Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: UI-2022-003781

PA/00434/2021

THE IMMIGRATION ACTS

Heard at Field House	**Decision sent to parties on:**
On 26 May 2023	**On 23 June 2023**

Before

DEPUTY UPPER TRIBUNAL JUDGE STOUT

Between

A D

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the appellant: Ms S Anzani of Counsel, instructed by Quality Solicitors A-Z Law
For the respondent: Mr D Clarke, Senior Home Office Presenting Officer

DECISION AND REASONS

Anonymity order

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) The Tribunal has ORDERED that no one shall publish or reveal the name or address of DA who is the subject of these proceedings or publish or reveal any information which would be likely to lead to the identification of him or of any member of his family in connection with these proceedings.

Any failure to comply with this direction could give rise to contempt of court proceedings.

Decision and reasons

1. The appellant is a citizen of Iraq of Kurdish ethnicity. He appeals against the decision of First-tier Tribunal Judge S L Farmer ("the FtTJ") sent to the parties on 27 January 2022 dismissing his appeal against the decision of the respondent of 18 September 2020 refusing his (second) application for leave to remain on asylum, humanitarian protection and Article 8 grounds. Permission to appeal was granted on all grounds by Upper Tribunal Judge Kopieczek on 27 March 2023.

2. The appellant gave evidence through a Kurdish Sorani interpreter before the FtTJ, but it was accepted that no interpreter was required for this error of law hearing as the appellant was represented and not giving evidence.

Background

3. The appellant is a citizen of Iraq of Kurdish ethnicity, born on 1 March 1991. He appeals from the decision of the FtTJ heard on 19 January 2022 and sent to the parties on 27 January 2022 dismissing his appeal against the respondent's decision of 18 September 2020 refusing his fresh claim for asylum and humanitarian protection and human rights claim.

4. The appellant's first application for asylum was made on 10 November 2017, the day the appellant arrived in the UK. The first application was refused on 10 May 2018 and the appellant became appeal rights exhausted on 24 July 2018 on the dismissal of his appeal by FtTJ Row on 19 June 2018.

5. The appellant's first asylum application did not succeed essentially because his account was not found to be credible. FtTJ Row accepted that he was an Iraqi Kurd, but did not accept that he was Kirkuk, or that he had been involved in fighting for the Peshmerga, or that he was at risk from any family member because of his behaviour and attitudes. FtTJ Row considered his family could help him obtain his CSID and that he would not be at risk of destitution on return to Iraq.

6. On 3 May 2020 the appellant lodged further submissions, which were refused on 18 September 2020. The further submissions were based on new evidence of a video of the appellant and others in fatigues and holding an AK47 while supposedly fighting for the Peshmerga and a video supposedly showing his friend visiting his family's empty home in Iraq. The appellant subsequently raised a further issue, which was accepted by the respondent on 23 December 2021 as being a new matter, being sur place activities (Facebook posts).

First-tier Tribunal decision

7. The FtTJ heard oral evidence from the appellant, who was cross-examined. In a reserved judgment, the FtTJ at [31] and [35] referred herself to the principles in *Devaseelan* [2002] UKIAT 00702 and treated the findings of FtTJ Row as her starting point, but departed from those findings in a number of respects on the basis of the new evidence. She directed herself to the burden and standard of proof and appropriate legal tests ([8]-[12]), and to the country guidance in *SMO, KSP and JM (Article 15(c); identity documents) Iraq* [2019] UKUT 400 ("*SMO 1"*) and the Home Office Country Policy and Information Note (June 2020) (the June 2020 CPIN).

8. The FtTJ noted that in the light of the video of the appellant with an AK47 and new documentary evidence, the respondent now accepted that he was from Kirkuk and that he had been involved in fighting for the Peshmerga against the Karwea tribe in 2015 for 7 to 8 days. She found that the appellant was warned by his uncle that people in the video had been threatened. She noted that on the appellant's own case he had not received any personal threat and that he remained in his home area of Kirkuk for almost two years after the video was taken. She concluded that there was no basis to depart from FtTJ Row's conclusion that the appellant was not threatened by his family and would not be at risk from them on return ([38]).

9. She did not accept that the video supposed to be of his family home was of his family home, or that his family home was now deserted. She found the appellant's evidence as to his claimed attempts to trace his family via the Embassy to be *"incredible"* ([37]), finding at [41] and [43(a)] that he had not even been to the Embassy and concluding at [57]-[58] that the appellant has not discharged the burden on him to show that he cannot get redocumented.

