



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/02020/2018

THE IMMIGRATION ACTS

Heard at Glasgow
On 11 October 2018

Decision & Reasons Promulgated
On 23 April 2019

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

A M
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms N Loughran, Solicitor

For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge MacKenzie promulgated on 28 March 2018.
2. The appellant's case is he is at risk on return to Iraq as the result of death threats made to him by AN, the uncle of a boy, AM, whom the appellant had accidentally killed. The appellant had previously come to arrangements with AM's family their paying 5,000 Iraqi dinar.

3. The appellant says that he had lost his Iraqi identity documents whilst travelling to the United Kingdom. In this case the documents were lost when he and his family had to be rescued from a boat by the Italian coastguard as it was sinking.
4. The Secretary of State did not accept the appellant's account.
5. Judge MacKenzie made a number of strong, adverse credibility findings against the appellant set out at paragraphs [30] to [40] of his decision. In summary, he did not accept the appellant's account finding the credibility of the core of the claim was significantly damaged [38] and that his credibility was damaged by his failure to claim asylum en route to the United Kingdom. The judge does at [41] accept that the appellant is from Daquq town within Kirkuk Governorate but accepted the submission that the appellant would be returned to Erbil International Airport and thus the issue as to whether the appellant would be at risk within the IKR.
6. The judge found [43] that the appellant would be able to obtain a CSID and would have the benefit of a resettlement package and thus his overall situation and that of his family would fall short of undue harshness. The judge did not accept either that the appellant had lost his Iraqi identification documents [44] but even so following AA and the Country Policy Information Note Iraq: return/internal relocation (September 2017) that he would be able to obtain a replacement CSID card. The judge also found at [46] the appellant would be able to get assistance from family in Iraq.
7. The judge then went on to conclude at [47] to [50] that it would not be unduly harsh for the appellant to relocate to another part of Iraq which is not a contested area or an Article 15(c) area as he would be able to travel to Erbil Airport and relocate from there. The judge also found that the appellant had not failed to prove that he cannot reasonably relocate to an area within Iraq which is not an Article 15(c) area if he is unable to return to the village where he previously lived [49].
8. The appellant sought permission to appeal on the basis that the judge had erred:-
 - (i) In concluding that the appellant's place of origin and residence were within the IKR but in fact the Kirkuk Governorate within which the appellant's village of Mansur within Daquq town was part of the Kirkuk Governorate. On that basis return should have been to Baghdad;
 - (ii) by not considering the fact that the governorate of residence fell within an Article 15(c) area when assessing whether the appellant would be able to obtain a CSID
 - (iii) in failing to consider whether it would be reasonable to expect the appellant and his wife and their three children aged 3, 12 and 14 to return to Baghdad;
 - (iv) in failing to provide any reasons for concluding that the appellant had not lost his Iraqi identification documents when rescued on a boat;
 - (v) in failing to provide any reasons for a finding that the appellant has family members in Iraq to whom he could turn for the process of obtaining a CSID.

