IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Case No: PA/01102/2019

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 28th March 2024

Before

UPPER TRIBUNAL JUDGE MANDALIA

Between

SNA
(NO ANONYMITY DIRECTION MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:
For the Appellant: Ms F Anthony, Counsel, instructed by JD Spicer Zeb Solicitors
For the Respondent: Ms R Arif, Senior Home Office Presenting Officer

Heard at Birmingham Civil Justice Centre on 7 September 2023

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

Background

1. The appellant is a national of Iraq. He arrived United Kingdom on 29 March 2018 and claimed asylum. His claim was refused by the respondent for reasons set out in a decision dated 24 January 2019. The respondent accepted the appellant is a national of Iraq and that he is of Kurdish ethnicity. The respondent did not however accept the core of the appellant's account of the events leading to his departure from Iraq and the risk upon return.

2. The appellant's appeal against that decision was dismissed by First-tier Tribunal Judge Howorth for reasons set out in a decision promulgated on 19 December 2019. On 31 January 2020, the appellant was granted permission to appeal to the Upper Tribunal. The decision of Judge Howorth was set aside for reasons set out in a decision of Upper Tribunal Judge Hanson promulgated on 24 May 2021. Judge Hanson concluded that the difficulty with the decision of Judge Howorth is that there is a finding that the appellant is at risk somewhere, but Judge Howorth does not clearly define with the required degree of clarity where that is. There was said to be an inadequate assessment of what parts of the IKR the appellant is able to return to. Upper Tribunal Judge Hanson said:

> "15. (i) The decision of the judge shall be set aside. The positive credibility findings in the appellant's favour shall be preserved findings as shall his identity, ethnicity, immigration history, and finding that he faces a real risk on return as a member of a PSG - victim of an honour crime in Iraq – the applicable Convention Reason."

3. Judge Hanson directed that the appeal should be listed before him for the decision to be remade in the Upper Tribunal. The appeal was listed for a further hearing before Judge Hanson on 24 August 2021. At that hearing, the Presenting Officer accepted the appellant cannot internally relocate to Baghdad and the issue in the appeal is whether the appellant can internally relocate elsewhere. Judge Hanson accepted that the appellant is at risk upon return to his home area of Koya Sanjaq in the Erbil province which is located approximately 73km or 45 miles distance to the east of Erbil city. At paragraph [22] of his decision Judge Hanson concluded that notwithstanding the evidence of SBA's brother being in the police force, past family Peshmerga membership, and the appellant's father's employment in the Ministry of Agriculture, the appellant has failed to establish that the power and reach of those individuals is such that the appellant will face a real risk of discovery and harm outside his own area. Upper Tribunal Judge Hanson said:

> "… Their power and/or influence within Iraq and the IKR has not been shown to be as the appellant alleges it to be."

4. Upper Tribunal Judge Hanson went on to consider whether relocation within the IKR away from the appellant's immediate home area is reasonable in all the circumstances. He referred to the appellant's evidence that if he is returned to Erbil, his friend is likely to be able to provide him with accommodation and support him, at least in the short-term. At paragraphs [34] and [35], he said:

> "34. In relation to the practicability of settling elsewhere, in his screening interview the appellant confirmed he had been educated to a higher level and had obtained a Diploma in Computing. The appellant stated he started the course in 2014 and traded in a shop he opened in 2010 of which he became the sole owner in 2013. The appellant stated he had run the business for approximately five years. The appellant therefore has experience in commerce and retail as well as a recognised qualification and it was not made out that he could not secure employment and generate the level of income that he will need to enable him to meet his reasonable costs of living, including accommodation if his friend was not able to assist him any longer.
>
> 35. As noted above, the burden of establishing that a place of relocation is unreasonable rests upon the appellant. Whilst it is understood in light of the findings of the First-tier Tribunal that the appellant may have a subjective belief that he faces a real risk on return and that he will not be able to safely relocate anywhere within Iraq, he has failed to establish, even to the lower standard applicable to an appeal of this nature, that this is the case. It may be difficult for him, and it may take time, but the evidence does not establish it is appropriate in the circumstances of this appeal for me to make a finding that internal relocation will be unreasonable in all the circumstances. It was not made out when all the circumstances of the case are considered holistically, including his personal circumstances in the context of the conditions in the place of relocation, that the impact on the appellant of settling in the IKR away from his home area is such that he will not be able to live a relatively normal life without undue hardship."

