



COURT OF APPEAL
CIVIL

[2026 No. 178]

[JR 2025 No 1303]

The President

Neutral Citation Number [2026] IECA 184

BETWEEN

P. S.

APPLICANT/APPELLANT

AND

**THE INTERNATIONAL PROTECTION APPEALS TRIBUNAL, THE MINISTER
FOR JUSTICE, HOME AFFAIRS AND MIGRATION, IRELAND AND THE
ATTORNEY GENERAL**

RESPONDENTS

JUDGMENT of Ms Justice Costello delivered on the 26th day of August 2026

1. The appellant’s application for judicial review was dismissed by the High Court (O’Regan J) in a reserved judgment of 27th April 2026 ([2026] IEHC 238). The appellant has appealed and, pending the determination of the appeal, he seeks an interlocutory injunction restraining the second named respondent (“the Minister”) from taking any steps to deport the appellant to his country of origin, Georgia.

Principles Applicable

2. Before considering the facts and arguments in this case, it is useful to set them in the context of the applicable principles. As is well known and accepted, the principles to be applied whether to grant a stay or an interlocutory injunction, in the context of judicial review

proceedings (particularly in the area of immigration cases generally) were set out by Clarke J (as he then was) in *Okunade v Minister for Justice* [2012] 3 IR 152 at para. 104 as follows:

“(a) the court should first determine whether the applicant has established an arguable case; if not the application must be refused, but if so then;

(b) the court should consider where the greatest risk of injustice would lie. But in doing so the court should:-

(i) give all appropriate weight to the orderly implementation of measures which are prima facie valid;

(ii) give such weight as may be appropriate (if any) to any public interest in the orderly operation of the particular scheme in which the measure under challenge was made; and

(iii) give appropriate weight (if any) to any additional factors arising on the facts of the individual case which would heighten the risk to the public interest of the specific measure under challenge not being implemented pending resolution of the proceedings;

but also,

(iv) give all due weight to the consequences for the applicant of being required to comply with the measure under challenge in circumstances where that measure may be found to be unlawful.

(c) in addition, the court should, in those limited cases where it may be relevant, have regard to whether damages are available and would be an adequate remedy and also whether damages could be an adequate remedy arising from an undertaking as to damages; and,

(d) in addition, and subject to the issues arising on the judicial review not involving detailed investigation of fact or complex questions of law, the court can place all due weight on the strength or weakness of the applicant's case."

3. Clarke J went on to emphasize that *"significant weight needs to be attached to the implementation of decisions made in the immigration process which are prima facie valid"* and noted that there is *"a high weight on the need to respect orders and decisions made [in the immigration and asylum process] unless and until they are found to be unlawful"*. At para. 110, he observed:

"The default position is, therefore, that an applicant will not be entitled to a stay or an injunction. However, it may be that, on the facts of any individual case, there are further factors that can properly be taken into account on either side."

4. Thus, the onus is on the applicant to establish factors which can tilt the balance in favour of the stay or injunction sought. Of particular relevance, of course, is the risk to which an applicant may be exposed by reason of a deportation order. This was addressed at paras. 111-112 by Clarke J as follows:

"... if an applicant can demonstrate that deportation, even on a temporary basis, would cause more than what one might describe as the ordinary disruption in being removed from a country in which the relevant applicant wished to live, such as a particular risk to the individual or a specific risk of irremediable damage then such factors, if sufficiently weighty, could readily tilt the balance in favour of the grant of an injunction or a stay.

...

the right to be protected from being deported to a situation where one is placed in significant danger is an important or fundamental right can hardly be doubted.

However, regard has to be had, on the facts of any individual case, to the basis put

forward for the suggestion that there is a real risk of harm should the person concerned be deported. Where, as will frequently be the case, such a person has had the opportunity to have the facts underlying their claim to such a risk analysed by a series of administrative and judicial bodies, then the court will, as the trial judge in this case was, be in a much better position to form a judgment on the question of whether there is a real risk of serious harm should a deportation order be implemented.”

5. Clarke J said that the question for determination is whether there is a “*credible basis for suggesting that a real risk of significant harm would attach to the applicant on deportation*”. If that is the case, then “*it would require very weighty considerations indeed to displace the balance of justice on the facts of that case*”.

6. In *CC v Minister for Justice* [2016] 2 IR 680, the Supreme Court held that the principles in *Okunade* apply to applications for a stay or an injunction pending the hearing of an appeal.