10. As to the Facebook posts, the FtTJ concluded at [42] and [43(b)] that it was *"incredible"* that someone who was illiterate would request someone to open a Facebook account for him and to post material on it, that there was 'no evidence' of who helped him or why and that, *"In any event, he does not claim that the contents have been seen by anyone who would hold this against him or that it has led to any threats whatsoever, either direct or indirect".*

11. The FtTJ also concluded that there was no 'new evidence' to justify departure from FtTJ Row's findings that he was not at risk due to being an atheist ([45]).

12. At [48]-[55] she analysed with reference to *SMO* whether the appellant would be at heightened risk because of any personal characteristics if returned to Kirkuk and concluded that he would not be, in part because his period of fighting for the Peshmerga was extremely brief (7 to 8 days) and he had remained living at home for two years thereafter without attracting adverse attention.

Upper Tribunal hearing

13. Ms Anzani relied on the grounds of appeal which she supplemented with oral submissions. She began by pointing out that the revised Iraq country guidance in SMO & KSP (Civil status documentation; article 15) Iraq CG [2022] UKUT 00110 (IAC) (*"SMO 2"*) came after the decision of the FtTJ in this case. The parties agreed that the case was, however, unaffected by *SMO 2*.

14. As to Ground 1 (flawed assessment of risk on return), Ms Anzani argued that the FtTJ erred in relation to the assessment of the appellant's risk on return as a result of his 7-8 days fighting with the Peshmerga by focusing solely on the short period of time involved and his ability to remain at home without any adverse interest for two years thereafter. She submitted that he fell within [298] of *SMO 1* as being a person at heightened risk on return as a result of being associated with national or local government or the security apparatus and the area to which he would be returned being one where the risk was heightened due to ISIS being in active conflict there. In support of the latter submission, she referred to *Guardian* news articles on the current state of fighting. She submitted that the FtTJ had failed to make any assessment of the current level of ISIS conflict in the area, and/or had failed to consider the heightened risk to the appellant as a result of there being a YouTube video freely available online of the appellant fighting for the Peshmerga in which he is recognisable.

15. As to Ground 2 (flawed assessment of the appellant's *sur place* activities and the associated risk), Ms Anzani argued that the FtTJ's reliance on the appellant being illiterate was perverse: a person does not need to be literate in order to see Facebook posts of videos and know their significance. Further, the appellant had in his witness statement explained that a friend helped him create the Facebook posts and how he was able to share posts and copy and paste posts, and why he wanted to do it. The FtTJ's conclusions are also irrelevant as she had failed to make a finding as to whether the appellant's Facebook account exists. If it exists, it can be seen by others and the appellant's case was that the risk was that it could be viewed by anyone who was dealing with the redocumentation of the appellant. As the appellant does not have a passport, he has to go through the redocumentation process described in paragraph 2.5 of the June 2020 CPIN and as he has no documents in the UK he will be subject to a mandatory interview (paragraph 2.5.7) and it is likely that as part of that interview basic checks on social media activity would be made.

16. As to Ground 3 (flawed assessment of the appellant's atheism), Ms Anzani submitted that the FtTJ had erred in law in failing to apply *SMO 1* [301], where it was accepted that *"lack of adherence to strict Islamic mores is capable of giving rise to an increased risk for subsidiary protection purposes, although it will be necessary to have careful regard to the nature of the area in question before concluding that this factor actually serves to increase risk"*. Ms Anzani argued that the FtTJ had failed to carry out that exercise in the light of the further evidence, simply relying on FtTJ

Row's findings (presumably those at [10], [19] and [25] of FtTJ Row's decision that the appellant was not at risk from his family as a result of his lifestyle, behaviour and attitudes). She submitted that the issue was not whether the appellant had been at risk in the past from his family, but whether he would be at risk in the future in the Kircuk region.

17. Mr Clarke for the respondent submitted that the grounds were not made out. He pointed out that there is no challenge to the finding that the appellant is in contact with his father and has a CSID card in his house in Iraq and it follows that the CSID card could be sent to the UK, although he acknowledged there was no specific finding by the FtTJ to that effect, but all the ingredients for such a conclusion are in the judgment at [33], [40] and [57], and in the latter paragraph the FtTJ expressly concludes that the appellant could obtain documentation with the assistance of his family. I raised with Mr Clarke a query about how the FtTJ had concluded that the appellant had not even been to the Embassy given the apparently supportive witness statement from the translator who accompanied him (Bavel Salem). Mr Clarke submitted that the FtTJ did not have to refer to every item of evidence and it follows from the judgment that evidence was rejected and the appellant has not challenged that aspect of the reasoning on appeal.