9. The Secretary of State in his Rule 24 response accepted that it was an error for the judge to conclude the appellant would be returned to Erbil Airport, the judge regrettably having been misled by the Presenting Officer. It is accepted also the Kirkuk does not fall within the IKR. The Secretary of State did not, however, consider that there was any error in the adverse credibility findings made by the judge.
10. Ms Loughran submitted that there was an implicit challenge to the credibility findings made between paragraphs 30 and 40 of the decision in that the error with regard to the point of return was so fundamental as to undermine these. I do not agree. The judge clearly made a mistake in concluding Kirkuk was within the IKR and it is evident that he was led into this by the respondent. It cannot, however, be said that he misunderstood the appellant's claim, or the details as to where he came from; the only error was as to whether Kirkuk fell within the IKR or not. Whether or not the appellant's home area was within the IKR did not form a part of the reasoning of the judge in concluding for cogent and sustainable reasons that the appellant's account was not credible. The judge's decision in assessing this issue is confined to the difficulties of return.
11. In the context of these strong and cogent credibility findings which are in reality unchallenged there were adequate and sustainable reasons for the judge in that context concluding that he was not satisfied by the appellant's evidence either that he had lost his CSID card or that he had no family to contact in Iraq. Had the appellant wished to challenge these findings, he needed to make such a challenge in the grounds. He did not and accordingly, I conclude that they must stand.
12. The finding that the appellant's claim to be at risk from a particular individual, AN, as not made out is not infected by error. The judge did, however, err in concluding that the appellant's home area fell within the IKR and that return would be to Erbil. Accordingly, the findings as to risk on return are infected by that error; that is, whether the home area was within the IKR (it is accepted it is not).
13. It is necessary to remake the decision in the light of AAH (Iraq Kurds - internal relocation) Iraq CG UKUT 00212 which in turn requires further evidence and questions to be put to the appellant and for that reason I heard oral evidence from the appellant given through an interpreter.
14. The appellant adopted his witness statements adding he said he had lost his CSID in the sea near Italy. He said the boat was about to sink when they were rescued and they were told to come out one by one and that their bags would be rescued later. This however did not happen. He said that all the documents that they had possessed were in that bag including the marriage certificate, driving licence and citizenship documents.
15. The appellant said that the area in which he lived, Layla, between Daquq and Kirkuk is no longer the same as it has been taken over by Hashd Al-Shaabi an organisation which was as bad if not worse than Daesh. He said he could not get replacement documents as has escaped from the man and could not go back there but that it

would be okay for him to go there if that man was no longer there and he would return. Asked if there was any other risk to him in Iraq he said that other dangers would be the same as for any other Iraqi.

16. The appellant said that he had not had contact with his family since Hashd Al-Shaabi had taken over and that they would not permit Kurds to live in those areas under their control, Hashd Al-Shaabi being Shia and the appellant and his family being Sunni.
17. The appellant said that he did not know anyone in Baghdad and had no family there.
18. The appellant says that he could not get other ID documents as the offices in his home area were burnt down and also that to go there you had to go in person to give fingerprints.
19. The appellant said that he had previously had contact with his family until around October last year, being in contact using Viber via mobile phone. The last contact had been about ten days before the attack on the home area in which a lot of people were attacked and killed and displaced by Hashd Al-Shaabi. He said he had tried to contact his brother but the phone was switched off but he had no contact either with his parents neither of whom had a mobile phone. He said he had no phone number for cousins or uncles, only recalling his brother's number which he had memorised.
20. In cross-examination the appellant said that his wife does have family in Kirkuk including her father, aunts and she had a brother but she had not had contact with them since she left Iraq and does not have a phone. He said that she did not know the telephone numbers.
21. The appellant said that initially he would borrow a friend's to contact his brother and they had done this when they moved from place to place en route to the United Kingdom. It was only later that they had enough money to put together to buy a mobile phone then contact him themselves.
22. The appellant said that he contacted the Red Cross to try to get back in contact with his eldest son who appears to have been separated from them in Italy.
23. The appellant said that he had funded his travel to the United Kingdom at the cost of \$30,000 by selling animals and that he had been a farmer in Iraq.
24. The appellant said that he and his family would now be too scared to go back to the area repeating that in order to get an identity you have to go there in person for fingerprint purposes that he had learnt what had happened to his village on the news the reports being that the registration office had been burnt down.
25. He said that in Iraq they had kept the CSID documents safely in a bag where his wife had put them but they had been lost in the water when they transferred to a bigger boat.