5. The appellant was granted permission to appeal to the Court of Appeal. In granting permission Lord Justice Phillips said:

> "It is arguable that the UT Judge erred in law and/or misdirected himself in holding that there was a reasonable internal relocation alternative such that the applicant was not entitled to refugee status. In particular, it is arguable that relocation to Erbil, only 45 miles from the applicant's home and within the same governate of the IKR, cannot on any basis (and notwithstanding the fact sensitive nature of the enquiry) be relocation to "another part" of the country (to use the language of Lord Bingham in *Januzi v Secretary of State for the Home Department* [2008] 2 A.C. 426 at [7]) where there is no risk of persecution."

6. The appeal to the Court of Appeal was allowed by consent. A Statement of Reasons was agreed by the parties which states *inter alia*:

> "9. The parties agree that this appeal should be allowed by consent and remitted to the Upper Tribunal, and that on remittal the Upper Tribunal will need to determine whether another location within the IKR provides a viable internal relocation option for the Appellant."

7. It is against that background that the appeal is listed for hearing before me to remake the decision.

The preserved Findings of Fact

8. In paragraph [15(i)] of his error of law decision, Judge Hanson said:

> "… The positive credibility findings in the appellant's favour shall be preserved findings as shall his identity, ethnicity, and findings that he faces

> a real risk on return as a member of a PSG - victim of an honour crime in Iraq – the applicable Convention Reason"

9. The 'positive credibility findings' made by FtT Judge Howarth are as follows:

> "24. The appellant's brother is a Policeman
>
> …
>
> 28. …the Appellant's account does have a ring of truth to it. It is,.. a largely consistent account and largely plausible with consideration of background evidence. Having considered the account to be a truthful account, I find that the Appellant does have a well-founded fear of persecution on the basis of his potential to be a victim of an honour killing.
>
> 29. In respect of sufficiency of protection I find that the police are unwilling to provide effective protection. This finding is in accordance with the CPIN cited at 2.4.2 which states the Kurdish authorities are able but unwilling to provide effective protection to those at risk of 'honour' crimes. This is likely to be exacerbated in the appellant's case, as [SBA's] brother is a policeman

The issue

10. The appellant has appealed under s82(1) of the Nationality, Immigration and Asylum Act 2002 against the decision of the respondent to refuse his claim for asylum and humanitarian protection. The appellant bears the burden of establishing his claim to the lower standard.

11. The issue before me, as identified in the Statement of Reasons attached to the consent order by which the appeal before the Court of Appeal was compromised, is whether there is another location within the IKR that provides a viable internal relocation option for the appellant.

12. The relevant country guidance is now set out in SMO & KSP (Civil status documentation; article 15) Iraq CG [2022] UKUT 00110 (IAC) ("SMO & Others II"). That country guidance bears on the question whether the appellant can live elsewhere in Iraq.

The hearing before me

13. I have been provided with a consolidated bundle of documents comprising of four parts. Part A comprises of 108 pages and includes the relevant decisions of the respondent, FtT, Upper Tribunal and the Court of Appeal. Part B comprises of 167 pages and includes the evidence relied upon by the appellant together with the documents relied upon by the respondent including a copy of the relevant interview records. Part C comprises of 39 pages of background material. Part D comprises of 104 pages and is the respondent's bundle that was previously before the FtT.

14. In reaching my decision I have had regard to all the evidence before me, whether or not it is referred to. The consolidated bundle provided to me includes two statements made by the appellant. The first is dated 12 November 2019 [Tab B/Page 1] and the second is dated 14 August 2023 [Tab B/page /9A]. Ms Anthony confirmed the only paragraph of relevance in the appellant's witness statement dated 12 November 2019, is

paragraph [37] in which the appellant states that he would be found wherever he goes in Iraq.

15. In his updating statement dated 14 August 2023, the appellant confirms he is now married to a Romanian national, who I will refer to as [MM]. They married on 8 April 2021, having met about a year before. The appellant states his partner is pregnant and due to give birth to their child in November 2023. He claims he has no contact with his family in Iraq and that he does not know their current whereabouts. He claims that he feels safe and secure in the UK and if he is forced to return to Iraq, his health will deteriorate. He maintains he has nowhere else to go in Iraq, and will not have any support. In addressing the risk upon return I have also had regard, in particular, to the expert evidence set out in the reports of Dr Peter Thorne and Dr Rebwar Fatah.

16. Although the appellant attended the hearing and an interpreter arranged by the Tribunal was present, Ms Anthony did not call the appellant to give evidence. I heard submissions from the representatives that are set out in my record of proceedings.