18. Mr Clarke also pointed out that there is no challenge to the FtTJ's conclusion at [60] that as a resourceful and healthy young man the appellant could relocate and live elsewhere within Iraq if he wished to (albeit that internal relocation was in the FtTJ's judgment unnecessary).

19. As to the specifics of Ground 1, Mr Clarke submitted that the FtTJ's approach was not erroneous. *SMO 1* [298] requires a current personal association for there to be risk and the factors as to the short period of the appellant's involvement in fighting and period at home thereafter without adverse attention were sufficient to conclude there was no current personal association. Further, the *Guardian* news articles relied on by the appellant indicate that the Isis fighters are in the mountains to the east of Kirkuk. It is suggested that this evidence is enough to show risk to the appellant, but actually the article shows that Isis has limited resources at the moment. There is nothing to show that someone who fought for only 8 days 10 years ago would be targeted. He submitted that in analysing the risk to the appellant if returned to Kirkuk at [48]-[53], the FtTJ had properly taken all relevant matters into account and made findings consistent with the country guidance. The fact that the YouTube video is available online does not get round the resources issue so far as Isis is concerned. He queried how it was suggested that ISIS could find the video and then recognise the appellant from it.

20. As to Ground 2, Mr Clarke submitted that the ground was misconceived because it was founded on the suggestion that a point was not put to the appellant about how or why he would use Facebook if illiterate. However, the respondent's submission recorded at [24] of the judgment shows that the point was raised at the FtT. There is nothing to show that the point was

not put to the appellant and even if it was not, that should have been raised at the FtT. As to the wider point under Ground 2, the sur place activity was a Facebook account. If illiterate, how do you navigate to Facebook, how do you interact with a Facebook account. Others must be involved with the Facebook account. There is a missing link in the evidence as to who created the account. The FtTJ has rejected the evidence of the appellant about the account. There is no evidence that the Facebook account was genuine or public. *XX (PJAK – sur place activities – Facebook) Iran CG* [2022] UKUT 00023 (IAC) at [7]-[9] shows that social media evidence may be fake and/or that an account may be closed. It was open to the FtTJ to reject the evidence of the appellant regarding the Facebook account. The appellant's evidence is just that a friend of his created the Facebook account. There is in any event nothing in *SMO 1* or *2* to suggest that the appellant may be questioned about social media accounts when applying for return documentation. There is no country guidance for Iraq about that.

21. As to Ground 3, Mr Clarke submitted that the judge's conclusions were also reasonable. The judge's decision is consistent with [301] of *SMO 1*. The judge took account of the evidence about Kircuk, and found there was no specific risk to the appellant within that area. There is sufficient in the conclusion of FtTJ Row to justify the FtTJ maintaining that decision.

22. In reply, Ms Anzani submitted that what the judge is doing at [48] is not assessing the specific risk about the appellant's Peshmerga involvement and Kirkuk, but just whether Kirkuk meets the Art 15(c) threshold. Mr Clarke submits that the *Guardian* articles do not provide evidence of risk, but that is wrong because at [48] the judge notes from *SMO 1* that Kircuk is an area where ISIS is rebuilding. The video is capable of placing him at risk because the appellant is recognisable from it. Social media is designed to be user-friendly and can be used by people who are illiterate. If I am being asked to interpret the judgment as an explicit finding that the Facebook account does not exist, then something more is needed - paragraph [42] does not say that. The alternative is that the FtTJ has concluded that the Facebook account is in existence but that the appellant is not genuinely engaging with it. If that is the conclusion, then there still needs to be an assessment of whether an account with his name online would place him at risk. Ms Anzani accepted that Mr Clarke was right that there was nothing in the country guidance to indicate what someone might be asked about during a redocumentation interview.

23. The parties agreed that whether or not the case should be remitted to the FtT or remade in the UT if I found an error of law depended on the extent of any error I find.

Analysis

24. I deal with the grounds in order.

25. Ground 1 challenges the FtTJ's assessment of the risk to the appellant on return in the light of his having fought for the Peshmerga for 7-8 days in 2015 and featuring recognisably in a YouTube video as a Peshmerga fighter. The nature and extent of the risk to the appellant had to be assessed by reference to the country guidance in *SMO 1*. The FtTJ held, in a finding that is not challenged on appeal, that conditions in Kirkuk are not such in general as to reach the threshold in Article 15(c) of Council Directive 2004/83/EC (the Qualification Directive) of real risk of serious harm. The question was whether or not, by dint of his personal characteristics, he personally would be at such risk.

