IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-001548

First-tier Tribunal No: PA/50446/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

23rd January 2024

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

HALAT JAMAL
(no anonymity order requested or made)

Appellant

and

Secretary of State for the Home Department

Respondent

For the Appellant: Mr T Jebb, Barrister, instructed by James Strawbridge, Solicitors
For the Respondent: Mrs R Arif, Senior Home Office Presenting Officer

Heard at Belfast on 17 January 2024

DECISION AND REASONS

1. FtT Judge Rea dismissed the appellant's appeal by a decision dated 28 December 2021.

2. The appellant applied for permission to appeal to the UT. His grounds say at [1] that the "principal error is … a perverse or irrational finding with regards to the viability of internal relocation in the IKR" *[Independent Kurdish Region]* at [31]. The point is developed in detail from [2] to [8]. At [9] the appellant submits that but for the error the decision would have been in his favour. He asks for the outcome to be reversed, or alternatively for the case to be remitted to the FtT.

3. FtT Judge Galloway granted permission on 3 March 2022: …

> 2. The grounds assert that the Judge erred in law by determining that the appellant would be able to relocate within the IKR. The grounds of appeal refer to [25], where the judge states: "while there exists some risk to the appellant the evidence suggests that it is not so great as in some other cases". The appellant argues that this finding is perverse and amounts to an error of law. Further, [that] the judge is not entitled to conclude that the Appellant can return

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> to the IKR where the judge has found that he is at risk and where the judge has accepted there is insufficiency of protection.
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> 3. I have read the content of [25] within the context of [21-25] and the judgment as a whole. Whilst the judge finds that there is some risk to the appellant on return, there is no clear finding or determination on the question of whether there is a real or well-founded risk of persecution on return in line with the Refugee Convention. This arguably amounts to an error of law.
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> 4. … permission for appeal is … granted on all grounds.

4. There is no rule 24 response on file from the respondent.

5. On 16 January 2024 the appellant's solicitors advised that he does not seek to rely on any skeleton argument, being "content that the grounds … contain the legal basis on which the matter can be heard".

6. Mr Jebb suggested that if the finding at [25] was of anything less than a real risk, that was contrary to the evidence and to the Judge's preceding discussion of it. He did not accept that there was a scale of risk of this nature. Even if the case was at the lower end of "family dishonour", that did not lessen the nature of the retribution which might be taken. Even if there was a scale, this case showed at least a real risk of persecution.

7. The Judge found for the appellant on sufficiency of protection. However, Mr Jebb accepted that if the Judge was right about internal relocation, any issue of lack of clarity in the finding of risk fell away. The internal relocation finding was the real target of the grounds. As set out there, the evidence, properly analysed, should have been found to exclude that alternative, and the appeal should have been allowed. Alternatively, the case should be remitted, with the favourable and unchallenged credibility findings preserved.

8. Mrs Arif did not seek to raise any challenge to the findings favourable to the appellant on credibility and on sufficiency of protection. She argued that the finding on the level of risk was that for the reasons explained at [22 -24], taking account of the expert evidence, the SSHD's Country Policy and Information Note (CPIN), and the appellant's evidence, that did not rise to the level of a real risk of persecution.

9. In any event, Mrs Arif submitted, the crux of the case was internal relocation, and the grounds were only insistence on the case put and disagreement with its resolution by the FtT, which was clearly explained and not affected by any error on a point of law.

10. Mr Jebb in response said that the FtT erred on 2 essential points on internal relocation – the appellant would be unable to live "a relatively normal life", on which the grounds were more than disagreement, because he would have to live in hiding, as he did for a time before his flight; and lack of engagement with the expert report on being tracked by his persecutors.

11. I reserved my decision.

12. The grant of permission appears to have been based on a misunderstanding of the grounds. The grounds (of which Mr Jebb was not the author) are perhaps not as clear on this aspect as they might have been, but the principal challenge was not that the finding on *risk* was perverse, or even unclear, but that the finding on

internal relocation was perverse. However, that is now beside the point. Both matters fall to be resolved.

13. The finding at [25] of “some risk” but “not so great as in some other cases” leaves a doubt. The appellant interprets this as a real risk in the home area, leading to internal relocation being crucial. The respondent interprets it as a finding of less than a real risk, which would leave internal relocation as an alternative only.

14. Reading the decision as a whole, I take the view that the Judge thought the risk in the home area was real, and the next question arising was whether it was at a level which extended elsewhere, which would exclude relocation.

15. It is unfortunate that the finding was not more clearly framed, but that matters not, because the crux was internal relocation.

16. On that matter, I agree with the respondent that the grounds, although they press the case again for the appellant as strongly as it can be made, are only insistence and disagreement.

17. If the appellant is not at risk of being tracked, there is no need for him to live “in hiding”.

18. The emphasis on the expert’s “unopposed view” glosses over the qualification that the appellant is likely to be tracked if he resumes his romantic relationship; which would obviously make family tracing more likely, but without which, internal relocation is not impeded.

19. There was also criticism of the Judge finding that the appellant could obtain employment, but that is what he said in evidence. There is no trace of a submission that the Judge should find to the contrary. This point goes nowhere.

20. There was passing discussion from both sides of whether evolving country guidance and background evidence on difficulties over identification might be relevant, if the decision came to be remade. The appellant said at interview that his family members in Iraq had his identity documents and he has been found to be in contact with them, so this line did not seem likely to be to his benefit. However, that does not bear on the conclusion that the FtT did not err in point of law.

21. The appeal to the UT is dismissed. The decision of the FtT stands.

Hugh Macleman

Judge of the Upper Tribunal
Immigration and Asylum Chamber
17 January 2024