



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

Appeal Number: PA/12294/2016

THE IMMIGRATION ACTS

Heard at North Shields

On 13 February 2018

**Decision & Reasons
Promulgated**

On 23 February 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE APLEYARD

Between

[A M]

(~~ANONYMITY DIRECTION NOT MADE~~)

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms L Brakaj, Legal Representative.

For the Respondent: Mr K Diwnycz, Home Office Presenting Officer.

DECISION AND REASONS

1. The Appellant is a citizen of Iraq who appealed against the decision of the Respondent refusing him international protection. He appealed and following a hearing Judge of the First-tier Tribunal Batiste, in a decision promulgated on 30 October 2017, dismissed the Appellant's appeal.
2. The Appellant sought permission to appeal which was granted by Judge of the First-tier Tribunal Scott-Baker in a decision dated 21 December 2017. Her reasons for so doing were: -

- “1. The Appellant seeks permission to appeal against a decision of the First-tier Tribunal (Judge Batiste) who, by notice of decision and reasons promulgated on 30 October 2017 dismissed the Appellant’s appeal against the decision of the respondent of 14 October 2016 refusing to grant asylum and humanitarian protection under paragraph 336 of HC 395 (as amended).
2. The grounds assert that there the First Tier Tribunal Judge had made erred in law as the appellant could not return to Baghdad as he originated from Mosul and had lost contact with his family, he had no CSID or any means of obtaining one. Reliance was placed on **AA (Article 15(c) Iraq)** CG UKUT 00544 IAC and **BA (Return to Baghdad) Iraq** CG [2017] 00018 which showed that it was relevant to return as to whether the appellant had a CSID or any other form of identity.
3. The judge records at [15] that the appellant originated from a small village near Mosul and feared Daesh. At [16] he noted that the Appellant had never been to the IKR.
4. At [22] the judge accepted that the appellant could not be returned to Baghdad. At [23] to [27] the judge considered the issue of return to the IKR, noting that the appellant was an ethnic Kurd. At [24] he found that the appellant could fly from Baghdad to Erbil and found at [25] that he would be able to work there, although it was clear from the findings at [23] that he was aware of the visa restrictions to those who did not originate from the area.
5. It is considered that these findings of fact arguably amount to an error of law and further that the decision is inadequately reasoned as the judge gives no reasons for explaining how the appellant could be returned to Baghdad for onward travel to Erbil having found at [22] that he did not hold the requisite identity documents.
6. Permission is granted.”

3. Thus, the appeal came before me today.

4. At the outset Mr Diwnycz accepted that there was a material error within this decision as prior to its promulgation direct international flights to Erbil were suspended. The parties agreed therefore that the factual matrix and all the findings of the Judge within the decision are to be preserved but the appeal is to be remitted to the First-tier Tribunal to consider the single issue of risk on return to Iraq in terms of relocation only, given the finding that this Appellant cannot be returned to Baghdad.

5. That is an analysis that I share. Whilst I did consider dealing with the matter today I was not provided with a suitable interpreter for the Appellant and considered this not to be the way forward.

Decision

The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The facts found, as detailed above, are preserved except for any relating to risk on return to Erbil. The appeal is remitted to the First-tier Tribunal to be dealt with afresh pursuant to Section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Direction 7(b) before any Judge aside from Judge Batiste.

No anonymity direction is made.

Signed

Date 19 February 2018.

Deputy Upper Tribunal Judge Appleyard