26. The relevant part of the headnote of *SMO 1*, the content of which the FtTJ refers to at [48], provides as follows:-

> **3. The situation in the Formerly Contested Areas (the governorates of Anbar, Diyala, Kirkuk, Ninewah and Salah Al-Din) is complex, encompassing ethnic, political and humanitarian issues which differ by region. Whether the return of an individual to such an area would be contrary to Article 15(c) requires a fact-sensitive, "sliding scale" assessment to which the following matters are relevant.**
>
> **4. Those with an actual or perceived association with ISIL are likely to be at enhanced risk throughout Iraq. In those areas in which ISIL retains an active presence, those who have a current personal association with local or national government or the security apparatus are likely to be at enhanced risk.**
>
> **5. The impact of any of the personal characteristics listed immediately below must be carefully assessed against the situation in the area to which return is contemplated, with particular reference to the extent of ongoing ISIL activity and the behaviour of the security actors in control of that area. Within the framework of such an analysis, the other personal characteristics which are capable of being relevant, individually and cumulatively, to the sliding scale analysis required by Article 15(c) are as follows:**
>
> **• Opposition to or criticism of the GOI, the KRG or local security actors;**
>
> **• Membership of a national, ethnic or religious group which is either in the minority in the area in question, or not in de facto control of that area;**
>
> **• LGBTI individuals, those not conforming to Islamic mores and wealthy or Westernised individuals;**

> **• Humanitarian or medical staff and those associated with Western organisations or security forces;**
>
> **• Women and children without genuine family support; and**
>
> **• Individuals with disabilities.**
>
> **6. The living conditions in Iraq as a whole, including the Formerly Contested Areas, are unlikely to give rise to a breach of Article 3 ECHR or (therefore) to necessitate subsidiary protection under Article 15(b) QD. Where it is asserted that return to a particular part of Iraq would give rise to such a breach, however, it is to be recalled that the minimum level of severity required is relative, according to the personal circumstances of the individual concerned. Any such circumstances require individualised assessment in the context of the conditions of the area in question.**

27. The key part of that guidance for the appellant's case was in paragraph 4: "*In those areas in which ISIL retains an active presence, those who have a current personal association with local or national government or the security apparatus are likely to be at enhanced risk.*"

28. Both parties also agree that further guidance on that was given at [298] of *SMO 1* as follows, although the appellant's grounds of appeals emphasise only the first sentence of [298] which omits the reference to a requirement for a 'current' personal association which is derived from the last sentence of the paragraph:

> **298. Those who are associated with national or local government or the security apparatus, or perceived to be so, are likely to be at increased risk in those areas in which ISIL retains a presence. The respondent accepts that to be the case, albeit that she phrases her acceptance in slightly different terms from the appellants. The areas in which such targeting is likely to take place, and the types of individuals targeted, will be apparent from our analysis of the Formerly Contested Areas. In various parts of those areas, those associated with local government (such as village mukhtars) may be at particular risk from ISIL remnants which continue to operate. It is imperative that any claim to be at enhanced risk for this reason is evaluated by reference to the area of return. A village mukhtar who returns to a part of the Formerly Contested Areas in which ISIL remains active might be at increased risk, whereas a comparable individual who returns to a part of the country with negligible remaining ISIL presence would not be. Given ISIL's current modus operandi, we consider that a current actual or perceived association with government or the security apparatus is more likely to enhance risk than a former association. ISIL's primary goal is**

to unsettle the existing apparatus, rather than to punish former association.

29. The guidance in *SMO 1* requires focus on two questions in cases such as this: (1) is the area in question one in which ISIL retains 'an active presence'?; and (2) does the individual have a 'current actual or perceived association' with government or the security apparatus? As was explained in the last sentence of [298], the currency of the actual or perceived association is important because *"ISIL's primary goal is to unsettle the existing apparatus, rather than to punish former association"*.

