



Upper Tribunal
(Immigration and Asylum Chamber)
PA/09756/2017

Appeal Number:

THE IMMIGRATION ACTS

Heard at North Shields
Promulgated
On 19th September 2018
2018

Decision & Reasons
On 24th October

Before

DEPUTY JUDGE UPPER TRIBUNAL FARRELLY

Between

MR. A M
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellants: Mr Boyle of Iris Law Firm(Middlesbrough)

For the respondent: Mr Duffy, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. This is a resumed hearing from 23 April 2018 when I concluded that the decision of First-tier Tribunal Judge Hands materially erred in concluding that the appellant was from the IKR. In fact he is from a

border area in Mosul, Bashiqa, a contested zone close to but not in the IKR. Where he was from in turn affected consideration of return. The matter was to be relisted for argument on this point. His underlying claim for protection based upon being Gay; selling alcohol and abandoning Islam had been rejected by the First-tier Judge on credibility grounds and that finding was not challenged.

2. Mr Boyle has provided me with an updated appeal bundle. I have also received a skeleton argument which refers to the country guidance case of AAH (Iraqi Kurds -internal relocation) Iraq CG 00212. It was submitted he could not reasonably relocate the Baghdad because he is Kurdish and has no connection with the city and is of the Sunni religion. Regarding relocation to the IKR, it is accepted he can obtain a CSID and transit through Baghdad. However, it is argued he could not reasonably sustain himself once there given that he has no skills or family support. It said his brothers are now living in Germany and his father, from whom he is estranged, remains in Mosul.

Consideration

3. I am obliged to both representatives for helping me identify the issues arising. Mr Duffy has advised me that Bashiqa is an area claimed by the IKR from 2003. In the hearing put forward before First-tier Tribunal Judge Hands the appellant's representative had presented the appeal on the basis the appellant was from the IKR. At the leave stage there was more focus upon who in fact controls this area and maps were produced. On the basis it is at least arguable that the area is not in the IKR and this in turn impacted upon return leave was granted. I had found material error of law at the original hearing on the basis the area is not in the IKR- hence today's proceedings.
4. It has been accepted that the appellant can obtain a CS ID. On current arrangements he would be returned to Baghdad. It is not suggested on behalf of the respondent that he could then returned to his home area. The travel overland could present difficulties. His home area is a contested area though there are signs of changes in the country. In the appellant's bundle is a document dated January 2018 from the Catholic relief services which states that in the past 6 to 9 months between 70 to 80% of the population of Bashiqa have returned. The question of security impacted upon citizens confidence in returning and concerns about the durability of the peace. The article refers to families being displaced for 3 years and the statistics indicate that most families suffered property damage varying from minor to total destruction. It also states that on return livelihood opportunities are limited, with the government being the main source of employment. Consequently, there are signs of

improvement but it is not be suggested I depart from the country guidance in relation to return to the appellant's home area.

5. Mr Duffy has not canvassed Baghdad as an area for the appellant's permanent residence. He did not however seek to exclude this as an option and this has been considered in the country guidance decision of BA (Returns to Baghdad) Iraq CG [2017] UKUT 00018. However, the thrust of the respondent's case is that the appellant could reasonably relocate to the IKR. He can obtain entry by transiting via Baghdad airport to Erbil or possibly Sulaimaniyah. The country information indicates that he will be granted entry initially for 2 weeks as a visitor. Thereafter the country information would suggest he needs to satisfy the authorities that he can sustain himself and there is reference to having a sponsor. Against this, there is an absence of evidence that the authorities in the IKR removed Kurds who have been admitted on this temporary basis.
6. The negative credibility findings in the First-tier Tribunal have been preserved. In particular is claimed to be Gay was rejected. He also claimed to have made a living by selling alcohol. The judge gave numerous reasons at paragraph 29 and 30 of the decision. The appellant had also said he did not follow the practices of Islam. The information provided in the respondent's bundle indicates that the Iraqi people, does not cover atheism but is more focus upon those who insult Islam.
7. In terms of the viability of relocation to the IKR Mr Boyle referred to the high levels of rent charge for accommodation and the issue of employment. There was nothing to suggest the appellant had specific skills in demand or that he had family members who can help him secure employment. I was referred to AAH (Iraqi Kurds -internal relocation) Iraq CG 00212 at or around paragraph 126 and the expert evidence of Dr Fatah. Rents of 300 and \$400 per month are referred to with 26% of ADB's living in abandoned or unfurnished buildings or makeshift shelters. There was reference to 70% of the IDP population being unemployed. He also suggested the appellant could be viewed with suspicion coming from an area that had been occupied.
8. In response to the last point Mr Duffy said that the appellant came from an area which had a significant Yazidi population who had suffered under ICIS and the fact he was of Kurdish ethnicity would go to dispel him being viewed with suspicion. In relation to the reasonableness of his relocation, it was pointed out he could avail of the returns package. He had learnt skills whilst in the United Kingdom and could speak English. He enjoyed good health. Mr Duffy also made the point that the unduly harsh test has to be taken in relation to conditions in the country and not compared with the appellant's lifestyle in the United Kingdom.

Conclusion

9. The determinative issue is the reasonableness of the appellant's relocation to the IKR. Conditions in his home area have improved but as stated earlier I am not considering whether things have now so changed that he could return there.
10. He can gain entry to the IKR and has documentation. It is a stable area. There is no evidence of any family support albeit I bear in mind the appellant has generally not been found credible.
11. The reasonableness of relocation will depend on the individual circumstances. In his statement he indicates that he formerly worked as a waiter. He studied to the 9th grade of school. In the First-tier Tribunal he was described as having retail experience, being associated with the sale of alcohol. He has some English and can speak Arabic. There is no evidence of any significant health issue. He is a single man.
12. It is my conclusion, having regard to what is known about the IKR and the appellant, that it would be reasonable to expect him to relocate. I can envisage a situation of an individual who elderly or infirm when it would be unreasonable to expect them to start afresh. Such a person is most likely to be faced with the hardships of an IDP camp rather than being able to re-establish themselves. However, I see no such restrictions in the appellant's case. The evidence would suggest he is capable of self-sufficiency and can adjust to a new environment. Whilst he may not have specialised skills he nevertheless is fit and healthy and has some English and Arabic. His Kurdish ethnicity will help his assimilation. The transition will be eased by the package available for him.

Decision.

The appeal is dismissed.

Francis J Farrelly
Deputy Upper Tribunal Judge.
Date: 20th October 2018