26. He said that they had had some money on the journey to pay for living costs and that his wife had be able to conceal money within her bra.
27. Ms O'Brien submitted that given the various credibility findings nothing the appellant said could be said to be treated as truthful and it was convenient for him to say that not only had he lost all contact with his family whom he had previously said (AIR Q8) he had been in contact with it was not credible his wife would not have obtained a way of contacting her family. She submitted that a positive finding should be made that he does have contact and is able to get assistance in Iraq.
28. Ms O'Brien submitted also that the appellant's account of losing his valuable documents was not in itself implausible but we had to take his word for it. Further she submitted that he had family connections which would enable a replacement and the fact that he had been able to raise \$30,000 suggests the family business had some significance. She submitted he had been able to rely on wider family support on return to Baghdad and he would either have access to a CSID card or would be to procure an alternative. She submitted that following AAH, as the appellant had male family support to assist him, he was not entitled to protection. She submitted that there was in fact no real evidence that the relevant registries had been destroyed this being solely the unsupported testimony of the appellant.
29. Ms Loughran submitted that the humanitarian protection appeal should be allowed in light of the fact it appeared accepted that the appellant is from the Kirkuk Governorate which is still an area in which there is an Article 15(c) risk. She submitted further that it was evident that he does not have the relevant documentary ID documents and it was plausible that he had lost contact with family in the area of Daquq, objective ordinary evidence showing that that is an area of conflict. She submitted that if the appellant's evidence were accepted, then he cannot be relocated to an area which the Article 15(c) threshold is met.
30. Ms Loughran submitted the appellant's evidence had been consistent; that the Article 15(c) area identified in AA had not been changed by AAH and it would be unduly harsh for him to be returned. She submitted that the reason he had given for the breaking of a contact was plausible, that being the attack by Hashd Al-Shaabi.
31. After some discussion it transpired that the Home Office had now produced an additional CIPN report in September 2018 relating to the point of removal to Iraq. I was satisfied that in the circumstances and also in light of the fact that other issues arise following from AAH and the position of Hashd Al-Shaabi that it would be appropriate to adjourn the matter for further submissions to be made, giving directions for additional material to be served within fourteen days and for submissions thereon to be cross-served after 28 days. Both parties complied with the directions.
32. Subsequent to that, it became necessary for yet further submissions to be made as, given the apparent change in circumstances in Kirkuk governorate, I was of the view that it would now be necessary to consider whether there, as a result, the appellant

was now at risk there on account of his Kurdish ethnicity. I therefore issued directions for further material and submissions to be made.

Remaking the decision

33. In reaching my findings of fact, I have taken fully into account the material placed before me and the background evidence in assessing the risk to the appellant on return. I adopt the lower standard of proof applicable to asylum claims in assessing that risk.
34. The starting point for any analysis is the findings made by the First-tier Tribunal which have been preserved. the appellant is from Daqoq town. The judge also found [44] that the appellant had not told the truth when he said he had lost his identify documents. The judge also found that the appellant had not lost contact with his family [46].
35. Those findings were not infected by the errors found; and, despite Ms Loughran's efforts in seeking to overturn those findings, as noted above they were not properly challenged in the grounds of appeal, nor am I satisfied that those findings were undermined by any of the errors of law found which stem from the error about whether Daqoq is within the Kirkuk governorate.
36. Further, and in the alternative, although I heard evidence from the appellant that all the ID documents had been lost when he and his family had to be rescued, given the preserved credibility findings made by the First-tier Tribunal I am not satisfied that although what he has said is plausible, that he has told the truth about this.
37. It is necessary also to bear in mind the most recent Country Guidance handed down by the Upper Tribunal in AAH insofar as it supplements and amends the guidance given in AA (Iraq) [2017] EWCA Civ 944
38. A consolidated version now extends to some 4 sides and for convenience is set out as an annex to this decision.
39. In addition, I have taken into account the more recent material provided to me by the appellant's representative as well as the CPIN entitled "Iraq: Internal relocation, civil documentation and returns."
40. I turn first to the situation in Kirkuk governorate. I accept that the situation there has changed since AA was promulgated in that it is no longer under Daesh control. But that is not the whole picture. As can be seem from the most recent material adduced by the appellant in Inventory IV, there is extensive material from a number of sources which show a further change in the situation on the ground since Daesh/ISIS were removed.
41. That said, since they were displaced, the appellant's home area has come under the control of Hashd al-Shaabi a Shia militia group which has attacked Kurds and attempted to drive them out, seizing property and handing it over to Arabs. As

much as 70% of Kirkuk is under their control, as confirmed by the news articles set out in the third Inventory of Productions at 29, 32 and 33. These are from a number of sources, and are broadly consistent. It appears also from the material provided in the fourth Inventory of Productions that, under the excuse of seeking out Sunni militants, abuses against Sunnis including show trials Kurds has extended to the families of those accused of assisting terrorists. It appears also from the Australian DFAT Country Information Report, which I also consider reliable, that Arab families have been brought from different parts of Iraq to the disputed Kurdish territories to supplant Kurdish farmers who are evicted from their land.