17. In summary, Ms Arif submits the sole issue in this appeal whether there is an area to which the appellant can internally relocate. She submits the appellant's evidence was that he lived with his family lived in Koye, a town and district in the Erbil Governorate and there is a preserved finding that the appellant will be at risk in his home area. The appellant would not however, she submits, be at risk up return throughout the IKR. Ms Arif submits that although his brother-in-law is a Police Officer, Judge Hanson said at paragraph [22] of his decision that his reach is not such that the appellant will face a real risk of discovery and harm outside his home area. He found the power and influence of the appellant's brother-in-law within Iraq and the IKR is not as he alleges it to be. She therefore maintains the appellant could relocate in Erbil City. The appellant had been able to live there for a short period prior to his departure from Iraq and he was he able to leave the IKR using his own passport and identity documents. He had, Ms Arif submits, also been able to live in Sulaymaniyah and he and SBA were only discovered there because of information provided by the appellant's family. Ms Arif submits that in any event, internal relocation to other areas such as Duhok (in the Duhok Governorate) or Kirkuk (in the Kirkuk Governorate) would not be unduly harsh. They are areas with large Kurdish communities. Ms Arif submits the appellant is a young male who is able to speak the Kurdish Sorani language. He was familiar with life in the IKR and has qualifications and experience of work as a trader.

18. In reply, Mr Anthony adopts the skeleton argument settled by her and dated 31 July 2023. She submits, the focus of the Tribunal, as agreed by the parties in the Statement of Reasons setting out the basis upon which the appeal before the Court of Appeal was compromised, is whether there is another location within the IKR that provides a viable relocation option for the appellant. Ms Anthony submits the consideration must be limited to internal relocation to an area 'within the IKR' and I should reject the submission that the appellant could relocate to 'Kirkuk', which is not in the IKR. The possibility of internal relocation to Kirkuk, Ms Anthony submits, is

raised for the first time in the submissions made by Ms Arif and the appellant has not been afforded any opportunity to address such a claim and provide evidence as to whether internal relocation to Kirkuk would be unduly harsh. Ms Anthony submits that in the respondent's decision, the respondent simply states, "it is not considered to be unreasonable to expect you to return to the IKR or Baghdad". Ms Anthony submits relocation within the Erbil Governorate cannot amount to 'internal relocation'. That is the area in which the appellant has been found to be at risk upon return.

19. Ms Anthony refers to the decision of the Upper Tribunal in *MB (Internal relocation – burden of proof) Albania* [2019] UKUT 00392 (IAC):

> "The burden of proof remains on the appellant, where the respondent has identified the location to which it is asserted they could relocate, to prove why that location would be unduly harsh, in line with AMM and others (conflict; humanitarian crisis; returnees; FGM) Somalia CG [2011] UKUT 445 (IAC), but within that burden, the evaluation exercise should be holistic. An holistic approach to such an assessment is consistent with the balance-sheet approach endorsed later in SSHD v SC (Jamaica) [2017] EWCA Civ 2112, at paragraphs [40] and [41]. MM v Minister for Justice, Equality and Law Reform, Ireland (Common European Asylum System – Directive 2004/83/EC) Case C-277/11 does not impose a burden on the respondent or result in a formal sharing of the burden of proof, but merely confirms a duty of cooperation at the stage of assessment, for example the production of the country information reports."

20. She submits it is for the respondent to identify the proposed area of location and to provide evidence that it is a reasonable alternative. She submits the appellant cannot return to Erbil City. The appellant's home area of Koya Sanjay is 45 miles away and relocation in the same governorate, such a short distance away cannot be conceptualised as 'internal relocation' to 'another part' of the same country. Furthermore, the respondent accepts in her CPIN; Iraq: 'Honour' crimes Version 2 published in March 2021, at [2.5.6] that the authorities in Iraq and the IKR cannot be considered as willing and able to provide effective protection to those at risk from 'honour' crimes. Similarly, Ms Anthony submits Sulaymaniyah was an area where the appellant had previously lived for a short period with his wife and that is where they were discovered by her family. She submits internal relocation to Dohuk is also not possible because the CPIN; Iraq: Actors of protection published in December 2020 confirms, at [5.3.1], that the municipal police remain politically divided along party lines. Police forces in the Dohuk and Erbil governorates which are KDP dominated, report to the Ministry of Interior, and have a General Directorate in charge of each governorate, with district and sub-districts police stations.

