Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/00680/2019

THE IMMIGRATION ACTS

Heard at Bradford	**Decision & Reasons Promulgated**
On 24th July 2019	**On 15th August 2019**

Before

UPPER TRIBUNAL JUDGE REEDS

Between

AA
(ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms Warren, Counsel instructed on behalf of the Appellant
For the Respondent: Ms Hopkinson, Senior Presenting Officer

DECISION AND DIRECTIONS

1. I make a direction regarding anonymity under Rule 14 of the Tribunal Procedure (Upper Tribunal Rules) Rules 2008. Unless and until a court directs otherwise the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly refer to him. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

2. The Appellant with permission, appeals against the decision of the First-tier Tribunal (Judge Hillis) (hereinafter referred to as the "FtTJ") who, in a

determination promulgated on the 1st April 2019, dismissed his claim for protection.

The factual background:

3. The background to the Appellant's protection claim is set out in the determination of the FtTJ at paragraphs 5-10 and in the decision letter of the Secretary of State issued on 10th January 2019.

4. The Appellant is a national of Iraq. He entered the United Kingdom on 27th January 2018 and made an application for asylum and/or humanitarian protection. His claim was based on his assertion that he was at risk on return to Iraq as a result of political opinion imputed to him by the Iraqi authorities, his Sunni faith and the Shia militia's. It was said that his father was a high-ranking police officer in the government and it also works for the regime of Saddam Hussein. His father was imprisoned by the Shia militia in 2013 in Baghdad for two months because he refused to work for them. The appellant had lived in Hawija for two days whilst it was under ISIS control, but he left in 2014 to work in Kirkuk. Alternatively, he left Hawija as his father advised him to leave due to ISIS. The family disappeared from there in 2014 and the appellant's uncle's friend was taken for ransom. It was claimed that the Shia militia came looking for him at his uncle's house in August 2017. He was told to leave but he did not know why the militia was looking for him specifically for stopping the alternative, the militia told his uncle they suspected he worked for the ISIS. He claimed to fear the Shia militia because he was a Sunni Muslim but had not experienced any problems specific to his religion. He claimed that on return it we persecuted by the Shia militia as they had imprisoned his father in the past been looking for him and on account of his religion and they suspected he worked for ISIS.

5. In a decision letter dated 10th January 2019 the Respondent refused his claim for asylum. It was accepted that he was a national of Iraq and also a Sunni Muslim. It was not accepted that he had given a credible and consistent account of his father's employment and it was not accepted that he had any high-profile role in government, the military or that he previously worked for the regime of Saddam Hussein. His claim to be at risk of adverse attention from the Shia militia was also not accepted at paragraphs 59 – 67. In determining his claim, consideration was given to section 8 of the 2004 Act on the basis that before arriving in the United Kingdom he travelled through France, Greece and Italy which were considered safe countries. He was in a safe country for a significant amount of time and it was not considered plausible that he was consistently under the supervision of an agent and unable to claim asylum.

6. The decision letter considered that he did not have a genuine subjective fear on return to Iraq. However, whilst it was not accepted that he had come to the adverse attention of the Shia militia due to his father's employment, consideration was given to the risk posed by the militia

because of his identity as a Sunni Arab. The respondent to set out the country materials and the CPIN dated June 2017 and the country guidance case of BA (returns to Baghdad) CG [2017] UKUT 18 and concluded that the appellant would not be at risk due to being a Sunni Arab.