7. Section 33 of the International Protection Act 2015 provides:

“33. A country that has been designated under section 72 as a safe country of origin shall, for the purposes of the assessment of an application for international protection, be considered to be a safe country of origin in relation to a particular applicant only where –

(a) the country is the country of origin of the applicant, and

(b) the applicant has not submitted any serious grounds for considering the country not to be a safe country of origin in his or her particular circumstances and in terms of his or her eligibility for international protection.”

Georgia has been designated as a safe country of origin by the Minister under s. 72 of the Act of 2015.

Chronology of the appellant's case

8. 2011: The appellant joined the Georgian Armed Forces, and after six months training, he became a member of the Special Forces.

28th to 29th August 2012: Lopota Valley incident near the Georgian/Russian Federation Border involving Chechens. The appellant is one of the Georgian soldiers and he is pictured carrying a body, thus revealing his involvement in the incident.

2012 to 2022: The appellant served in the Georgian Armed Forces between 2011 and 2022, and in his spare time, cultivated his small farm in the border region of Russian occupied Georgia.

2013: Videos of the soldiers involved in the Lopota Valley incident, showing the appellant, are released by the Georgian government and circulate on social media.

November 2020: Three soldiers attempt to kidnap him on his farm near the border.

Spring 2021: There is a further attempt to kidnap the appellant on his farm.

May or June 2021: The appellant is the subject of an attempted honeytrap by a Russian woman in a local bar.

September and December 2021: The appellant is followed on two occasions driving home.

March 2022: The appellant left Georgia and travelled to Ireland *via* Poland, Belgium, Spain and the United Kingdom.

11th April 2022: The appellant applied for international protection (“IP”) and completed his first questionnaire.

November 2022: Appellant interviewed by IP officer.

January 2023: Appellant reinterviewed by IP officer.

11th January 2023: International Protection Office (“IPO”) denied the appellant international protection or subsidiary protection.

10th March 2023: Section 49 report issued.

14th March 2023: Section 49 report given to the appellant.

2023: Appellant appeals the decision of the IPO to the International Protection Appeals Tribunal (“IPAT”).

18th July 2023: Oral hearing by IPAT of his appeal.

26th July 2023: IPAT affirms the decision of IPO.

19th March 2024: The appellant was refused permission to remain and was given the option of voluntarily returning to Georgia.

2nd May 2024: The Minister issued a letter enclosing a Deportation Order and a Section 50 Report.

2024: Appellant made an application pursuant to s. 22 of the 2015 Act to renew his application, on the basis of new evidence/information relating to events in Georgia occurring after his departure.

24th September 2024: Appellant’s s. 22 application granted.

27th December 2024: Appellant re-entered the international protection process and completed a second international protection Questionnaire.

10th January 2025: The Minister issues a Revocation of Deportation Order, pursuant to s. 3(11) of the Immigration Act 1999 revoking the order of 2nd May 2024.

4th April 2025: Appellant interviewed by the IPO for the third time.

9th May 2025: Decision of IPO to decline to grant him protection issued, pursuant to s. 39 of the Act of 2015.

1st July 2025: Letter enclosing Section 49 Report, dated 6th June 2025, furnished to appellant.

8th July 2025: Appellant applies for legal aid to appeal the decision of the IPO.

14th July 2025: Appellant informed of the name of the solicitor assigned to represent him under the Legal Aid Board Scheme.

15th July 2025: Appellant attended the office of this solicitor. They had a disagreement and in the event the solicitor did not act for the appellant.

28th July 2025: Appellant attended and instructed his current solicitor on a private basis.

30th July 2025: The solicitor lodged an application for an extension of time within which to appeal, under the provisions of Regulation 4(5) of the 2017 Regulations.

31st July 2025: Application to extend time refused by IPAT.

27th August 2025: A letter dated 20th August 2025, enclosing the Section 50 decision of the Minister and a Deportation Order sent to the appellant.

3rd October 2025: Appellant granted leave to seek judicial review to quash the decision of 31st July 2025 refusing to extend the time for him to appeal the decision of the IPO, and the determination taken pursuant to s. 50 of the 2015 Act, on 20th August 2025, by the Minister, and the Deportation Order of 20th August 2025.

28th November 2025: High Court injunction restraining the deportation of the appellant until after 5th December 2025.