21. Ms Anthony submits the respondent acknowledges that the authorities in Iraq and the IKR cannot be considered as willing and able to provide effective protection to those at risk from 'honour' crimes, and as such, the appellant cannot internally relocate within the IKR. Ms Anthony refers to the report of Dr Fatah who states, at paragraphs [194] and [195] of his report that it may be relatively easy for somebody to be located in the IKR,

if they are being sought. It would be easier still, if the person seeking has political or tribal connections which increase their reach and influence. Dr Fatah considers it plausible that if they have political connections or influence, either the appellant's family or SBA's family would be able to use those to attempt to locate and pursue the appellant with impunity. Ms Anthony submits there is a preserved finding that SBA's brother is a policeman, and given the profiles of the individuals concerned it is likely that their reach extends throughout the IKR.

22. Finally, Ms Anthony submits that in paragraph [204] of his report Dr Fatah states that relocation in the absence of family support would make finding employment, accommodation and integrating difficult. He states that if the appellant is not able to rely on his family on return, he may be vulnerable to destitution. Ms Anthony did not seek to draw my attention to anything in particular that is said in the country guidance decision of *SMO & Others II*. She accepts there is no issue regarding identity documents in this appeal since the appellant is in possession of his CSID and is likely to be able to access the proposed relocation area within the IKR. However, she submits that in all the circumstances the appellant is unable to internally relocate within the IKR, and the appeal should be allowed.

Decision

23. In reaching my decision I have considered all of the evidence presented to me, whether I refer to it specifically in these findings and conclusions or not. I have also had regard to the submissions made by the representatives both in writing and orally before me although I do not consider it necessary to address everything that is said. I have had in mind throughout, the preserved findings that are set out at paragraph [9]. The appellant has a well-founded fear of persecution on the basis of his potential to be a victim of an honour killing. There are preserved findings that the appellant's brother and SBA's' brother are policemen.

24. In paragraph [22] of his decision promulgated on 6 October 2021, Judge Hanson concluded that notwithstanding the evidence of SBA's brother being in the police force, past family Peshmerga membership, and the appellant's father's employment in the Ministry of Agriculture, the appellant has failed to establish that the power and reach of those individuals is such that the appellant will face a real risk of discovery and harm outside his home area. Judge Hanson said:

> "… Their power and/or influence within Iraq and the IKR has not been shown to be as the appellant alleges it to be."

25. The appellant did not give evidence before me and that finding and conclusion is undisturbed by the appeal to the Court of Appeal and what is said in the agreed Statement of Reasons. At paragraphs [6] and [9] of the Statement of Reasons, it is recorded that:

> "6. By a decision promulgated on 6 October 2021 UTJ Hanson dismissed the appeal, deciding that the appellant could internally relocate to Erbil City where he would be safe…
>
> …

> 9. The parties agree that this appeal should be allowed by consent and remitted to the Upper Tribunal, and that on remittal the Upper Tribunal will need to determine whether another location within the IKR provides a viable internal relocation option for the Appellant."

26. The finding that the power and/or influence of those that the appellant fears, including his own family and that of SBA within Iraq and the IKR has not been shown to be as the appellant alleges it to be. That impacts upon the opinions expressed by Dr Fatah. His evidence is that the IKR has a small population and society that is relatively collectivist, and that it may be relatively easy for somebody to be located in the IKR. That however must be read in the context of the finding made by Judge Hanson as to the reach and influence of those the appellant fears. His evidence is it would be easier still if the person "seeking" has political or tribal connections which increase their reach and influence. The appellant's claim that the people he fears have political connections or influence has been rejected.

27. It is uncontroversial that the appellant cannot return to his home area in Koya (also referred to as Koye or Koy Sanjaq). It is common ground between the parties that he sole issue in this appeal is whether there is an area to which the appellant can internally relocate. They disagree as to whether my consideration should be limited to internal relocation within the IKR as Ms Anthony submits, or whether I should consider relocation within Iraq more generally, including areas where there are large Kurdish populations such as Kirkuk, as Ms Arif submits.

28. In the respondent's decision dated 24 January 2019, the respondent said, at [109], that it is reasonable for the appellant "to return to the IKR or Baghdad". Ms Anthony submits that on remittal from the Court of Appeal, the parties agreed that the Upper Tribunal will need to determine whether another location 'within the IKR' provides a viable internal relocation option. The appellant has prepared for the hearing before the Upper Tribunal on that premise and it would be unfair for the Tribunal to now consider internal relocation within Iraq more widely, including to Kirkuk as submitted by Ms Arif. Ms Anthony submits that relocation to Kirkuk did not feature in the respondent's decision and was raised for the first time in submissions made by Ms Arif. If that was a possibility to be considered by the Tribunal, the appellant may have wished to call evidence addressing that.