7. Consideration was also given to Article 15(c) in the light of the country guidance decisions in AA (Article 15(c) Iraq CG [2015] KUT 544 as amended by the Court of Appeal in AA Iraq v SSHD [2017] EWCA Civ 944 and AAH (Iraqi Kurds-internal relocation) CG [2018] UKUT 0212. Specific consideration was given to documentation and feasibility of return (excluding the IKR) and internal relocation within Iraq (other than the IKR). Taking into account the factors identified in the case law and country materials, it was noted that the appellant had photographs of a national ID card and an Iraqi personal identity card although he claimed to have lost the original, it was noted he had a friend in Iraq and was in contact with his uncle whilst he was in France. Thus it was considered they would be able to offer assistance in obtaining new documents in Iraq, particularly as the translations contain the details used by the authorities to reissue such documents (as set out in the CPIN Iraq; internal relocation, civil documentation returns version 8.0, October 2018). It was also considered that his uncle in Iraq with whom he was living with three years prior to leaving the country would be able to provide him with support and accommodation. His claim was therefore dismissed on all grounds.

8. The appellant lodged grounds of appeal against that decision. The appeal against that decision came before the FtTJ on the 7th March 2019 and in the decision promulgated on 1st April 2019 his appeal was dismissed.

9. The FtTJ set out his findings of fact at paragraphs 31 – 41. They can be summarised as follows:

   (a) his two brothers did not go with him to his paternal uncle's home in Kirkuk as his father told them to stay and he was the only one who was told to leave.

   (b) When he went to his uncle's home in Kirkuk, his father gave him money for the journey, and he took his CSID card with him but lost it on the way to the UK when he was in Greece.

   (c) His uncle is a Sunni Muslim who still lives in Kirkuk with his wife and two sons.

   (d) There is a photograph of his CSID stored on his mobile telephone and a photocopy of his CSID card was taken from this.

   (e) He was from the Al Jaboor tribe which is the second largest in Iraq mostly live in Hawija and to create but also at a place close to Baghdad.

   (f) The appellant stated he had been employed as a labourer in brickworks and was not required to produce his CSID card to obtain that employment. He worked 20 minutes away from his uncle's house by car.

(g) The appellant accepted that he had not been threatened personally by anyone in Iraq including ISIS.

10. At paragraph [42] he recorded the concession made on behalf of the respondent that it was not submitted that the appellant could internally relocate to the IKR region in the north of Iraq. The Secretary of State's case was that he could return to Baghdad city and the southern governorates as set out in the decision letter.

11. The judge then turned to the particular issues relevant to this appellant's claim. At paragraphs [43]-[45] the judge set out his assessment of the risk to the appellant on account of his father's asserted position in the Ba'athist regime. For the reasons given, he rejected the appellant's account that is father was a high-ranking member of the regime who had been actively pursued by the Shia Militia. The background material did not indicate that the family members of former Ba'athists were actively being sought by anyone and that the appellant was a very young boy at the time of the Baathist regime and had failed to show that he would be at risk from harm as a family member of a former or current Ba'athist.

12. At [46] he rejected the claim that the appellant would be at risk of harm on account of being regarded as a collaborator with ISIS. He found that on the appellant's account he only spent two days in his home area before he fled to his paternal uncle's home in Kirkuk after ISIS arrived in his village in 2014. He then spent until August 2017 at his uncle's home without any difficulty and travelled on a daily basis to Erbil to work as a labourer. He then fled Iraq to avoid ISIS arriving in January 2018.

13. At [47 – 51] he considered the risk on return as an Arab Sunni Muslim. He took into account the CPIN Iraq: Sunni(Arab) Muslims dated June 2017 on the basis of his findings of fact that the appellant did not face a real risk of being perceived as a collaborator. The decision of BA (returns to Baghdad) was also considered which found that although Sunni men are more likely to be targeted as suspected supporters of Sunni extremist groups such as ISIL, Sunni identity alone is not sufficient to give rise to a real risk of serious harm (paragraph 107).

14. At [48] he turned to the appellant's individual characteristics; a 20-year-old Sunni Arab who was educated for 10 years in Iraq and worked as a "building instructor" before leaving the country. He rejected the submission that the appellant was a young man of low-level education. He spoke Arabic and that he was not an ethnic Kurd.

