



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: PA/09485/2016**

**THE IMMIGRATION ACTS**

**Heard at Manchester CJC  
On 7 December 2018**

**Decision & Reasons Promulgated  
On 17 December 2018**

**Before**

**UPPER TRIBUNAL JUDGE PLIMMER**

**Between**

**HMM  
ANONYMITY DIRECTION MADE**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the appellant: Mr Hussain, Counsel

For the respondent: Mr Tan, Senior Home Office Presenting Officer

**DECISION AND REASONS**

*Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellant in this decision identified as HMM.*

## Introduction

1. In a decision dated 28 August 2018 I found that the First-tier Tribunal ('the 2018 FTT') made an error of law, and that the decision on the sole outstanding issue in dispute i.e. internal relocation, would be remade by me at an adjourned hearing. It was agreed that there was no error of law in the FTT's finding that it did not regard the appellant's denial of any contact with family members in Iraq to be credible, but that updated evidence was necessary and fresh findings would need to be made in the light of this.

## Hearing

### *Issues*

2. At the beginning of the hearing there was a preliminary discussion regarding the developments in Iraq and the likely position regarding the appellant's ability to obtain a CSID, given that his home area is Kirkuk and he has never claimed to have any family members elsewhere in Baghdad, albeit that his family had moved to Ramadi fleeing harm as a result of his father's activities under Sadaam Hussain.
3. Both representatives agreed with the following:
  - (i) The 2018 FTT rejected the appellant's evidence that he was not in contact with family members in Kirkuk or Ramadi. There is no indication that the appellant ever had family members outside of Kirkuk and Ramadi, save for his indication that his father was at one stage in Syria with his brother.
  - (ii) This is relevant for two reasons: (a) any assessment of internal relocation to Baghdad must necessarily involve as a relevant risk factor, the absence of family or other contacts in the city; (b) the process of family members assisting the appellant to obtain a CSID in Kirkuk is severely hampered as at the least it has been a contested area for a lengthy period - see paragraph 2.6.8 of the Home Office's Country Policy and Information Note, Iraq: Internal relocation, civil documentation and returns, October 2018 ('the 2018 CPIN'). This process is likely to have been made even more difficult by reason of the family having moved to Ramadi in the face of serious threats and violence in their home area of Kirkuk - see the FTT decision dated 28 February 2012 ('the 2012 FTT') at [57] to [62]. In addition to this, it is well known that Ramadi was a contested area.
  - (iii) The appellant left Iraq as a child, with the assistance of an agent, many years ago. He came to the UK when he was 16, on 6 September 2007. The 2012 FTT accepted the credibility of the appellant's account of events leading to his departure from

Kirkuk and accepted he could not return there, but that he could internally relocate - see [8] and [9] the Upper Tribunal decision dated 17 July 2012 upholding the 2012 FTT's conclusion. The renders the likelihood of the appellant holding or being able to access any documentation in Iraq to support an application for a CSID very low. Indeed, Mr Tan acknowledged that the only viable option for applying for a CSID in the light of the appellant's circumstances, is limited to making an application to the Iraqi Consulate in the UK.

- (iv) In a 2016 witness statement the appellant referred to a hospital identity card his family were able to send from Iraq. The availability of that evidence would be explored during cross-examination.
- (v) Following the country guidance decisions on Iraq, including more recently AAH (Iraqi Kurds - internal relocation) Iraq CG [2018] UKUT 212, when assessing the issue of internal relocation to Baghdad for this appellant, it is critical to first determine whether the appellant will return with or without a CSID.
- (vi) The only viable route for this appellant to obtain a CSID, in the light of the accepted aspects of his family's circumstances in Iraq is to make an application to the Iraqi Consulate in the UK.
- (vii) If I find that the appellant would not be able to obtain a CSID, it would not be reasonable for him to internally relocate to Iraq and the appeal should be allowed on asylum grounds. If I find that he can obtain a CSID I must assess the reasonableness of internal relocation by reference to the risk factors identified in the country guidance decisions.

### *Evidence*

- 4. Having agreed the ambit of the appeal, Mr Hussain called the appellant to give evidence. He relied upon a recent witness statement summarising his attempts to trace his family and obtain a CSID. This included approaching the Iraqi Consulate in Manchester and the British Red Cross.
- 5. Mr Tan cross-examined the appellant briefly. This focused on the hospital identity card the appellant referred to in a 2016 witness statement. The appellant explained that about three years after his arrival in the UK in 2010, his family obtained this document from Kirkuk. He submitted it to the SSHD and does not have a copy. He explained that he understood from the Consulate that even if he held a copy it would not be deemed sufficient to be provided with a CSID.
- 6. The appellant also submitted an amended supplementary bundle running to 135 pages. I have read this together with the respondent's bundle in full.