42. The CPIN of October 2018 is of little evidential value in assessing the position of Kurds in the Kirkuk governorate as at 8.1.1 given that the source is April 2016. Further, the March 2018 CPIN pre-dates Hashd-al Shaabi taking control in Kirkuk Governorate which occurred during the summer/autumn of 2018.
43. The CPIN of November 2018 has little to say about the situation for Kurds in Kirkuk, and is reliant primarily on earlier sources which pre-date the events of the summer/autumn of 2018. At 6.3.1 it deals with people in need in Kirkuk, that is from a plan from February 2018 and much of the rest of the information on that area also predates the serious incursion by Shia militia, although it is noted at 6.17.1 that there have been evictions. No further detail is given. I note that there is evidence at 8.1.4 of continuing ISIS related insecurity but that is recorded at a time when the Kurdish Peshmerga were assisting the army and police, again prior to October 2018.
44. Similarly the more recent CPIN of February 2019 on Internal Relocation, civil documentation and returns, does not address the particular problems in Kirkuk governorate for Kurds as a result of the activities of Shia militias or Hash al-Shaabi in particular.
45. There is nothing in the CPIN notes which contradicts the material provided by the appellant from reliable sources indicating that Kurds are at risk of persecution on account of their ethnicity in Kirkuk governorate. There is cogent evidence of them being driven from their farms and homes on account of ethnicity. Further, given that the militia are acting under the auspices of the state and there is no indication of the state being able to prevent this or to be willing to do so, there is no state protection available to the appellant or his family.
46. For these reasons, on the basis of the facts as established, the appellant has a well-founded fear of persecution in his home area on account of his ethnicity.
47. The question then arises as to whether it is reasonable to expect him to relocate within Iraq, bearing in mind that return will be to Baghdad. I do so on the basis that he has a CSID and/or has the necessary documents to obtain a passport, given the findings made above.
48. I turn now to the guidance set out in AA (Iraq) as amended by AAH (Iraq) bearing in mind that these cases address almost exclusively the difficulties faced by single men, or, rarely, single women. They do not address the significantly different situation

that faces a family being returned where the issue of undue harshness has to consider the position of suitability of accommodation for children, their different welfare needs, education and health needs.

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).

49. The starting point here is that it will not in general be unduly harsh to expect the appellant and his family to go to Baghdad, and that 15 (a) is met. I am not satisfied that any of them speak Arabic, and they are all, including the children, from a minority community. There will be limited support for them, and it is reasonably likely that accommodation will be a significantly greater problem than for a single adult. It would, I consider, be unduly harsh for the appellant and his family to remain in Baghdad for anything other than a short period, effectively in transit to the IKR.
50. As I am satisfied that the relevant documents are held, and that if necessary passports could be obtained, then on the basis of AAH, travel from Baghdad to the IKR for the family could easily be arranged in a matter of days. Given that there would be funds made available to them on removal, I conclude that they would have the means to do so.

51. I therefore turn next to consider whether that would be unduly harsh or unreasonable, bearing in mind that the family are a unit. Of relevance here is the guidance given in AAH at 8 – 10:

8. *If P has family members living in the IKR cultural norms would require that family to accommodate P. In such circumstances P would, in general, have sufficient assistance from the family so as to lead a 'relatively normal life', which would not be unduly harsh. It is nevertheless important for decision-makers to determine the extent of any assistance likely to be provided by P's family on a case by case basis.*

9. *For those without the assistance of family in the IKR the accommodation options are limited:*

(i) *Absent special circumstances it is not reasonably likely that P will be able to gain access to one of the refugee camps in the IKR; these camps are already extremely overcrowded and are closed to newcomers. 64% of IDPs are accommodated in private settings with the vast majority living with family members;*