29. The case to be met by the appellant is set out in the respondent's decision and the respondent referred to return to the IKR or Baghdad. Although the appellant's representatives should have properly prepared for the hearing on the basis that in a claim for international protection where the appellant is at risk upon return in their home area, the Tribunal is bound to consider whether there is another part of the country in which they can relocate, I am just persuaded that I should limit my consideration to whether another location within the IKR provides a viable internal relocation option, as agreed between the parties and recorded on the Statement or Reasons put before the Court of Appeal. I accept the appellant has prepared for this appeal on the basis that I would be considering internal relocation within the IKR and that it would be unfair to expand my consideration to relocation to other areas within Iraq more

generally. I have not therefore considered whether the appellant could relocate to Kirkuk as submitted by Ms Arif.

30. The House of Lords gave guidance as to the test to be applied in *Januzi v Home Secretary* [2006] UKHL 5, [2006] 2 AC 426. Lord Bingham, with whom the other members of the House agreed, said at paragraph 21:

> "The decision-maker, taking account of all relevant circumstances pertaining to the claimant and his country of origin, must decide whether it is reasonable to expect the claimant to relocate or whether it would be unduly harsh to expect him to do so."

31. The burden of proof remains on the appellant to prove why internal relocation within the IKR would be unduly harsh; *see MB (Internal relocation – burden of proof) Albania* [2019] UKUT 00392 (IAC).

32. The IKR comprises of three governorates; Erbil Governorate, Sulaymaniyah Governorate and the Dohuk Governorate. The respondent's CPIN; Actors of protection, version 1 states:

> "Kurdistan Region of Iraq (KRI) structure and governance
>
> 7.2.1 The guidance note published by EASO in June 2019 stated: 'The KRI is governed by the autonomous KRG under the Iraqi Constitution. The KRG is responsible for the governorates of Erbil, Sulaymaniyah, and Dahuk. The KRI is the only constitutionally recognised autonomous region. The Constitution permits the KRG to have their own executive, legislative and judicial powers, aside from those exclusive to the federal government. They are allocated an equitable share of national revenues, and are permitted to establish and organise their own internal security forces, such as police.'"

33. The appellant emanates from Koya, a town and district in the Erbil Governorate, where he lived with his family. That is also the governorate in which SBA's family lived. Although Judge Hanson found that the families' power and/or influence within Iraq and the IKR has not been shown to be as the appellant alleges it to be, I accept internal relocation within the Erbil governorate is not a viable option for the appellant. I accept, as Ms Anthony submits that internal relocation to Erbil City which is some 45 miles and within the same governorate is not in reality, a viable option.

34. Ms Anthony submits the respondent's CPIN; Iraq: 'Honour' crimes, version 2, provides, at [2.5.6] that the authorities in Iraq and the IKR cannot be considered as willing and able to provide effective protection to those at risk from 'honour' crimes, and thus there is, in effect, no-where within the IKR that is a viable alternative. That CPIN however, goes on to say:

> "2.6 Internal relocation
>
> 2.6.1 A person who has a well-founded fear of an 'honour' crime may be able to relocate to escape the risk. Decision makers must assess each case on its merits, in particular the power/reach of the agent of persecution, given that some tribes are powerful and influential within Iraq and the IKR.
>
> 2.6.2 Decision makers must give careful consideration to the relevance and reasonableness of internal relocation, particularly for a single woman taking

full account of the individual circumstances of the particular person. Each case must be considered on its merits."

35. It is therefore appropriate to consider whether internal relocation to one of the other two remaining governorates is viable. The CPIN; Iraq: Actors of protection, version 1 confirms at [5.3.1]:

> 'Municipal police are responsible for traditional civil and traffic enforcement, environmental policing, immigration enforcement, and facilities protection roles. Municipal police forces are responsible for routine policing, patrols, first response and investigation to minor felonies although they have a range of administrative functions. Emergency police handle major felonies.
>
> 'According to a research paper on the KRG security forces published in 2009, the municipal police remain politically divided along party lines...."