## *Submissions*

7. I then heard brief submissions from each representative. Mr Tan acknowledged that the only viable method for this appellant to obtain a CSID was through the Iraqi Consulate in the UK. He initially submitted that the appellant should have taken a copy of the hospital identification card with him and this course was open to him in the future. I pointed out that the SSHD had not made the point in advance of the hearing and had failed to provide a position statement, in breach of my directions. Mr Tan at that stage acknowledged that he had checked the full file and could not find a copy of the hospital identification card. Mr Tan again clarified that if I found, contrary to his submissions, that the appellant was unable to obtain a CSID, the country guidance is such that the appeal should be allowed on asylum grounds.
8. Mr Hussain relied upon his skeleton argument and invited me to find that the appellant will be returned to Baghdad without a CSID or the ability to obtain one, and for that reason alone the appeal should be allowed.
9. After hearing submissions from both representatives, I reserved my decision, which I now provide with reasons.

## **Re-making the decision**

### *CSID*

10. Mr Tan was realistic in accepting that although the appellant's family members were able to make arrangements to obtain hospital identity card from Kirkuk many years ago in around 2010, this would be much more difficult at present (given the length of time that Kirkuk was a clear 'contested area' and the impact upon this on ability to obtain documentation). In any event, Mr Tan was unable to take me to any country background to contravene the appellant's evidence that a hospital identity card would be considered adequate.
11. I am satisfied Kirkuk, is in an area that should continue to be treated as contested. This is primarily because I have insufficiently cogent evidence to depart from existing and binding country guidance. The Upper Tribunal gave country guidance in AA (Article 15(c)) Iraq CG [2015] UKUT 544 that the Province of Kirkuk was a contested area. I am aware that the respondent's policy position is that Kirkuk is no longer in a contested area. Despite this policy, the Upper Tribunal in AAH commented at [2] that the guidance in AA in respect of the contested areas and article 15(c) remained appropriate. It is noted that the Upper Tribunal was examining the situation in Iraq in February 2018. At the time, the respondent did not seek to challenge the country guidance regarding contested areas. Mr Tan did not submit otherwise or take me to any evidence to undermine the

country guidance. As a result, I am satisfied the guidance in AA remains applicable for these purposes.

12. It is important to note that the 2018 FTT did not accept the appellant's evidence that he lost contact with his family. However, the 2012 FTT made some positive findings and accepted many aspects of the appellant's claim. The appellant's evidence before me that he has done all that he can to obtain a CSID but has not been successful must be seen in the light of these mixed findings. I am satisfied that even on the assumption that the appellant has some contact with his mother and sister in Ramadi, he is unlikely to be able to obtain a CSID from the Iraqi Consulate in the UK. The appellant does not have and has never had a passport or CSID. That is understandable as he left Iraq illegally when he was 16. His family fled their home area many years ago. When the family were asked to provide some form of identification for the appellant the best they could do was provide the hospital identity card. That is no longer available. The prospects of this being re-obtained successfully from Kirkuk is low. The situation in Kirkuk for the general population and its infrastructure has deteriorated since 2010. The CPIN October 2018 accepts at 2.6.8 and 2.6.12 that the process of obtaining a CSID in a contested area is likely to be severely hampered. This must include the process of obtaining any official documents. The appellant's family have not been able to provide him with the relevant family registration details or a national identity card. This is plausible given that they are IDPs themselves who fled their home area in the face of very serious harm.
13. Without a passport, family registration details or a national identity card, the appellant would not be able to obtain a CSID from the Iraqi Consulate in the UK. He attended the Iraqi Consulate in Manchester and was unsuccessful. Given the limited documentation he possesses and is able to obtain, that is unsurprising.
14. I therefore conclude that notwithstanding the adverse findings of fact made by the 2018 FTT, the appellant would not be able to obtain a CSID and would be returned to Iraq without one. This is sufficient, as Mr Tan acknowledged, following AAH for the appeal to be allowed on asylum grounds.

