meantime.

15. In considering whether these two short paragraphs contained sustainable reasoning, I bear in mind the guidance given in *Azizi (Succinct credibility findings; lies)* [2024] UKUT 65 (IAC), where the following was said in the headnote:

A determination in relation to an appeal must deal with the principal controversial issues presented to the judge, and it may be possible in some circumstances to provide adequate reasons in relation to those issues succinctly, provided they deal with the points raised by the party and enable the parties to understand why the decision has been reached.

16. In terms of the credibility issues mentioned by the judge which included the appellant's failure to seek asylum in Italy or France and ambiguity regarding the timing of events, these were matters which the appellant addressed in his witness statement in paragraphs 18 and 19. Yet there is no engagement by the judge with what the appellant had to say on these matters and no reasoning as to why the judge concluded that these matters had ultimately adversely affected the appellant's credibility. It follows that those findings are unsafe as well as the finding, given without reasons, that the appellant's credibility was damaged for failing to report his brothers' killings to the Chadian authorities.

17. The judge concluded that there was no evidence to support the appellant's claim that the Ouaddai tribe were linked to the government in Chad. In paragraph 12 the judge stated that the evidence did not support the appellant's claim and again declined to provide reasons.

18. The background evidence before the First-tier Tribunal refers to the intercommunal violence in Ouaddai province, that security services were targeting the opposition, the use of arbitrary arrest, failure to respect court orders and ethnic disparities in the justice system. The appellant's tribe, the Mahamids, is referred to as 'Shuwa Arab' in the background material (CB97). In the International Crisis Group report 'Avoiding the Resurgence of Intercommunal Violence in Eastern Chad', it is said that those considered to be Arabs, like the appellant, are singled out for ill-treatment.

On the other hand, the nomads, who are mainly Arabs, complain of stigmatisation and of being treated like foreigners in a region where their families have been part of society for generations.

These clashes are intensifying in a climate of mistrust between local inhabitants and the authorities, who are accused of favouritism and corruption.

19. The ICG report notes that these disputes are 'becoming politicised,' that Arabs have little political power, that Arab members of civil society report being prevented from participating in public affairs by Ouaddaians and excluded from organisations including those of a political nature. The author of the report records that Arabs are pitted against non-Arabs, that Chad's leaders have spoken of an 'Arab threat' in the past and that 'these problems have escalated to the national level.'

20. The relevance of the background evidence referred to above, is that it provides some support for the appellant's claim that the Ouaddaians have political power. The judge's failure to engage with this evidence and consider it in reaching his conclusions, along with the absence of reasons for the negative credibility findings amounts to a material error of law and renders his decision unsafe.

21. I canvassed the views of the parties as to the venue of any remaking and both were of the view that the matter ought to be remitted if there were no preserved findings of fact. Applying *AEB* [2022] EWCA Civ 1512 and *Begum* (Remaking or remittal) Bangladesh [2023] UKUT 00046 (IAC), I carefully 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 Statements. I took into consideration the history of this case, the nature and extent of the findings to be made as well as the fact that the nature of the errors of law in this case meant that the appellant was deprived of an adequate consideration of his protection appeal. I further consider that it would be unfair for either party to be unable to avail themselves of the two-tier decision-making process and therefore remit the appeal to the First-tier Tribunal.

22. It is worth mentioning, in passing, that this is a case which could benefit from expert country evidence. Chad is not a country frequently encountered in the Immigration and Asylum Chamber and it seems that such a report which explores the tribal and political issues relevant to this case could be of real assistance to the judge seized of this matter on remittal.



**Notice of Decision**

**The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.**

**The decision of the First-tier Tribunal is set aside.**

**The appeal is remitted, de novo, to the First-tier Tribunal to be reheard by any judge except First-tier Tribunal Judge Sweet.**

**The appeal is to be transferred to Hatton Cross hearing centre which is the most convenient location for the appellant.**

T Kamara

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**24 December 2024**