Thereafter the injunction was extended by consent of the parties to the hearing of the judicial review proceedings.

15th April 2026: Hearing of the judicial review proceedings.

27th April 2026: Judgment refusing the appellant's application for judicial review.

19th May 2026: Order of the High Court finalised and application to restrain the deportation of the appellant pending his appeal refused.

15th June 2026: Appellant filed a Notice of Appeal.

24th July 2026: At the Directions hearing in the Court of Appeal, the appellant was granted leave to issue a motion seeking an injunction to restrain his deportation returnable for 31st July 2026.

31st July 2026: Hearing of motion seeking injunction to restrain deportation pending the outcome of the appeal.

Discussion and Decision

9. The first matter which the court must consider, applying the *Okunade* principles, is whether the appellant has an arguable ground of appeal and whether the appeal is brought *bona fide*, and not simply for tactical reasons.

10. Along with a number of other judicial review proceedings pending before the High Court, the appellant impugned Regulation 4 of SI 116/2017 (International Protection Procedures and Periods for Appeal Regulations, 2017) in respect of the tight period in which an applicant for international protection may appeal to the IPAT, and the limited grounds upon which time to do so may be extended. The High Court rejected the argument in a number of test cases (*GB v International Protection Appeals Tribunal & Ors* [2025] IEHC 543; *SMMZ v International Protection Appeals Tribunal & Anor* [2026] IEHC 38, and *YSA v International Protection Appeals Tribunal & Anor* [2026] IEHC 39). The decisions of the High Court in these test cases were appealed to the Court of Appeal and were heard in May 2026. Judgment is awaited in respect of these matters. In circumstances where the Court of Appeal has yet to rule on the arguments made in respect of Regulation 4 of the 2017 Regulations, I am not prepared to hold that the appellant has no arguable grounds of appeal in this appeal.

11. It is common case that if the decision in *GB* is overturned by the Court of Appeal, it will apply equally to the facts of this case. Indeed, the only reason these judicial review proceedings were heard by the High Court and did not await the outcome of the appeal in *GB*,

was because the Minister in this case declined to give an undertaking not to deport the appellant in the intervening period.

12. I should next consider where the greatest risk of injustice would lie should the relief sought be granted or refused pending the determination of the appeal. The default position is that an appellant will not be entitled to a stay or an injunction pending the determination of the appeal. Therefore, it is for the appellant to establish that in his case, there are further factors which the court can properly take into account which tilt the balance in his favour. The appellant says that he is at risk of assault, kidnap or death, and that he has a right to be protected from being deported to a situation where he would be placed in significant danger. The question for resolution is whether there is a credible basis for suggesting that there is a real risk of significant harm should the appellant be deported.

The appellant's apprehension that he may be assaulted, or his life is in danger: his affidavit

13. The appellant's main basis for seeking an injunction restraining his deportation to Georgia pending the hearing of his appeal is his apprehension that he may be assaulted, kidnapped or killed if he returns. He summarises his fear of harm in his affidavit sworn to support the motion before this Court. He averred as follows:

"2. I joined the Georgian Military in May 2011 and, after completing a six-month training course, became a member of its Special Forces Unit. On 28 August 2012 I was sent to a special military operation called 'Lapankuri', where I was deployed in the region of Lapota Valley in Georgia. The goal of this mission was to get 16 Chechens who crossed to Georgia illegally. It was a secret operation that only a few high-ranking officials knew about.

3. *During this operation, my platoon and I were captured and recorded by cameras carrying a human body. These pictures were published by the current Georgian government, and I am identifiable in them.*

...

4. *After the mission ended, I was targeted and threatened by the Chechens.*

5. *I resided at a border region of Russian-occupied Georgia and my home region was afflicted by border incursions on the part of the Russians. A number of suspicious incidents occurred, which put me in fear; including in respect of an attempted entrapment by a Russian woman in a local bar, Russian soldiers acting in a hostile manner and being followed by a car.*

6. *Chechens attempted to kidnap me twice. I was followed. I reported this to the police but they did not accept my claim.*

7. *Since leaving Georgia, my brother was physically assaulted in [25 February] 2024 by the Chechens who were looking for me. A police report, transcript of interview, medical report and a complaint to the Ministry of Internal Affairs dated 4 March 2024 was sent to me by my brother in respect of surveillance of the family, and physical and psychological threats and violence."*

14. I must assess whether the evidence adduced on behalf of the appellant in relation to these matters establishes objectively that there is a risk to his personal safety, and there is a real risk of significant harm should he be returned to Georgia. I must do so, bearing in mind that Georgia is designated as a safe country, and I must do so by reference to the individual facts pertaining to the appellant.