(ii) *If P cannot live with a family member, apartments in a modern block in a new neighbourhood are available for rent at a cost of between \$300 and \$400 per month;*

(iii) *P could resort to a 'critical shelter arrangement', living in an unfinished or abandoned structure, makeshift shelter, tent, mosque, church or squatting in a government building. It would be unduly harsh to require P to relocate to the IKR if P will live in a critical housing shelter without access to basic necessities such as food, clean water and clothing;*

(iv) *In considering whether P would be able to access basic necessities, account must be taken of the fact that failed asylum seekers are entitled to apply for a grant under the Voluntary Returns Scheme, which could give P access to £1500. Consideration should also be given to whether P can obtain financial support from other sources such as (a) employment, (b) remittances from relatives abroad, (c) the availability of ad hoc charity or by being able to access PDS rations.*

10. *Whether P is able to secure employment must be assessed on a case-by-case basis taking the following matters into account:*

(i) *Gender. Lone women are very unlikely to be able to secure legitimate employment;*

(ii) *The unemployment rate for Iraqi IDPs living in the IKR is 70%;*

(iii) *P cannot work without a CSID;*

(iv) *Patronage and nepotism continue to be important factors in securing employment. A returnee with family connections to the region will have a significant advantage in that he would ordinarily be able to call upon those contacts to make introductions to prospective employers and to vouch for him;*

(v) Skills, education and experience. Unskilled workers are at the greatest disadvantage, with the decline in the construction industry reducing the number of labouring jobs available;

(vi) If P is from an area with a marked association with ISIL, that may deter prospective employers.

52. Addressing each of these in turn, I conclude that although the appellant has not told the truth about family in Iraq, there is insufficient material to show he has family within the IKR, or that they would be able to accommodate the appellant and his family.
53. Of particular relevance to the situation in which the family would find themselves is what was held in AAH at [125] – [127]:

125. For the individual with no family in the region, the immediate priority would be finding accommodation. We accept Dr Fatah's evidence that a single returnee would not be able to rent somewhere in what he termed the 'traditional neighbourhoods' of Erbil or other towns. The homes in those areas have been built to cater for the default social unit of large extended families and the concept of single strangers 'lodging' is alien to the culture: it simply does not happen. We further accept that entry into one of the many refugee camps in the region is no longer an option. The camps are full, and where space is being made by the expansion of camps or opening new ones, priority is given to those families already in the camp system, who are living in desperately overcrowded conditions.

126. There are two other options. In the short term it would remain open to the returnee to rent an apartment in one of the newer neighbourhoods, where modern blocks have been erected to cater for NGO workers, other ex-pats and Kurds who have chosen to come back to the region from the West. We say 'in the short term' because rents for such flats are said by Dr Fatah to be between \$300 and \$400 per month. Even taking the VRS resettlement grant into account it is difficult to envisage that a returnee would be able to pay that rent beyond the first few weeks of his arrival. It may be possible for someone who is highly skilled, has the connections to obtain a well-paid job, is independently wealthy or has external support such as remittances from abroad, but for the vast majority of returnees that level of rent would be prohibitively expensive. For the same reasons we are satisfied that paying for a hotel room would only be a temporary solution.

127. That leaves the 'critical shelter arrangements'. Approximately 26% of IDPs in the IKR are living in abandoned or unfinished buildings, makeshift shelters erected on spare ground, or are squatting in government or religious buildings. The conditions in such shelters vary. You may be living in a mosque where you have access to clean water and sanitation facilities and are fed at least one hot meal every day; on the other hand, you may be living in a makeshift tent on the verge of a busy road and not know where your next meal is coming from. In the middle of those extremes there will be buildings in various stages of dilapidation or development, some with roofs, some with access to water or heating, and some without. Some of these living arrangements will be of a comparable standard to those widely found elsewhere in Iraq, where basic standards of

sanitation and protection from the elements are provided; some fall substantially below such standards.