15. At [49] he concluded that there was a significant Sunni population in Baghdad and did not find that it would be unduly harsh for the appellant to relocate to that area. He took into account that the appellant's uncle, on the evidence before him was still living in Iraq as he supported the appellant from 2014 to 2017 and he concluded that he could provide support to the appellant both financially and emotionally whilst the appellant is in Baghdad. In addition, he rejected the appellant's evidence

that he could not seek help from the elders or a committee of his own tribe which is, on the appellant's own account, the second largest in Iraq. The FtTJ found that support and assistance to members of the tribe would be traditional and in the absence of credible and reliable evidence to the contrary, he concluded that it would be available to the appellant on return stop he rejected the appellants evidence that his father never took him to meet any fellow members of their tribe or participated in any tribal celebrations.

16. As to the issue of whether the appellant could obtain a CSID, at [52], he set out that it was accepted by both parties that the appellant had a photograph of his original authentic CSID on his mobile telephone and that a copy of it was submitted for the appeal and is in the bundle. He concluded that the appellant would be able to visit the Iraqi embassy in London to obtain a replacement CSID, if, in fact, he did lose his original CSID as he claimed. Failing that, he would be able to obtain a replacement CSID in Iraq at the Baghdad office or with the assistance of his uncle from the relevant office in Kirkuk.

17. He concluded at [51] and [53] on the basis of the evidence taken as a whole that the appellant's personal circumstances were such that it would not be unduly harsh for the appellant to relocate to either Baghdad or to the southern governorates where there is a Sunni presence.

18. At paragraphs [56]-62] the FtTJ considered the issue of whether the appellant could travel safely from Baghdad and return to Kirkuk. He resolved this issue in favour of the appellant and concluded at [62) that in the absence of significant reasons supported by cogent evidence, he did not find that the situation in Hawija or Kirkuk had changed since the assessment carried out by the Upper Tribunal which had confirmed that both of those areas remained "contested areas".

19. At [63] the FtTJ set out that the appellant would not be destitute on removal to Iraq because he would be able to obtain a replacement CSID and that he was a young, physically able Sunni Muslim who spoke Arabic and had experience in the building industry and therefore would be able to obtain employment and accommodation and would not be destitute or face undue hardship on return.

20. There was no claim made on Article 8 grounds (see [68]). He therefore dismissed the appeal on all grounds.

21. Permission to appeal that decision was sought and granted and on the 13th May 2019 by FtTJ Grimmett.

22. The appeal was therefore listed before the Upper Tribunal. Ms Warren, who did not appear before the FtTJ, appeared on behalf of the appellant and Ms Hopkinson, senior presenting officer, appeared on behalf of the respondent.

23. A preliminary point was raised in respect of the ambit of the grounds and that there appeared to be a partial grant of permission rather than on all grounds. Having considered the grounds in the light of the grant of permission, I reached the conclusion that they did not properly deal with the all the issues raised and that the way in which it had been drafted was ambiguous. For example, there were three specific grounds raised; Ground 1 related to an error in the FtTJ's consideration of the appellants "personal circumstances" before concluding he could internally relocate to Baghdad, ground two related to his ability to obtain a replacement CSID and ground three referred to the error in the approach taken by the FtTJ to the issue of internal relocation to the southern governorates. In respect of ground one, Judge Grimmett appeared to reject paragraph 4 (although referring to it as ground 4) but granting permission in respect of paragraph 5 but made no assessment of paragraph 6 which made reference to tribal support. As to ground two, it was stated that ground eight relied on outdated case law and in respect of ground three it was stated that paragraph sought to reargue the appeal. No reasons were given in respect of grounds two and three and the specific points raised. Furthermore, grounds two and three also relied upon the findings of fact which were challenged in ground one upon which permission was granted. For those reasons, I reached the conclusion that the appeal should proceed on all grounds. If that had caused difficulties for the presenting officer, I indicated that either time could be provided to consider any submissions she would wish to make or in the alternative, an adjournment. Ms Hopkinson informed the court that those points had all been prepared by her in any event and no further time was necessary.