15. His direct evidence in support of his application is very bald and lacking in detail and on its own would not satisfy the threshold set in *Okunade*.

16. However the appellant's account of events in Georgia has been subject to a number of reviews by the IPO (twice), the IPAT, the Minister and the High Court and it is appropriate that I should have regard to all of the information put before the IPO and IPAT when considering this central issue.

The accounts given to the IPO and IPAT and their assessments of his claims

17. The IPO report of 11th January 2023 accepted that the appellant was a soldier for the Georgian Military. The report rejected the claim that he left Georgia because he was followed by a car several times and he felt unsafe on the balance of probabilities. Having considered the appellant's answers at interview, it was held:

“The [appellant's] account was vague, lacking in detail and wholly speculative. Despite many attempts to elicit information from [the appellant] on specifics regarding the account of the car following him on several occasions, he remained vague throughout. As sufficiency of detail and specificity is considered a key credibility indicator and [the appellant] provided a vague, and non-specific account regarding this aspect of his claim, this is deemed to undermine the credibility of this material fact. Furthermore, the [appellant] stated that he has not been physically threatened and it is deemed implausible that one would not notify the authorities. When asked why he did not go to the police, he stated that he had no evidence this answer does not sufficiently answer this as not only is Georgia a safe country of origin, country of origin information shows that Georgian citizens can present to the police to report incidents if they feel unsafe.”

The officer noted that it was specifically put to the appellant for comment, that it was unusual that two years have passed since the kidnap attempt and he was not harmed in any way, even though he was being followed. The author noted the reply “[t]hey followed me around in the car several times. I wasn't safe in Georgia”.

18. The appellant appealed to the IPAT, and the report following the hearing of 18th July 2023, considered his assertions in detail. It was noted that the appellant's problems began in the autumn of 2020, on the border. Russian soldiers called to the appellant when he was working on his land and asked him for a match/lighter. The appellant did not go to them. He left the land and went home and heard them cursing him and cursing Georgia. The appellant explained that this was Russian occupied Georgia. He said that he proceeded to get in his harvest, the winter came and all went quiet. In the spring of 2021, he started to cultivate the land again and continued farming. He said that in September 2021, he was driving home from work one evening and a car started to follow him. He stopped at the gas station, and the car was driving very slowly and continued to follow him for 20km from the gas station to his village. He also referred to an incident in or around May or June 2021, when he was in a local restaurant at a friend's birthday. Three Russian women came in and sat beside them:

“One of the women spoke to the Appellant's friend about the Georgian cuisine. This woman was on the phone a lot, and she was going out for a smoke with the phone. The Appellant's friend was enjoying the attention. The woman wanted to take pictures with the men. The Appellant said that his friend came to collect him, as he was drunk. The Appellant said that it was possible that this woman was taking pictures and videos of him and sending them to someone else. When the Appellant and his friend left the restaurant a car was following them. When they got out of the car, the car that was following them turned around and left. The Appellant did not go to the police as he said they might say he was crazy and that it was just a car driving around.”

19. The appellant also said that when the special operation happened in 2012, the government changed and short videos appeared on YouTube, showing the personnel who participated in the operation. He said there were videos from Chechens, saying that they

would take revenge and that they would not tolerate their brothers being killed. He thinks that this was in 2013. The appellant said he did not know the identity of the person who had threatened him, but he feared that it is someone seeking revenge. He confirmed that he had never reported his fears to anyone in Georgia.

20. The appellant confirmed that the three occasions he referred to were the extent of the danger and threats he had received in Georgia. He denied that anyone had ever directly threatened, harassed or harmed him.

21. The Tribunal found the appellant's evidence in respect of the allegation that he was targeted by Russian soldiers at the border as "*utterly inconsistent*". The incident described at the hearing was a once-off incident, whereby Russian soldiers were looking for a light for a cigarette. The incident/incidents described at interview alleged kidnappings. The Tribunal found that the evidence given in relation to this alleged event was totally different, and in the circumstances, held that there was no evidence before the Tribunal to suggest that there was a kidnapping incident.