36. As far as is material to this appeal, in *SMO II,* the Upper Tribunal provided the following guidance:

> "*Kurds*
>
> *27. For an Iraqi national returnee (P) of Kurdish origin in possession of a valid CSID or Iraqi National Identity Card (INID), the journey from Baghdad to the IKR by land is affordable and practical and can be made without a real risk of P suffering persecution, serious harm, or Article 3 ill treatment nor would any difficulties on the journey make relocation unduly harsh.*
>
> *28. P is unable to board a domestic flight between Baghdad and the IKR without either a CSID, an INID or a valid passport. If P has one of those documents, the journey from Baghdad to the IKR by air is affordable and practical and can be made without a real risk of P suffering persecution, serious harm, or Article 3 ill treatment nor would any difficulties on the journey make relocation unduly harsh.*
>
> *...*
>
> *30. Once at the IKR border (land or air) P would normally be granted entry to the territory. Subject to security screening, and registering presence with the local mukhtar, P would be permitted to enter and reside in the IKR with no further legal impediments or requirements. There are no sponsorship requirements for entry or residence in any of the three IKR Governorates for Kurds.*
>
> *31. Whether P would be at particular risk of ill-treatment during the security screening process must be assessed on a case-by-case basis. Additional factors that may increase risk include: (i) coming from a family with a known association with ISIL, (ii) coming from an area associated with ISIL and (iii) being a single male of fighting age. P is likely to be able to evidence the fact of recent arrival from the UK, which would dispel any suggestion of having arrived directly from ISIL territory.*
>
> *32. If P has family members living in the IKR cultural norms would require that family to accommodate P. In such circumstances P would, in general, have sufficient assistance from the family so as to lead a 'relatively normal life', which would not be unduly harsh. It is nevertheless important for decision-makers to determine the extent of any assistance likely to be provided by P's family on a case by case basis.*

33. For Kurds without the assistance of family in the IKR the accommodation options are limited:

(i) Absent special circumstances it is not reasonably likely that P will be able to gain access to one of the refugee camps in the IKR; these camps are already extremely overcrowded and are closed to newcomers. 64% of IDPs are accommodated in private settings with the vast majority living with family members;

(ii) If P cannot live with a family member, apartments in a modern block in a new neighbourhood are available for rent at a cost of between $300 and $400 per month;

(iii) P could resort to a 'critical shelter arrangement', living in an unfinished or abandoned structure, makeshift shelter, tent, mosque, church or squatting in a government building. It would be unduly harsh to require P to relocate to the IKR if P will live in a critical housing shelter without access to basic necessities such as food, clean water and clothing;

(iv) In considering whether P would be able to access basic necessities, account must be taken of the fact that failed asylum seekers are entitled to apply for a grant under the Voluntary Returns Scheme, which could give P access to £1500. Consideration should also be given to whether P can obtain financial support from other sources such as (a) employment, (b) remittances from relatives abroad, (c) the availability of ad hoc charity or by being able to access PDS rations.

34. Whether P is able to secure employment must be assessed on a case-by-case basis taking the following matters into account:

(i) Gender. Lone women are very unlikely to be able to secure legitimate employment;

(ii) The unemployment rate for Iraqi IDPs living in the IKR is 70%;

(iii) P cannot work without a CSID or INID;

(iv) Patronage and nepotism continue to be important factors in securing employment. A returnee with family connections to the region will have a significant advantage in that he would ordinarily be able to call upon those contacts to make introductions to prospective employers and to vouch for him;

(v) Skills, education and experience. Unskilled workers are at the greatest disadvantage, with the decline in the construction industry reducing the number of labouring jobs available;

(vi) If P is from an area with a marked association with ISIL, that may deter prospective employers.

37. In his report, Dr Fatah refers to the prevalence of honour killings in Iraqi Kurdish society, and he states there is widespread evidence that women are killed due to their being perceived to have dishonoured their family. At paragraph [198] of his report he states the evidence for 'male victimhood' is less well-founded, although that may be due to issues in collecting data, or the fact that men are more mobile and may be able to escape potential honour killings more easily. He states the prevalence of men being targeted in honour crimes is to a lesser extent than women. There is a

preserved finding that the appellant faces a real risk on return, and I have borne that risk in mind throughout.

38. In his report, Dr Fatah addresses internal relocation and confirms the appellant is from the IKR and that in order to relocate, he would need to be in possession of his documentation. He confirms, at [209], that as a Kurd from the IKR, the appellant would not face logistical obstacles on relocation to the IKR. The appellant is in possession of his CSID and therefore as the Upper Tribunal said in *SMO II,* once at the IKR border (land or air) the appellant would normally be granted entry to the territory and subject to security screening and registering presence with the local mukhtar, he would be permitted to enter and reside in the IKR with no further legal impediments or requirements. There are no sponsorship requirements for entry or residence in any of the three IKR Governorates for Kurds. The appellant does not come from a family with known association with ISIL, and neither is he from an area associated with ISIL. He is a single male of fighting age, but will be able to evidence the fact of recent arrival from the UK, which would dispel any suggestion of having arrived directly from ISIL territory. He would not therefore, I find, be at risk upon return during the security screening process.