24. I am grateful for the submissions heard from Ms Warren and Miss Hopkinson on the issues that arise in the grounds advanced on behalf of the appellant. I confirm that I have considered those submissions in accordance with the decision of the FtTJ and the grounds which had been filed before the Upper Tribunal. I further confirm that I have given full consideration to those submissions which I have heard, and I intend to incorporate those submissions into my analysis of the grounds that are relied upon by the appellant.

25. There is no challenge made to the FtTJ's findings of fact that the appellant would be at risk on the basis of his father's profile or as a collaborator. Nor is there any challenge made to the assessment that the appellant cannot return to his home area or internally relocate to Kirkuk or the IKR.

Ground 1:

26. This is a challenge to the FtTJ's assessment of the appellant's "personal circumstances" relevant to the issue of internal relocation generally. Ms Warren submits that the FtTJ's findings at [48] and [49] were material errors of fact or were perverse findings made by the FtTJ.

27. She submits that the rejection of previous Counsel's submission that he was a man of low-level education was not open to the FtTJ and that the

FtTJ failed to explain how he came to that conclusion when the appellant was 18 years of age when he left Iraq and 20 years of age at the hearing. She also states that the judge referred to him as a "building instructor" when the appellant's evidence was, he had been a labourer.

28. The second error of fact/perverse finding was the FtTJ's assessment that the appellant's uncle could support him in Baghdad when the appellant's evidence was that he had had no contact with his uncle since arriving in the UK in 2017 and this was not disputed. She submitted it was material to his assessment of relocation as the CG decision requires the appellant to have a family member in Baghdad (reference made to AA (Iraq) CG).

29. The third error relates to the FtTJ's findings that the appellant could draw upon some support from members of his tribe. It is submitted that there was no evidence or support for any conclusion in the objective material or the country guidance caselaw. Furthermore, he gave no reasons for rejecting the appellant's evidence that he had not been introduced to any of the elders or others from his tribe whilst in Iraq.

30. I am not satisfied that the judge fell into error in the way advanced by Ms Warren. As to the appellant's personal circumstances, the FtTJ's findings at [48] and [49] were properly drawn from the evidence before him. At [48] the FtTJ set out that the appellant was a 20-year-old Sunni Arab. There can be no argument about that description. He also found that the appellant had been educated in Iraq for a period of 10 years. This finding was based on the appellant's own evidence set out in his screening interview at paragraph 2.6. Whilst he referred to him as a "building instructor" that was a term used by the appellant himself in the screening interview paragraph 1.14. This was later clarified (see letter at D1) as a reference to his employment as a labourer which the judge plainly made reference to at [38] in his findings of fact and credibility, that he was employed as a labourer in such work and therefore the judge considered his previous occupation correctly. All of those findings were evidence-based and therefore open to the FtTJ to find as a fact.

31. I am also satisfied that it was against that background evidence that the FtTJ was entitled to reject Counsel's submission that he was young man of low-level education. The FtTJ had proper regard to his age (20) and when considering the education that he had received in Iraq; the appellant's own evidence was that he had received 10 years of education (see question 16 of the AIR). As Miss Hopkinson submitted, the appellant's own evidence of 10 years of education when seen in the context of Iraq could not properly be considered low-level education where not all its citizens have had access to education. In my judgment there is no error, nor can any perversity be shown in those findings at [48] which, taken as a whole, show a picture of a healthy 20-year-old Sunni Arab male with an educational background of 10 years with employable skills (see omnibus conclusion at [63]).