22. In relation to the appellant's contention that he was followed by a car, in or around September 2021, in his questionnaire, he had indicated this happened two or three times, but at the hearing, he only referred to one incident. The Tribunal found his evidence in respect of his alleged following in a car to be vague and speculative. It held:

"4.16... There is no clear or coherent evidence before the Tribunal to suggest that the Appellant was being specifically followed or targeted. While he may have a subjective belief that this was the case and there may have been a silver Toyota following his own car at one stage, this is not evidence that the Appellant was being specifically targeted for a Convention reason and the Tribunal cannot jump to that conclusion based on the lack of any clear or coherent evidence before it."

23. Likewise, in relation to the alleged honeytrap, the Tribunal concluded that there was nothing whatsoever before it to link this incident to an act of persecution specifically targeted at the appellant.

24. The Tribunal concluded, in respect of his credibility, that:

“4.26 Having weighed and evaluated all of the information before it, as set out above, the Tribunal finds that the Appellant has not put forward a clear and coherent version of events. There are numerous inconsistencies and contradictions in his evidence, coupled with a lack of detail and specificity in relation to core events which serve to undermine the credibility of his claim. The entirety of the Appellant’s claim is vague and speculative. In the circumstances, the Tribunal finds that the core of the appellant’s claim that he was being targeted in Georgia by persons unknown is not accepted.”

25. In 2024, the appellant produced evidence which established that his brother was assaulted on 25th February 2024, by persons who said they were looking for the appellant. He also obtained copies of the videos of the soldiers who took part in the special operation in 2012. He identified himself in the pictures. On this basis he was given leave to reapply for international protection.

26. The report of the IPO in respect of the second application for international protection, dated 1st July 2025, considered the appellant’s case in respect of these incidents in even greater detail.

27. The appellant was questioned in relation to the battalion he served in, his rank, where the battalion was based, the number of people involved in the special operation, the weapons they were using and the purpose of the operation. The interviewer found the appellant’s statements to be internally inconsistent and speculative, and that he failed to address these inconsistencies. Furthermore, he introduced new detail, which he had not referred to prior to

July 2025. As a result, the IPO concluded that his claim to have participated in the Lopota Valley special military operation, while serving as a soldier, was internally and externally inconsistent, and that his response to the country of origin information ran contrary to verifiable country of origin information. In view of all the credibility issues and discrepancies highlighted, he was not afforded the benefit of the doubt in relation to his claim to have taken part in the Lopota Valley special operation, which was found to be not credible and rejected as a material fact.

28. The IPO carefully considered the appellant's account of several kidnapping attempts by Chechens as a consequence of his participation in the Lopota Valley special military operation. He described the kidnapping attempt of November 2020 as occurring in the spring of 2021 and, when the discrepancy was pointed out, simply said that this was a mistake. He described being followed by a Toyota car, once when he stopped at a gas station, and on another occasion, in December, when the road was wet. He said that he went to the police and they took his details, but they never reverted to him. He said "*[i]t was obvious at this point that I was getting spied. I was in danger and decided to leave the country because of this and the situation in my country*".

29. The appellant varied between saying that he was followed twice in the car, or three or four times. Likewise, he was vague as to whether there were two or more attempts to kidnap him. The IPO concluded that his answers had insufficient details, were speculative and internally inconsistent, and that he had failed to prove that these encounters were in fact with the intention of harming him.

30. The IP officer concluded her analysis of the appellant's claim as follows:

"The [appellant's] . . . claim regarding several kidnap attempts done by Chechens as a consequence of his participation in the Lapankuri Special Operations while he was a member of the Georgian Military are internally inconsistent, speculative

and lacking in credibility and are insufficient in proving his claim. The [appellant] has failed to sufficiently address his failure on filing, fully and truthfully two IPO applications and four S35 interviews for international protection, it is noted that he was provided ample opportunity to provide the IPO his full claim. The [appellant's] responses to these credibility issues do not resolve the said issues but raises even more questions with his claim in this regard.

The [appellant's] previous application was rejected based on credibility, it was noted that the [appellant] submitted documentation in support of his claim including a copy of two online articles from Wikipedia called 'Lopota Incident' and 'Akhmed Chatayev'. Having considered submitted documentation, it is noted that there was no reference or evidence to suggest that the [appellant's] life is in danger because he was approach[ed] and followed by Chechens with the intention of kidnap[ping] him, and therefore, accordingly, this material fact it's (sic) rejected".

