



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: AA/01070/2015

THE IMMIGRATION ACTS

Heard at Field House

**Decision and Reasons
Promulgated**

On 8th December 2015

On 21st December 2015

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

**NA
(anonymity direction made)**

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr Akhtar, Duncan Lewis Solicitors

For the Respondent: Mr Staunton, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant is a national of Iraq born on the 5th August 1994. He appeals with permission¹ the decision of the First-tier Tribunal (Judge Taylor)² to dismiss his appeal against a decision to refuse to vary his leave to remain. That decision followed the Respondent's refusal to grant the Appellant asylum.

¹ Permission granted on the 16th June 2015 by First-tier Tribunal Judge Osbourne

² Determination promulgated 12th May 2015

2. On the 14th August 2015 Upper Tribunal Judge Plimmer found the decision of the First-tier Tribunal to contain a single error of law: the First-tier Tribunal had failed to address submissions made on behalf of the Appellant to the effect that the security situation in Iraq had now deteriorated to the point that Article 15(c) of the Qualification Directive was engaged. The remaining grounds of appeal were dismissed and the rest of the determination upheld.
3. The re-making of the Article 15(c) point was then adjourned, pending promulgation of the Upper Tribunal's 'country guidance' case on the current situation in Iraq.
4. That decision is now available: [AA \(Article 15\(c\)\) Iraq CG \[2015\] UKUT 544 \(IAC\)](#). The relevant part of the headnote reads:
 1. There is at present a state of internal armed conflict in certain parts of Iraq, involving government security forces, militias of various kinds, and the Islamist group known as ISIL. The intensity of this armed conflict in the so-called "contested areas", comprising the governorates of Anbar, Diyala, Kirkuk, (aka Ta'min), Ninewah and Salah Al-din, is such that, as a general matter, there are substantial grounds for believing that any civilian returned there, solely on account of his or her presence there, faces a real risk of being subjected to indiscriminate violence amounting to serious harm within the scope of Article 15(c) of the Qualification Directive.
 2. The degree of armed conflict in certain parts of the "Baghdad Belts" (the urban environs around Baghdad City) is also of the intensity described in paragraph 1 above, thereby giving rise to a generalised Article 15(c) risk. The parts of the Baghdad Belts concerned are those forming the border between the Baghdad Governorate and the contested areas described in paragraph 1.
 3. The degree of armed conflict in the remainder of Iraq (including Baghdad City) is not such as to give rise to indiscriminate violence amounting to such serious harm to civilians, irrespective of their individual characteristics, so as to engage Article 15(c).
5. Before me the parties agreed that the only remaining issue was whether the Appellant was entitled to Humanitarian Protection on the grounds that there are substantial grounds for believing that if returned home he would face, solely on account of his presence there, a real risk of indiscriminate violence. They further agreed that in light of the guidance set out above, this turned on whether the Appellant was from Baghdad City, deemed not to be in a state of internal armed conflict, or the contested areas known as the "Baghdad Belt".
6. The Appellant has consistently stated that he is from Falastine St, Baghdad. Before me Ms Akhtar submitted that this long street, on the eastern side of Baghdad, fell within the belt, rather than the

city itself. The map shows Falastine St to run parallel to the 'Army Canal' which divides the Shi'ite suburb of Sadr City from the centre of Baghdad. It is not in the absolute centre of the city, but having looked with care at the map, and at the evidence presented in AA, I am satisfied that Falastine St is within 'Baghdad City' rather than the 'Belt'. The 'belt' is defined by the Institute for the Study of War, at paragraph 138 of AA, as those residential, agricultural and industrial areas that encircle the city. The places named at paragraph 138, such as Fallujah and Tarmiyah lie a good way out of the city centre. Falastine St is clearly within the city. I could find no reference to any incidents of indiscriminate violence occurring there. I note that there are numerous government ministries in the vicinity, so had there been any significant level of insecurity, I would expect there to be reports of this. Mr Staunton confirmed that any removal, should it take place, would be to Baghdad International Airport which lies to the West, directly across the city centre from Falastine St. There would be no question of the Appellant having to travel through a contested area to reach his home.

7. No matter how unsatisfactory it may be to be determining the issue of personal safety with a street by street analysis of where fighting might be occurring in Iraq today, I am bound by the country guidance. The Appellant's home street is deemed to be in a zone where there is not, at present, a state of internal armed conflict. No doubt the Respondent will give careful consideration to the very latest information available before making any decision to remove the Appellant to Baghdad.

Decisions

8. The decision of the First-tier Tribunal is set aside to the limited extent identified by Judge Plimmer in her Error of Law decision.
9. I remake the remaining issue in the appeal as follows:
"the Appellant is not entitled to humanitarian protection".
10. The anonymity direction made by the First-tier Tribunal is maintained.

Upper Tribunal Judge Bruce
8th December 2015