32. As to the second error, I accept the submission made by Ms Hopkinson that the judge was entitled to reach the finding of fact as to contact with relatives in Iraq when considering the evidence as a whole and in the context of the appellant's general credibility. The FtTJ had given adequate and sustainable reasons for rejecting the appellant's account of why he would be at risk in Iraq on account of his father's past activities and on account of being perceived as a collaborator with ISIS. The assessment made at [49] in my judgment properly reflected the evidence. The appellant's uncle was still living in Iraq. It was open to the FtTJ to consider the issue of further contact in the context of the evidence that whilst he claimed not to have had any contact with his uncle since his arrival, he had spoken with him and had contact relatively recently in France. This was supported by the appellant's own evidence at Q 142 in the asylum interview. At question 144 he was asked if he had had contact with his uncle he said he had but that he did not know how to get in touch with him and stated "I know nothing", which is undermined by having contact with others in Iraq who had sent in pictures and information (see question 150 of the asylum interview). Whilst the judge did not expressly refer to this, it was set out in the asylum interview and demonstrates that the judge, when considering the evidence in its totality, was entitled to reach the conclusion that the appellant, having been supported by his uncle for three years when he left his home area and had helped him leave Iraq, and had contact with him when in France, would reasonably be likely to provide support to the appellant both emotionally and financially. This was particularly so when there was no evidence from the appellant for example in the form of any Red Cross evidence that he had sought to contact his uncle but was unable to do so and in the context of his lack of general credibility.

33. The third point relates to the judge's assessment that in addition he would be able to seek help from the elders or from a committee of his own tribe. The FtTJ's findings in this regard were again based on the appellant's own evidence that his tribal background was that of the Al Jaboor tribe which was the second largest tribe in Iraq. Therefore the appellant was able to identify his own tribal background and also able to identify the area where they had lived (including the area close to Baghdad). I would accept that the judge did not recite any objective material in support of this but given the general importance of tribal links in Iraq and the reference to this as "traditional" support, as a general finding it was open to him to take this into account. Whilst Ms Warren submits that he gave no reason for rejecting the appellant's evidence, that is incorrect. The FtTJ plainly rejected his account that is father had never taken him to meet any of the fellow members of the tribe on the basis of the appellant's own evidence that he was able to identify his own tribal background, where they lived and that they were the second largest tribe. Given the tribal background described by the appellant, the judge did not find it plausible or credible that he had had no meetings whatsoever with other members of the tribe. That was a finding open to the FtTJ on the evidence before him.

34. Drawing those matters together, in my judgment ground one is not made out and the FtTJ's assessment of the appellant's personal circumstances as found by him were properly open to him on the evidence and could not be classified as errors of fact or as perverse findings.

Ground 2:

35. The written grounds relating to ground 2 challenge the judge's assessment at paragraphs 50 – 51 that it would not be unduly harsh to relocate to Baghdad. The judge at [50] set out his reliance on the CPIN as directed by counsel for the appellant in the context of his background as a Sunni Muslim. The FtTJ also took into account the findings made earlier at [47]-[49] which related to his personal characteristics which were summarised in his omnibus conclusion at [63].

36. The basis of the challenge relates to the issue of whether the appellant could obtain a CSID. Ms Warren submitted that the FtTJ had found that the appellant could visit the Iraqi embassy in London to obtain a replacement CSID or that his family could obtain a replacement in the Baghdad office with the assistance of his uncle. She submitted that this was an error because there was no functioning archive in Baghdad relying on paragraph 100 of AA(Iraq) and the evidence of Dr Fatah.

37. She further submitted that the evidence of Dr Fatah stated that ISIS had closed down offices, which was relevant to Kirkuk, the offices were also in general disarray and that there was evidence that officials do not provide helpful assistance in either Iraq or the UK. She therefore submitted that the CG decision undermined the judge's assessment of being able to obtain a replacement CSID in either Baghdad, Kirkuk or the UK.

38. She further submitted that the judge did not set out how the appellant could obtain a CSID from Kirkuk and if this was on the basis that his uncle could go and obtain one for him, this would be undermined by the country guidance decision AA (Iraq) at paragraph 18 and repeated in the later decision of AAH at paragraph 102.

39. She submitted the paragraph 181 doubted whether a CSID could be handed over to an individual with a power of attorney and that also AA quoted at paragraph 102 that the ability to obtain a CSID from the civil affairs office would be hampered in areas such as Kirkuk.