Assessment of the appellant's case that his life would be in danger if he were deported to Georgia

31. Georgia is designated a safe country of origin. The appellant has not challenged this designation. His case is that he personally would be unsafe if he were returned, even on a temporary basis, pending the outcome of his appeal. As I have said, the appellant's sworn evidence in respect of actual threats to his life, or a risk of kidnapping, is extremely sparse. It amounts to no more than a bare recital of events he alleges occurred between November 2020 and late 2021, which do not clearly establish either an attempt on his life or a definite attempt to kidnap him. His interpretation that they show that his life would be in danger were he to return to Georgia is not objectively borne out by the evidence in his affidavit.

32. I have therefore considered the evidence he submitted to the IPO and IPAT in support of his applications for international protection. In my judgement the information furnished by the appellant in support of his applications for international protection presents a very vague picture riddled with inconsistencies. In relation to the episode involving his friend and three Russian women in a local bar, the appellant has not explained why the behaviour of the Russian woman in the bar should be seen as a honeytrap, or surveillance of the appellant, rather than three women socialising with men enjoying a celebration in a local bar. Even if his account of the event is accepted, it is open to an entirely innocent interpretation. It is notable that he identifies no actions arising from this surveillance, or consequences of any kind. In the circumstances, I conclude that he has not established, on the balance of probabilities, that this event provides a credible basis for believing that he faces a real risk of personal danger or of kidnapping if returned to Georgia.

33. The appellant recounts two occasions where he says that he was followed by a silver Toyota car with Russian number plates. He says that, once, the car followed him for 20km after he pulled into a fuel station. On another occasion, he says the car drove very closely behind his car, in pouring rain, apparently trying to intimidate him. He accepts, however, that nothing more occurred and that, in fact, there were no consequences of any kind attributable to these two events (assuming, for the purpose of this argument, that they occurred as he recounts them).

34. If this were really the precursor to a serious attempt by Chechen activists to take revenge for his involvement in the Lopota Valley incident, it is striking that there were no repercussions of any kind. Presumably, it would have been possible for the Chechens, who, he says, wish to target him, to attack him as, on his version of events, they knew where he travelled from work to his farm and where his farm was near the border with Russian occupied Georgia. In the circumstances, had they wished to escalate their intimidation (if that

was what it was), it would have been simple for them to walk onto his farm and accost him (as he said occurred in November 2020 and the spring of 2021).

35. Even discounting the findings of the IPO that the appellant's accounts were vague and inconsistent and therefore lacked credibility, in my judgement, objectively assessing the evidence, it does not support the sinister interpretation which the appellant invites the court to place on his factual account. In the circumstances, I conclude that he has not established, on the balance of probabilities, that these events provide a credible basis for believing that he faces a real risk of personal danger if returned to Georgia.

36. Finally, the appellant relies on two (or possibly four - he is inconsistent on the precise number) attempts by Russians, or Chechens, to kidnap him from his farm at the border between Georgia and Russian occupied Georgia. In his earlier account, he describes the three soldiers as Russians; in his later accounts, he says that they were Chechens, as he could tell from their appearance. This inconsistency is significant. Secondly, he describes the event where one of the soldiers asked him for a light for a cigarette as occurring in November 2020, and then again in the spring of 2021. When this inconsistency was pointed out, he said that he was mistaken, but he did not clarify how many attempted kidnappings he said occurred. In my judgement, this is remarkable. Also, in his first interview by the IPO he did not refer to any attempted kidnapping in the spring of 2021. An attempted kidnapping is a frightening event, and presumably, a cause of great concern to the victim. Indeed, the appellant's case is that this is the reason why he fled Georgia and should be granted international protection or subsidiary protection. It is therefore very surprising that the appellant - on his account, a victim of multiple attempted kidnappings - should not be able to state the precise number of attempts in the short period between November 2020 and March 2022 (when he left Georgia), particularly where he asserts that he fled his homeland for fear of further attempts to kidnap or kill him.

37. I am not persuaded, on the balance of probabilities, that the events described by the appellant (assuming, for the moment, that they occurred) demonstrate that there was or is a real risk that he would be kidnapped by persons seeking revenge for his actions in 2012 in the Lopota Valley. The fact that three soldiers approached him on his lands near the border accompanied by a dog, falls far short of establishing an attempt to kidnap him. In his view, they asked him for a light in order to lure him closer to the border so that they could kidnap him. Equally, they could have just wanted to light a cigarette. In the circumstances, I conclude that he has not established, on the balance of probabilities, that these events provide a credible basis for believing that he faces a real risk of personal danger if he is returned to Georgia.