39. Dr Fatah states that the appellant may face obstacles if he is relocating to an area where he is not able to rely on a family support network. He states relocation in the absence of family support would make finding employment, accommodation and integrating difficult, and the appellant may be vulnerable to destitution.

40. An updated psychological report has been prepared by Mr Peter Thorne, a Consultant Clinical Psychologist. The report is dated 3 August 2021 and follows a further examination of the appellant, via video-link on 7 July 2021. The previous report prepared by Mr Thorne followed an examination of the appellant at the offices of his representatives on 19 September 2019, with the assistance of an interpreter.

41. In the first report of Mr Thorne, the appellant was diagnosed as meeting the criteria for a diagnosis of major depressive disorder to a moderate degree of severity. Mr Thorne also expressed the opinion that the appellant presented with chronic symptoms of PTSD and fulfils formal criteria for the disorder. He believed the condition was present to a moderate degree of severity and the appellant has secondary moderate depression as a result of past traumatic experiences, ongoing fear, and a lack of hope for the future. Mr Thorne believed achieving stabilisation will be unlikely without securing legal immigration status. Mr Thorne stated the appellant had admitted to suicidal ideas at times when he is particularly depressed. He expected the appellant's PTSD and symptoms of depression to worsen on arrival in Iraq.

42. In his updated report Mr Thorne expresses the opinion that the appellant continues to meet formal criteria for a diagnosis of major depressive disorder, present to a mild to moderate degree of severity. He also expresses the opinion that the appellant continues to present with chronic symptoms of PTSD at a mild-to-moderate degree of severity, with secondary depression because of past traumatic experiences. Mr Thorne

states the treatment he previously recommended still applies and that the appellant has not received any counselling for his mental health problems. Mr Thorne states the appellant has not been treated with appropriate medication. He does not expect the appellant's psychological difficulties to resolve easily because of the complexity of survivor guilt arising from his wife's killing. As far as the risk of self-harm or suicide is concerned, Mr Thorne reports that although the appellant reported intrusive suicidal ideas in 2019, the appellant is now of the view that he must live to honour his wife's death. Mr Thorne maintains the appellant's mental health would be under severe strain if he is returned to Iraq and he is likely to experience the negative consequences of extreme stress.

43. Dr Fatah addresses the provision of mental healthcare within the IKR in section 8 of his report, drawing in part upon the respondent's CPIN; Iraq: Medical and healthcare provision, published in January 2021. He refers to the general deterioration of Iraq's healthcare system and states that mental healthcare in Iraq is hindered by a lack of professional training, stigma's around sufferers of mental illnesses and a sever lack of capacity. As far as the provision of mental health care in the IKR is concerned, Dr Fatah states, at [398] that there are only four government mental-health hospitals – one each in Erbil and Duhok, and two in Sulaymaniyah. He states the majority of the burden of mental healthcare falls on NGO's such as MSF.

44. The appellant previously lived in Sulaymaniyah for a short period with SBA. That is where SBA was discovered by her family. The appellant's evidence is that SBA's family had found out about their presence in Sulaymaniyah from his family. The appellant had confided in his brother who he believed would keep it a secret as he trusted him. The appellant's evidence is that his father had told SBA's family about his whereabouts. The appellant's evidence establishes, and I find, that neither his family nor the family of SBA were able to establish the appellant's whereabouts through any connections or influence they had over state actors in that governorate. That is entirely consistent with the finding previously made by Judge Hanson. Furthermore, the background material establishes that the Dohuk and Erbil governorates are KDP dominated whereas police in the PUK area around Sulaymaniyah have stations distributed throughout the governorate. SBA's brother had been unable to identify the whereabouts of his sister despite her having left Erbil with the appellant through any connections via his work as a policeman in a PUK area.

45. The appellant claims that he has no contact with his family and is not aware of their current whereabouts. If that is correct, they will not be aware of his return to Sulaymaniyah. He will be unable to tell any of his family, including his brother, of his return to that governorate. They will not therefore, I find, be able to locate him in Sulaymaniyah as SBA's family did previously. There is no evidence before me of the appellant being of any interest to the authorities in Sulaymaniyah because of the events of the past. On his own case, it was as he was returning home in Sulaymaniyah that he saw 'police around the house'. He did not return to the house but got in a taxi and made his way to Erbil.

46. Equally, I find the appellant would not be at risk upon return to the Duhok governorate. Although that governorate is, like the Erbil governorate a KDP dominated area, neither the appellant's family nor the family of SBA have any political or tribal connections with Dohuk that will increase their reach and influence. The appellant has no known connections to Duhok and there is no evidence before me that the appellant is of any interest to the authorities in Dohuk.