*Other risk factors*

15. I have gone on to assess risk on return on the basis that I am wrong in my conclusions that the appellant will be unable to obtain a CSID. I address the risk factors in AAH discretely and by reference to the enumeration provided at 15 of the headnote.
  - (a) I have assumed the appellant is able to obtain a CSID.
  - (b) I accept the appellant's evidence that he only speaks limited Arabic. That would not be implausible for an Iraqi Kurd from

Kirkuk, who left the area when he was 16. He was not challenged on that point before me. I accept that he is not generally able to converse or carry out business to any acceptable level in Arabic and that his limited command of that language is not likely to be useful to him. His first language is Sorani. He also speaks English and gave his evidence to me in English.

- (c) The appellant does not have family members or friends in Baghdad. He has never resided there. There is no evidence linking him to a single family contact to Baghdad.
  - (d) The appellant is not a lone female. However, the appellant left Iraq at a young age and has resided in the UK for over 10 years. Although he is young, fit and healthy, he is likely to be at a disadvantage in terms of knowledge and experience of the changes in Iraqi society, and to have become more Westernised than the majority of other IDPs.
  - (e) Given that the appellant is from Kirkuk and his family fled to Ramadi, there is no reason for me to conclude that he has friends or will be able to find a sponsor who might be able to support or accommodate him in Baghdad.
  - (f) The appellant is, as a Kurd, from a minority community and it may be that his position as Sunni Kurd creates further difficulties in that regard.
  - (g) The appellant will have access to initial support given to IDPs.
  - (h) The appellant will be most unlikely to receive any support from family members, when they are all IDPs themselves and will not be able to provide him with finance such as to stave off destitution.
16. I am satisfied that it would be unreasonable or unduly harsh to expect the appellant to relocate in Baghdad given the risk factors identified above. On the assumption that he will have a CSID, he is toward but not at the “other end of the scale” identified in AA at [202], given the cumulative impact of the risk factors identified above. AA emphasises that careful consideration must be given to the ability of family members to support the appellant at [197]. It is not disputed that his family do not reside in Baghdad. Their ability to support him from Ramadi is most unlikely. As set out in AA [202] those without family connections in Baghdad are more vulnerable. I am satisfied on the evidence currently available that the appellant will not have access to family members or resources to enable him to obtain accommodation in Baghdad. If returned to Baghdad, he would be going there as a Kurd and a Sunni. He will therefore be in a minority community, but with no contacts within that community and unlikely to be able to obtain employment notwithstanding his limited Arabic. The appellant will also be a total newcomer to Baghdad with no adult experience of ever having lived in Iraq.

17. These factors must be viewed alongside other factors placing the appellant at increased risk and reasonably likely to render life in Baghdad to be precarious for him – see the BA (Returns to Baghdad) Iraq CG [2017] UKUT 00018 (IAC) headnote, which states:

“(v) Sectarian violence has increased since the withdrawal of US-led coalition forces in 2012 but is not at the levels seen in 2006-2007. A Shia dominated government is supported by Shia militias in Baghdad. The evidence indicates that Sunni men are more likely to be targeted as suspected supporters of Sunni extremist groups such as ISIL. However, Sunni identity alone is not sufficient to give rise to a real risk of serious harm.

(vi) Individual characteristics, which do not in themselves create a real risk of serious harm on return to Baghdad, might amount to a real risk for the purpose of the Refugee Convention, Article 15(c) of the Qualification Directive or Article 3 of the ECHR if assessed on a cumulative basis. The assessment will depend on the facts of each case.

(vii) In general, the authorities in Baghdad are unable, and in the case of Sunni complainants, are likely to be unwilling to provide sufficient protection.”

18. Although the majority of Sunnis are able to lead a relatively normal life in Baghdad, it is not without risk. This appellant, a young Sunni man with no experience of Baghdad at all and no contacts there, is at increased risk of being perceived as an ISIS supporter. The pertinent AAH /AA risk factors must be considered alongside the constant state of anxiety and insecurity the appellant is likely to face in the current environment, as set out in BA, because of his particular profile. This appellant is reasonably likely to face many different serious challenges as a result of his particular profile, and for this combination of reasons it is unduly harsh to expect him to relocate to Baghdad.

## **Conclusion**

19. After having considered all the circumstances I am satisfied that the appellant will not be able to obtain a CSID. That is sufficient for his appeal to be allowed on asylum grounds. However, if I am wrong about this and assuming that the appellant will obtain a CSID, I still assess his internal relocation to Iraq to be unduly harsh for the combination of reasons I have identified above.

## **Decision**

20. I remake the decision by allowing the appellant’s appeal and find that his removal would breach the Refugee Convention and Article 3 of the ECHR.

Signed:

**Ms M. Plimmer  
Judge of the Upper Tribunal  
2018**

**Date: 17 December**