40. By way of reply, Ms Hopkinson submitted that the judge had set out three options to the appellant which were based on the evidence accepted by both parties that the appellant had a copy of his authentic CSID on his phone and that he could either attend at the Iraqi embassy in the UK or failing that, obtain one in Baghdad or from Kirkuk. She accepted that he did not specifically refer to the issue of the office in Baghdad being in disarray, but he did refer to this option and the burden is upon the appellant to demonstrate that he cannot obtain a CSID and explore the avenues open to him.

41. It is clear from the country guidance decision in AA (Iraq) v SSHD [2017] EWCA Civ 944, where the amended country guidance set out in an Annex, that:

> "an international protection claim made by P cannot succeed by reference to any alleged risk of harm arising from an absence of a current or expired Iraqi passport or a laissez passer, if the Tribunal finds that P's return is not currently feasible on account of a lack of any of those documents."

42. The basis for that guidance, amended by the Court of Appeal on a consensual basis, is set out at [36]-[41] of the judgment. It is based upon that court's earlier decision in HF (Iraq) v SSHD [2013] EWCA Civ 1276 (see [38]-[39] of AA). The context means that a claim cannot succeed where an individual assert that they are at risk in Iraq because they lack the very documentation needed to return to Iraq, *the absence of which* would put them at risk (see [38] of AA). However, if the absence of a document, once in Iraq, creates a risk in the country, then it is a live issue as to whether or not an appellant will be able to obtain such a document. That, of course, is the basis of the country guidance in both AA and AAH, that possession of a CSID is an important document when considering an international protection claim based upon an individual's circumstances once in Iraq.

43. I have considered the following guidance from AA (Iraq) CG [2017] EWCA Civ 944

> "*D. INTERNAL RELOCATION WITHIN IRAQ (OTHER THAN THE IKR)*
>
> *14. As a general matter, it will not be unreasonable or unduly harsh for a person from a contested area to relocate to Baghdad City or (subject to paragraph 2 above) the Baghdad Belts.*
>
> *15. In assessing whether it would be unreasonable/unduly harsh for P to relocate to Baghdad, the following factors are, however, likely to be relevant:*
>
> *(a) whether P has a CSID or will be able to obtain one (see Part C above);*
>
> *(b) whether P can speak Arabic (those who cannot are less likely to find employment);*
>
> *(c) whether P has family members or friends in Baghdad able to accommodate him;*
>
> *(d) whether P is a lone female (women face greater difficulties than men in finding employment);*
>
> *(e) whether P can find a sponsor to access a hotel room or rent accommodation;*
>
> *(f) whether P is from a minority community;*

(g) whether there is support available for P bearing in mind there is some evidence that returned failed asylum seekers are provided with the support generally given to IDPs.

16. There is not a real risk of an ordinary civilian travelling from Baghdad airport to the southern governorates, suffering serious harm en route to such governorates so as engage Article 15(c).

44. In **AA (Iraq) [2017] EWCA Civ 944** - in particular I note the following:

"*9. Regardless of the feasibility of P's return, it will be necessary to decide whether P has a CSID, or will be able to obtain one, reasonably soon after arrival in Iraq. ...*

10. Where return is feasible but P does not have a CSID, P should as a general matter be able to obtain one from the Civil Status Affairs Office for P's home Governorate, using an Iraqi passport (whether current or expired), if P has one. If P does not have such a passport, P's ability to obtain a CSID may depend on whether P knows the page and volume number of the book holding P's information (and that of P's family). P's ability to persuade the officials that P is the person named on the relevant page is likely to depend on whether P has family members or other individuals who are prepared to vouch for P. "

45. Paragraphs 9 to 11 of the annex to AA (Iraq) CG [2017] EWCA Civ 944 deals with the importance of, and availability of, a CSID.