38. The appellant's case is objectively implausible but he is required to present credible evidence of real risk in order to meet the threshold established in *Okunade*.

39. The triggering event, according to the appellant, occurred in August 2012, and the videos – both those released by the government and the Chechen videos threatening revenge in response- were available online in 2013, yet neither the appellant nor any family member experienced any repercussions from the Lopota valley incident until seven years later, in November 2020. Then, it was the appellant, but not any members of his family, who was intimidated and targeted, on the appellant's version of events. While the appellant was apparently away from his home region for some of this period, he does not say that his family was targeted between 2013 and 2022. This is all the more remarkable as it contrasts with what he said occurred in 2024, after he left Georgia in 2022. The appellant said that his brother was assaulted on 25th February 2024 by unidentified individuals who were looking for him, and that (unidentified) members of his family have been subjected to threats and harassment (the nature of which is not specified). The appellant linked the assault on his brother and the harassment of his family to his involvement in the Lopota Valley incident,

despite the fact that they occurred twelve years after that event and two years after he had left Georgia. If the appellant's basic claim is correct, it is difficult to explain why there were no incidents of any kind involving either the appellant or any of his family between August 2012 and November 2020, and why he was never assaulted in the ten years before he left Georgia in fear for his life. Why, one wonders, were there a variety of different incidents between November 2020 and September 2021, which did not involve even the threat of violence to the appellant, if the motive behind them was revenge for the Lopota Valley incident, which took place in 2012, and an intent to kill him? Why, two years after he left Georgia and 14 years after the incident, do the Chechen relatives or friends of those killed in 2012, start targeting the appellant's family? These questions are nowhere satisfactorily answered or explained by the appellant.

40. The documents show that the appellant has not been a reliable historian. He says vaguely that "*after the mission ended*", he was targeted, ignoring or passing over a gap of eight years. Originally, he said that he did not report any of the incidents to the authorities, and then later said that he did, but they did not act on his complaints or disbelieved him. He said that Russians tried to kidnap him on his farm "*a few times*", and now his case is that Chechens tried to do so twice. Likewise, he is inconsistent about the number of times he said he was tailed in his car.

41. I conclude that the appellant has not established that he is at real risk of personal danger if he is returned to Georgia, even on a temporary basis.

Deportation would render any further appeal to IPAT futile

42. The second basis upon which the court was urged to grant the injunction sought was the contention that even if he succeeded in his appeal and the time for him to appeal the second IPO decision to IPAT was extended, there would be no reality to his appeal to IPAT if he is deported, and therefore no longer in the State. I do not accept this submission. Assuming

he succeeds in his appeal to this Court, and he is allowed to appeal the second IPO decision to IPAT, I must assume that the appeal will be dealt with in accordance with law. There is no suggestion that this would be unduly delayed. He may have the benefit of legal representation for his anticipated appeal to IPAT, and he may be interviewed by IPAT, albeit remotely. He has not made the case that his presence in the State is necessary to enable him to *prosecute* his appeal to this Court, or, if permitted, his appeal to IPAT. If IPAT accepts his claim, there is no reason to believe they will not recommend that he be afforded international protection, simply because he has been deported and is no longer in the State. When the appellant's s. 22 application was granted, the Minister duly revoked the then extant Deportation Order. There is no basis for suggesting that the same would not occur again if he were ultimately granted international protection or subsidiary protection. I cannot assume that either IPAT or the Minister will not act lawfully. Therefore, I cannot accept the premise of this submission.

Conclusion

43. In summary, the evidence is not sufficient to establish that there is a credible basis for suggesting that there is a real risk of significant harm should the appellant be deported to Georgia. He has not demonstrated that deportation, even on a temporary basis, would cause him a specific risk of irreparable damage. It follows that he has not displaced the default position that an injunction should not be granted.

44. There is no reason to believe that if he succeeds in his appeal before this Court and he is allowed to appeal the decision of the IPO to IPAT that this latter appeal will be a futile exercise by reason of the fact that he has already been returned to his country of origin.

45. For these reasons I refuse the application for an injunction restraining the Minister from deporting the appellant.