



29 January 2014

## PRESS SUMMARY

**I.A. (Appellant) v The Secretary of State for the Home Department (Respondent) (Scotland)**  
**[2014] UKSC 6**  
*On appeal from [2011] CSIH 28*

**JUSTICES:** Lady Hale (Deputy President), Lord Kerr, Lord Wilson, Lord Hughes, Lord Hodge

### BACKGROUND TO THE APPEAL

The issue in this appeal is the weight to be accorded to an earlier grant of refugee status by the United Nations High Commission for Refugees (UNHCR) to a claimant who applies for asylum to the United Kingdom.

The appellant, referred to as IA, is an Iranian national, born in 1976. He left Iran for Iraq when he was 16 and in 1998 applied for and was granted recognition as a refugee to the UNHCR in Iraqi Kurdistan on the basis that he feared persecution as a member of the Kurdistan Democratic Party of Iran (KDPI). He left Iraq for Turkey in May 2002, presented himself to the UNHCR there and was again recognised as a refugee. No action was taken to send him to a safe country and 3 years later he left Turkey, travelled to the United Kingdom and applied for asylum.

The respondent, the Secretary of State for the Home Department, refused his application on 27 September 2007 and on 5 November 2008. IA's account was found not to be credible, partly because important matters which he referred to in his asylum interview had not been included in his original statement, and because of the circumstances in which he produced documents supporting his case after the first refusal. There was also a discrepancy between his account of working with Mr Armandzadeh for the KDPI and that given on his behalf by Mr Armandzadeh.

IA's appeal to Immigration Judge Agnew was dismissed. She took the grant of refugee status to IA by the UNHCR as a starting point and as significant, despite the lack of evidence as to the basis and procedures for its grant, and held that clear and substantial grounds were needed to come to a different conclusion. She found those grounds to exist. IA had not established that he was involved with the KDPI or that the Iranian authorities would have any interest in him. IA's appeal to the Extra Division of the Court of Session was also dismissed.

IA appealed to the Supreme Court. Before this appeal, the UNHCR disclosed documents relating to the grant of refugee status to him. It supported the consistency of IA's case on a number of points.

### JUDGMENT

The Supreme Court unanimously dismisses the appeal. It holds that the national decision maker must pay close attention to a UNHCR grant of refugee status and considerably pause before arriving at a different conclusion, but that the immigration judge had been entitled to reject IA's appeal in this case. It will be open to IA to submit a fresh claim to the Secretary of State based on the new material from the UNHCR. Lord Kerr, with whom the other justices agree, gives the only judgment.

## REASONS FOR THE JUDGMENT

The UNHCR has a supervisory responsibility in relation to the 1951 Convention relating to the Status of Refugees. State parties to the Convention are obliged to cooperate with UNHCR in the exercise of its functions but its decisions as to refugee status are not binding on state parties, who have an independent autonomous responsibility under the Convention to determine a person's refugee status on asylum applications [28-29].

The accumulated and unrivalled expertise of the UNHCR and its experience and promotion of procedures of high standard and consistent decision-making in the field of refugee status determinations must invest its decisions with considerable authority [44]. The issue was how to translate that respect into a tangible impact on decision-making by national authorities; in particular, how to resolve matters relating to the credibility of the asylum applicant. The approach proposed by the UNHCR, who intervened in the appeal, was sensible: a UNHCR determination could be disregarded where reliable information was available to the decision maker which called the credibility of the applicant's claim into significant question. The information should be from a source other than the applicant's own account, unless his story was so riddled with inconsistency and implausibility as to render it unbelievable [46].

It was difficult to fit the fact of the UNHCR decision into the model of determination of a claim to asylum and its influence had therefore to be expressed in general and consequently imprecise terms [47]. This fact must not be allowed to detract from the influence that it wields. Considerations of comity, legal diplomacy and the need for consistency of approach in international protection of refugees required this. A UNHCR decision would generally have been taken at a more proximate time to the circumstances which caused the claim to be made and with first-hand knowledge and insight into those conditions [48]. All these factors required of the national decision maker close attention to the UNHCR decision and considerable pause before arriving at a different conclusion. It was not a presumption, nor did it shift the burden of proof, but substantial countervailing reasons were required to justify a different conclusion [49].

In IA's case, it was clear that the Immigration Judge conducted a careful analysis of the material which led her not to follow the UNHCR's determination. There was external evidence which called into question the credibility of IA's account, which entitled her then to examine his account for any intrinsic untrustworthiness [52-53].

IA was entitled to rely on the new evidence of the interview he gave to the UNHCR in May 2003, for the purpose of assessing the level of influence that the UNHCR decision should have. His case would not however be remitted to the immigration judge, even though it was possible that she might have reached a different view on his credibility had it been available earlier, as the better course was for IA to submit a fresh claim under rule 353 of the Immigration Rules. It seemed likely that the Secretary of State would be satisfied that the new material created a reasonable prospect of success and so accept it as a fresh claim [58-61]. The present appeal was therefore dismissed.

*References in square brackets are to paragraphs in the judgment*

### **NOTE**

**This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at:**

[www.supremecourt.gov.uk/decided-cases/index.html](http://www.supremecourt.gov.uk/decided-cases/index.html)