30. The parties in the hearing before me both spent some time addressing the first of those questions. The thrust of Ms Anzani's submissions was that the FtTJ had failed to take account of the extent of the risk posed by ISIL in the Kirkuk region, but as I read the FtTJ's judgment, the FtTJ has assumed or accepted this point in favour of the appellant by noting at [49] the guidance in *SMO 1* at [251] that Kirkuk was one of the core areas for ISIL's rebuilding efforts and then going on to address the second of the two *SMO 1* questions. I do not consider that the FtTJ erred in law in failing to engage in a more in-depth analysis of the first *SMO 1* question as the appellant now contends. Effectively, the appellant 'won' on the first *SMO 1* question and the FtTJ proceeded on the assumption that Kirkuk is an area in which ISIL retains an active presence. There was no error in that conclusion, notwithstanding Mr Clarke's submissions on this appeal and I note that there was no Rule 24 response challenging the FtTJ's approach to this aspect of the case.

31. The second *SMO 1* question was whether the appellant has a 'current actual or perceived association' with government or security apparatus. The Peshmerga are part of the security apparatus, as the FtTJ noted at [53]. The FtTJ did not identify the question in quite the terms I have, but in my judgment she answers that question in a rational and logical way at [53], at least so far as concerns whether the appellant was at risk by dint of his 7 to 8 days fighting with the Peshmerga. It was in my judgment open to the FtTJ to conclude that the appellant does not have a 'current actual or perceived association' with the Peshmerga as a result of having fought with them for 7 to 8 days in 2015. As a matter of fact, he does not have a current association with the Peshmerga, and his two years at home thereafter indicate he does not have a perceived association either.

32. That leaves the question of the Youtube video and what difference that makes. The FtTJ's factual findings about the video are at [34]. The FtTJ found that the video was *"circulated in 2015"* and that the appellant had remained safely at home for two years after the video was circulated. The appellant is right that the FtTJ has made no findings about the extent to which the video is still available or still being circulated and she does not address it at all when dealing with the risk to the appellant as a result of his involvement with the Peshmerga at [53]. However, the burden was on the appellant to adduce the necessary evidence in support of his case and the only evidence the appellant gave was that the video was 'on Youtube'.

From this, Ms Anzani in the grounds of appeal asserts that the video *"is therefore readily accessible to ISIS and others"*. I do not accept that follows. There are millions of videos on YouTube. Whether or not any particular video is likely to be seen by others in the future depends on whether and to what extent it has been circulated already, and how 'searchable' it is, for example whether it would appear if a search were made against the appellant's name or how far up the list of 'hits' it would come if someone searched for some relevant word such as "Peshmerga". In the absence of such evidence from the appellant, there is in my judgment no error of law in the FtTJ's conclusions. As a matter of fact, the FtTJ had concluded at [34] that the circulation of the video was something that had occurred in the past only. That was not a perverse conclusion in the light of the evidence, and the FtTJ's finding at [34] that the appellant had remained safely at home for two years despite the circulation of the video meant that there was no need for the FtTJ at [53] to revisit explicitly the question of risk posed to the appellant by the video. She had already dealt with it. In the absence of evidence from the appellant that the mere fact of the video still being available on YouTube gave rise to a current risk to him, the FtTJ did not have to deal with that possibility in the judgment. When [34] and [53] are read together, it is apparent that the FtTJ concluded that the appellant's association with the Peshmerga both as a result of his brief period of fighting and the video was in the past, and that having remained safely at home for two years after that, he was not perceived as having a current connection and thus did not fall within the category of persons identified in *SMO 1* as being at risk. There was no error of law in that conclusion.

33. As to Ground 2, which concerns the FtTJ's analysis of the risk to the appellant as a result of his *sur place* activities in setting up a Facebook account and posting anti-government material, the focus of the appellant's criticism of the judgment is the FtTJ's findings at [42] where she finds the appellant's evidence that he would want to open a Facebook page to post anti-government material when he is illiterate to be *"incredible"*. I have sympathy for the appellant's concerns about this paragraph for three reasons:- First, I agree that being illiterate is not itself a bar to using Facebook; even if the appellant is completely illiterate (and he may not be – the term 'illiterate' is often used where what is meant is that someone's literacy skills are limited rather than non-existent), social media is very image- and video-based and I accept Ms Anzani's submission that someone who is illiterate may still be able to interact with Facebook once they have had assistance setting up an account. Secondly, I agree that the FtTJ was wrong to say that the appellant had not provided any evidence of why he had arranged to set up the Facebook account because the appellant did deal with that evidence in his witness statement. Thirdly, I agree that when the FtTJ's finding that the appellant's evidence about the Facebook account is "incredible" is read in isolation, it is not wholly clear what the FtTJ is concluding: does she mean that she does not accept that the Facebook page has been set up at all (the reading that Mr Clarke urges me to adopt) or does she mean only that she doubts the genuineness of