46. As explained by the Court of Appeal in *AA (Iraq) v SSHD* [2017] EWCA Civ 944 "A CSID is generally required in order for an Iraqi to access financial assistance from the authorities, employment, education, housing and medical treatment. If P shows there are no family or other members likely to be able to provide means of support, P is in general likely to fail and face a real risk of destitution amounting to serious harm if by the time any funds provided to P by the Secretary of State or agents to assist P's return have been exhausted, it is reasonably likely that P will still have no CSID."

47. The FtTJ set out three options for the appellant to obtain a replacement CSID which were based on the premise that the appellant had an authentic copy of his CSID on mobile phone.

48. The FtTJ considered that the appellant may be able to obtain a CSID from the Iraqi Embassy in London (see paragraph 52). In *AA (Article 15(c)) Iraq CG* it was said that a person who is able to produce a current or expired passport and/or the book in page number for their family registration details may be able to obtain a CSID in the UK through the consular section of the Iraqi Embassy in London.

49. Ms Hopkinson, for the respondent, referred to the Upper Tribunal decision of *AA (Article 15(c) Iraq) CG* [2015] UKUT 544 (IAC)**.** This decision has a section expressly devoted to 'Obtaining a CSID whilst in the UK'. It recites the expert evidence upon which the judges relied, which included the evidence of Dr Fatah and ties the various strands together with a concluding paragraph [177]. This is replicated in the CG decision of AAH (Iraqi Kurds-internal relocation) Iraq CG [2018] UKUT 00212 and which reads:

> "177. In summary, we conclude that it is possible for an Iraqi national living in the UK to obtain a CSID through the consular section of the Iraqi Embassy in London, if such a person is able to produce a current or expired passport and/or the book and page number for their family registration details.".

50. Earlier in the evidence, Dr Fatah had referred to the necessity of an individual to obtain CSID as matter of urgency (if in Iraq) and that the ideal means would be the production of an old or damaged CSID (see paragraph 24 of AAH). At [34] Dr Fatah's evidence was recorded that it would be for an individual to satisfy the consular staff as to his identity and nationality but having a CSID or passport, current or expired would be of great assistance. If the applicant did not have such document, he could demonstrate his identity by calling on documented relatives to vouch for him.

51. On the evidence before the FtTJ the appellant can provide details of the CSID card as he has an authentic copy on his mobile phone and therefore could make an application through the Iraqi Embassy. In addition he has the ability to contact his uncle. The judge found that he had the ability to contact his Uncle who was confirmed to still be in Iraq and whom the appellant had been in contact with when in France.

52. In the alternative, the FtTJ considered that he could make a successful application to the central archive in Baghdad. Ms Warren relied upon the evidence of Dr Fatah that he had never heard of anyone obtaining a CSID from the central archive (see [29]). This was later referred to in the Tribunal's assessment in AAH at [103]-[106] although in the context of return to the IKR.

53. However the FtTJ placed reliance on the CPIN: Iraq, internal relocation, civil documentation and returns February 2019 Version 9.0 (this was the only country material placed before the FtTJ). In that document at paragraph 2.6.16 reference is made to the letter from the Iraqi Embassy dated October 2018 which noted that "there is a central register back up in Baghdad that includes all the civil records of all the provinces in the event of any damage or destruction. This civil registration back up (microfilm) covers all records form 1957(Annex B). This document was not before the Tribunal in AAH and give further evidence in this respect.

54. In the light of the factual findings made by the FtTJ, If the appellant was to attend the archive, he would be able to do so with his personal details and

also details of the registration number of his previous CSID card. This is therefore a realistic option for the appellant as the judge set out.