47. I accept that the appellant will not have any family support in either Sulaymaniyah or Dohuk. I accept the appellant is not reasonably likely to be able to gain access to one of the refugee camps in the IKR that are already extremely overcrowded and are closed to newcomers. There are however apartments available for rent at a cost of between $300 and $400 per month and the appellant's evidence is that he had a friend in Sulaymaniyah that owned a property and the property was made available to the appellant and SBA. The appellant would not be at risk from that friend. In fact, it was the appellant's friend in Sulaymaniyah that the appellant claims told him of the death of SBA and that the appellant should 'run and get away'. The appellant is not a complete stranger to Sulaymaniyah and has at least one person there that had been prepared to help him in the past and I find, would do so again, if the appellant returned to Sulaymaniyah.

48. The appellant moved away from Erbil where he had traded as a shopkeeper for several years. The appellant and SBA plainly believed that they would be able to establish a life together in Sulaymaniyah without the support of their family. In interview, the appellant claimed *(Q.122)* that he and SBA lived together in a house next door to his friends house. The appellant was plainly able to secure accommodation in Sulaymaniyah and will, I find, have genuinely believed and anticipated that he would be able to support himself and SBA by finding suitable employment using the qualifications, skills and experience he has. The appellant may be entitled to apply for a grant under the Voluntary Returns Scheme, that would provide him with some assistance in the short term but more importantly in my judgment, the appellant has demonstrated himself to be a young and resourceful individual, that displayed entrepreneurial skills previously when he lived in Iraq. He had been educated to a higher level and obtained a Diploma in Computing. He traded as a shopkeeper. He has qualifications, skills and experience that he will be able to use to his advantage.

49. In any event, the appellant has adduced no evidence other than his simple assertion that none of the governorates in the IKR are safe, of why it would be unduly harsh to relocate to the two other governorates away from Erbil. Sulaymaniyah in particular is not dominated by the KDP, and is a governorate that the appellant confidently felt able to relocate to with SBA previously going against the wishes of his and SBA's family.

50. Standing back and considering the wide canvas of evidence before me holistically, including the evidence regarding the appellant's mental health and the evidence of mental healthcare available as set out in the report of Dr Fatah, and having regard to the relevant country guidance set out in

SMO & Others II, although I accept that the circumstances of relocation to the Sulaymaniyah and Duhok governorates in the IKR may be challenging for the appellant in terms of healthcare, employment and housing, I do not accept the appellant would be destitute. Taking into account his own specific personal characteristics, as a young man, with an insight into how society operates in the IKR in particular, the appellant has qualifications skills and experience from his previous work as a shopkeeper. I find there is a likelihood that avenues of employment will be available to him.

51. The appellant has not discharged the burden on him to demonstrate, even to the lower standard, that it would be unduly harsh or unreasonable for him to relocate to one of the two other governates in the IKR where I find he would not be at risk of harm and would be able to re-establish himself. It follows that I dismiss his appeal on asylum and humanitarian protection grounds.

52. As far as any Article 8 claim is concerned, the appellant claims in his most recent witness statement that on 8 April 2021, he married a Romanian national, MM. I have been provided with a copy of what is said to be a marriage certificate. It is in fact a document issued by the 'Masjid Tawfiq', at 116 Broad Street, Coventry and is not a document that establishes a marriage recognised by English Law between the appellant and his partner. I have also been provided with copies of scans and a letter dated 13 July 2021 addressed to MM confirming she has been granted indefinite leave to remain in the United Kingdom under the EU Settlement Scheme. I have no other evidence before me of the appellant's relationship with MM or their living arrangements. There is no supporting evidence from the appellant's partner. In the absence of any evidence regarding that relationship apart from the appellant's vague reference to that relationship, I am not prepared to accept the appellant has established a 'Family life' in the UK for the purposes of Article 8. Even if I had been satisfied that the appellant has established a family life for the purposes of Article 8, there is no evidence before me whatsoever that could properly lead to a conclusion that the appellant's removal would be disproportionate to the legitimate aim of immigration control, taking into account the relevant public interest considerations set out in s117B of the Nationality, Immigration and Asylum Act 2002.

53. I therefore find that on the very limited information before me the Article 8 claim must fail.

Notice of Decision

54. The appellant's appeal is dismissed on asylum, humanitarian protection and ECHR grounds.

V. Mandalia
Upper Tribunal Judge Mandalia

Judge of the Upper Tribunal
Immigration and Asylum Chamber **29 February 2024**