the appellant's motivations in getting the Facebook account set up? However, in my judgment once the whole of [42] is considered, together with [51], it is clear that the FtTJ does accept that the Facebook account exists. This is because the FtTJ goes on in [42] to note that the appellant does not claim that the contents of the Facebook page have been seen by anyone who would hold it against him and at [51] the FtTJ finds that his Facebook posts *"are few in number and there is no evidence that they have come to the attention of the authorities or have drawn adverse inference"*. It is clear from this that the FtTJ accepts the Facebook account exists, but was 'just' doubting the appellant's motivations in setting it up. Further, I do not accept that the FtTJ has erred in recording that the appellant has not provided any evidence from the person who helped him as it is true that he had not. Nor do I accept that there was any procedural unfairness here because I agree with Mr Clarke that the challenge to the credibility of the appellant's Facebook posts and motivations appears to have been a submission made by the respondent at the hearing [24] so that the appellant did have an opportunity to answer it and if the appellant's representative considered the appellant had not had a fair opportunity to answer that in cross- examination, that should have been raised that at the time before the FtT.

34. Although I have above identified errors in the FtTJ's analysis of the evidence about the appellant's motivations in setting up the Facebook account, those errors are not in my judgment material errors because what mattered in the appellant's case was not why he set up the Facebook account, but whether he was at any risk as a result of having done so. On that latter issue, the judgment is unassailable: the FtTJ has made findings of fact that there is no evidence the appellant is at risk – that was correct, as the appellant provided no such evidence. In this hearing, Ms Anzani has argued that, if the Facebook account exists, it might be seen, and in particular it might be accessed by Iraqi officials as part of a redocumentation interview if the appellant goes through that as the CPIN indicates is likely. However, again, the burden was on the appellant to bring the evidence to make his case: there is no reason for the FtTJ to assume that because a Facebook account exists in the appellant's name containing anti-governmental material that there is any likelihood of it being viewed by anyone who might place the appellant at risk. There is no country guidance or information to that effect and the appellant brought no other evidence from which such a conclusion could be reached. Ground 2 therefore fails.

35. I should add for completeness that it follows from the above that I also reject Mr Clarke's submission that in this case the FtTJ found that the Facebook account was not genuine. However, I record that in principle there is in my judgment no reason why the guidance in *XX (PJAK – sur place activities – Facebook) Iran CG* [2022] UKUT 00023 (IAC) at [7]-[9] about social media accounts should not apply to all cases involving social media and that a judge could conclude in an appropriate case that a claimed social media account was not genuinely online at all.

36. I now turn to deal with Ground 3 concerning the FtTJ's analysis of the risk to the appellant arising from his atheism. The criticism here, as it is set out in Ms Anzani's Skeleton Argument, is not that there was a freestanding error of law in the FtTJ's analysis on this issue, but that the appellant's atheism needed to be taken into account alongside the other evidence of his having fought with the Peshmerga, with video evidence remaining online and his Facebook account containing open criticism of the authorities online. However, I do not consider there was any error of law in the FtTJ's approach to this issue. Contrary to the appellant's submission, the FtTJ did not limit herself to adopting the findings of FtTJ Row, but at [45] added further reasons as to why the appellant was not at risk. Further, this was not a case in which there was any need to add the risk posed by the appellant's atheism to the risk posed by dint of his Peshmerga activities, video and Facebook posts. On the evidence in this case, the whole could not be greater than the sum of its parts. Or, at any rate, it was not irrational for the FtTJ to conclude that it was not. The FtTJ states explicitly at [54] that she has *"looked at all the evidence in the round"* and there is no reason to doubt that she did.

37. Finally, I record that I also accept Mr Clarke's submission that the absence of any challenge to the FtTJ's conclusions that the appellant would be able to redocument himself and could if need be relocate within Iraq are further reasons why the appeal in this case cannot succeed. If those findings are correct, then each of the three grounds advanced by the appellant is not material to the overall outcome of the case.

Disposal

38. For all these reasons, I find that there is no error of law in the FtTJ's decision and I dismiss the appeal.

Notice of Decision

The decision of the First-tier Tribunal did not contain any errors of law and is not set aside. The appeal is dismissed.

The anonymity directions continue to apply.

Signed H Stout Date: 13 June 2023

Deputy Upper Tribunal Judge Stout