



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

Appeal Number: PA/06210/2017

THE IMMIGRATION ACTS

**Heard at Bradford
On 1 May 2018**

**Decision & Reasons
Promulgated
On 14 May 2018**

Before

UPPER TRIBUNAL JUDGE LANE

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

[A H]

(~~NO ANONYMITY DIRECTION~~)

Respondent

Representation:

For the Appellant: Mr Diwnycz, Senior Home Office Presenting Officer
For the Respondent: Ms Spencer Bolton, Manuel Bravo Project

DECISION AND REASONS

1. I shall refer to the appellant as the respondent and the respondent as the appellant (as they appeared respectively before the First-tier Tribunal). The appellant, [AH], was born on [] 1977 and is an ethnic Kurd and a citizen of Iraq. He appealed against a decision of the respondent dated 12 June 2017 refusing his protection claim. The First-tier Tribunal (Judge O'Neill) in a decision promulgated on 2 February 2018, allowed the appeal on humanitarian protection grounds. The Secretary of State now appeals, with permission, to the Upper Tribunal.

2. I find that the appeal should be dismissed. The appellant is a former resident of the Independent Kurdish Region (IKR). At [51] the judge found that it would be unsafe for “the appellant to travel from Baghdad to the IKR without papers in the current security climate in the Baghdad Belt which would put him at risk of harm by way of serious and individual threat to his life by reason of indiscriminate violence from the internal armed conflict”. The judge had found [49] that the appellant had “little prospect of securing a CSID card in Baghdad with no-one to vouch for him [there]”. The appellant also had no passport. At [47], the judge had found that the appellant could “only return to Sulayamanyah or Erbil via Baghdad. There is no means of access through the airports in those IKR cities which are closed to international flights (UN report pursuant to Resolution 2367 – October 2017). The appellant would face insurmountable difficulties trying to reach the IKR from Baghdad without a CSID”.
3. I was assisted at the Upper Tribunal initial hearing by Mr Diwnycz, who appeared for the Secretary of State, who told me that the judge had been correct to find that IKR airports were shut to international flights as at the date of the hearing before the First-tier Tribunal. He told me that Erbil Airport had reopened to international traffic only as recently as March 2018. He also confirmed that the Secretary of State’s policy of returning individuals to Iraq via Baghdad remained in place. As a consequence, the judge’s finding that the appellant would be returned to Baghdad and that he would be at risk there albeit whilst in transit to Erbil because he did not have a CSID, was accurate. In consequence, the judge did not err in law either as asserted in the grounds of appeal or at all. Having said that, the period of humanitarian protection which may now be granted to the appellant may be brief; now that Erbil Airport is open to international traffic then, if the Secretary of State changes her policy on returns, it may soon be possible for the appellant to fly directly from the United Kingdom or elsewhere in Europe to Erbil without passing through Baghdad at all. However, I am here only concerned with considering whether the First-tier Tribunal erred in law and I have concluded that it did not.

Notice of Decision

4. This appeal is dismissed.
5. No anonymity direction is made.

Signed

Date 6 MAY 2018

Upper Tribunal Judge Lane

TO THE RESPONDENT
FEE AWARD

No fee is paid or payable and therefore there can be no fee award.

Signed

Date 6 MAY 2018

Upper Tribunal Judge Lane