



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/00183/2019

THE IMMIGRATION ACTS

Heard at Manchester
On 2nd May 2019

Decision and Reasons Promulgated
On 03rd June 2019

Before

DEPUTY JUDGE UPPER TRIBUNAL FARRELLY

Between

M D M A H
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Miss N Patel, Lei Dat & Baig, Solicitors (Renshaw House)

For the respondent: Mr C Bates, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a Kurdish national of Iraq born in March 1995. He made a claim for protection based upon imputed political opinion. His appeal against the refusal of his application was heard by Judge of the First-tier Tribunal Chambers at Manchester on 7 February 2019. In a decision promulgated on 9 February 2019 it was dismissed.

2. The appellant has been granted permission to appeal to the Upper Tribunal on the basis that the judge failed to give adequate reasons for departing from AA (Article 15(c)) Iraq CG [2015] UKUT 00544. The appellant was from Diyala, a contested area.
3. Mr Bates pointed out that the First-tier Tribunal judge did not have the benefit of a presenting officer at the hearing. He referred me to paragraph 17 of the decision and took the view that this was insufficiently detailed to justify a departure from the country guidance decision. The refusal decision referred to a judicial review decision but did not provide the full citation. In any event it predated the country guidance case of AAH (Iraqi Kurds-internal relocation) Iran CG [2018] UKUT 00212.
4. The Secretary of State's case in the refusal letter was that the situation on the ground had changed. However, the judicial review decision referred to related to Kirkuk and it did not necessarily follow that the same arguments would apply to a different contested area. Furthermore, the judge was not provided with a copy of the decision and the judge would have needed to have engaged with that decision to explain the justification for the departure from the country guidance. Furthermore, the decision of AAH (Iraqi Kurds-internal relocation) Iran CG [2018] UKUT 00212 continued to endorse the earlier country guidance decision.
5. Both parties were in agreement that the decision should be set aside and remitted to the First-tier Tribunal for a de novo hearing. For the reasons expressed I would agree with that conclusion.

Decision

The decision of First-tier Tribunal Judge Chambers materially errs in law and is set aside. The matter is remitted for a de novo hearing in the First-tier Tribunal

Deputy Upper Tribunal Judge Farrelly

Directions

1. Relist in Manchester for a de novo hearing in the First-tier Tribunal excluding Judge of the First-tier Tribunal Chambers.
2. A Kurdish Sorani interpreter will be required.
3. The appellant is the only witness anticipated.
4. At hearing estimate of 2 to 2 1/2 half hour scan be anticipated.
5. A new country guidance decision in relation to the article 15 C risk is anticipated this summer. It would be helpful to have a case management review before relisting in relation to the timescale expected for the new country guidance case.

Deputy Upper Tribunal Judge Farrelly

Dated 28 May 2019