55. As to the third option, the judge considered that the appellant would be able to obtain a CSID within a reasonable timeframe if in Iraq. Looking at *AAH*, the guidance states that:

> *1. Whilst it remains possible for an Iraqi national returnee (P) to obtain a new CSID whether P is able to do so, or do so within a reasonable time frame, will depend on the individual circumstances. Factors to be considered include:*
>
> *i) Whether P has any other form of documentation, or information about the location of his entry in the civil register. An INC, passport, birth/marriage certificates or an expired CSID would all be of substantial assistance. For someone in possession of one or more of these documents the process should be straightforward. A laissez-passer should not be counted for these purposes: these can be issued without any other form of ID being available, are not of any assistance in 'tracing back' to the family record and are confiscated upon arrival at Baghdad;*
>
> *ii) The location of the relevant civil registry office. If it is in an area held or formerly held, by ISIL, is it operational?*
>
> *iii) Are there male family members who would be able and willing to attend the civil registry with P? Because the registration system is patrilineal it will be relevant to consider whether the relative is from the mother or father's side. A maternal uncle in possession of his CSID would be able to assist in locating the original place of registration of the individual's mother, and from there the trail would need to be followed to the place that her records were transferred upon marriage. It must also be borne in mind that a significant number of IDPs in Iraq are themselves undocumented; if that is the case it is unlikely that they could be of assistance. A woman without a male relative to assist with the process of redocumentation would face very significant obstacles in that officials may refuse to deal with her case at all.*

56. The FtTJ had taken into account the factual findings made as set out earlier. At [47]-51] and at [52] concluded that he could obtain a replacement CSID in Iraq. Whilst he did not make specific reference to the CPIN he had previously stated at [50] and at [60] that he had regard to this when reaching his assessment given the reliance placed on it by the respondent and also Counsel for the appellant.

57. On the basis of his factual findings the appellant was in possession of an authentic copy of his CSID and therefore was in possession of the

document which would give information about his identity and the location of his entry in the civil register. The location of the civil register was in Kirkuk and whilst the FtTJ found that he could not depart from the CG (see [62], it was open to him to find that there was a male relative who would be willing and able to assist him.

58. However, even if it were right that the appellant would have more difficulties obtaining his CSID through his Uncle, in light of the other findings and assessment that he could obtain his replacement CSID in the UK or when in Baghdad, those options still applied.

59. It was therefore open to the FtTJ to reach the conclusion that it had not been made out to the required standard that the appellant would not be able to obtain a replacement CSID. The written grounds did not expressly challenge the issue of internal relocation to Baghdad but as set out in Ground 1 sought to challenge the FtTJ's consideration of the appellant's "personal circumstances" before concluding he could internally relocate. I have dealt with Ground 1 above. The written grounds do not make any challenge on the basis of the factors identified in AA (Iraq) (as cited above). However, for sake of completeness, and in the light of the oral submissions, I have considered this issue. On the factual findings of the FtTJ which were open to him were that the appellant was of Arab ethnicity but was Sunni Muslim. The FtTJ cited the CPIN at [50] and the country materials which stated that a Sunni Muslim will generally be able to relocate to Baghdad as long as it is not unreasonable based on their specific circumstances. The appellant spoke Arabic and had the level of education identified by the FtTJ and had employable skills (see paragraph 48). Whilst he did not have any family in Baghdad, or any sponsor, the FtTJ found that he could access support from his Uncle. In addition, as set out in the decision letter, the respondent provides returnees with a rehabilitation and reintegration package which includes sufficient financial resources to assist an individual in returning. The FtTJ's omnibus conclusion is at [63]. It was therefore open to the FtTJ to find that it would not be unduly harsh to relocate to Baghdad against that background.

60. Whilst Ground 3 refers to the inability of the appellant to relocate to the Southern Governorates, I would accept that no assessment was made of the appellant's ability to travel from Baghdad (where he would be returned) to any area in the South. However, in light of the assessment made of return to Baghdad, any error would not be material.

61. In summary, the assessment made was one reasonably open to the FtTJ on the evidence, both oral and documentary, and I am not satisfied that the decision of the FtTJ demonstrates the making of an error on a point of law. The decision to dismiss the appeal shall stand.

Notice of Decision

62. The decision of the FtTJ did not involve the making of an error on a point of law; the appeal is dismissed.

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed Date 8/8/2019

Upper Tribunal Judge Reeds