54. There is no reliable evidence before me of the appellant's resources. He clearly had access to significant funds to fund his and his family's journey to the United Kingdom. He has been disbelieved about his protestation that he has no resources in Iraq.
55. I accept that requiring the family to live in a refugee camp or in the "critical shelter arrangements" would be unduly harsh and it would not be reasonable to expect them to do so.
56. Whether the appellant and his family would be able to access accommodation in "traditional neighbourhoods" is less clear. The level of rent for the larger properties is not stated, nor is it clear that these houses (as opposed to newer flats) would be available to rent.
57. I bear in mind that having rejected the appellant's account as to his financial circumstances, and as to the position of his family and contact he has with them, that does not constitute evidence that he has contact or resources at any specific level.
58. That said the level of rent quoted for more modern properties is substantial and given that the appellant and his family cannot access the property which they may have owned in Kirkuk, and may face difficulty in accessing any moveable property there, and even allowing for the lack of credibility on the part of the appellant, I conclude that given that he will have to provide for a wife and children who have their own needs.
59. Taking all of these factors into account, and bearing in mind that this is a family unit with young children, I conclude that it would be unduly harsh to expect them to relocate to the IKR or Baghdad.
60. For these reasons, I am satisfied that the appellant has a well-founded fear of persecution in his home area in Iraq on account of his ethnicity and that it would be unduly harsh to expect him, given that he has a family including children, either to Baghdad or to the IKR.
61. I therefore allow the appeal on that basis that his removal would be in breach of the United Kingdom's obligations under the Refugee Convention and article 3 of the Human Rights Convention. It is thus unnecessary for me to consider whether removal would be in breach of article 8 of the Human Rights Convention.

Notice of Decision

1. The decision of the First-tier Tribunal involved the making of an error of law and I set it aside.

2. I remake the decision by allowing the appeal on Refugee Convention and Human Rights convention grounds.
3. I make an anonymity order.

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 their 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 18 April 2019

A handwritten signature in black ink, appearing to read 'James Rintoul', written in a cursive style.

Upper Tribunal Judge Rintoul

ANNEX – CONSOLIDATED COUNTRY GUIDANCE ON IRAQ

A. INDISCRIMINATE VIOLENCE IN IRAQ: ARTICLE 15(C) OF THE QUALIFICATION DIRECTIVE

1. There is at present a state of internal armed conflict in certain parts of Iraq, involving government security forces, militias of various kinds, and the Islamist group known as ISIL. The intensity of this armed conflict in the so-called "contested areas", comprising the governorates of Anbar, Diyala, Kirkuk, (aka Ta'min), Ninewah and Salah Al-din, is such that, as a general matter, there are substantial grounds for believing that any civilian returned there, solely on account of his or her presence there, faces a real risk of being subjected to indiscriminate violence amounting to serious harm within the scope of Article 15(c) of the Qualification Directive.
2. The degree of armed conflict in certain parts of the "Baghdad Belts" (the urban environs around Baghdad City) is also of the intensity described in paragraph 1 above, thereby giving rise to a generalised Article 15(c) risk. The parts of the Baghdad Belts concerned are those forming the border between the Baghdad Governorate and the contested areas described in paragraph 1.
3. The degree of armed conflict in the remainder of Iraq (including Baghdad City) is not such as to give rise to indiscriminate violence amounting to such serious harm to civilians, irrespective of their individual characteristics, so as to engage Article 15(c).
4. In accordance with the principles set out in Elgafaji (C-465/07) and QD (Iraq) v Secretary of State for the Home Department [2009] EWCA Civ 620, decision-makers in Iraqi cases should assess the individual characteristics of the person claiming humanitarian protection, in order to ascertain whether those characteristics are such as to put that person at real risk of Article 15(c) harm.

B. DOCUMENTATION AND FEASIBILITY OF RETURN (EXCLUDING IKR)

5. Return of former residents of the Iraqi Kurdish Region (IKR) will be to the IKR and all other Iraqis will be to Baghdad. The Iraqi authorities will allow an Iraqi national (P) in the United Kingdom to enter Iraq only if P is in possession of a current or expired Iraqi passport relating to P, or a laissez passer.
6. No Iraqi national will be returnable to Baghdad if not in possession of one of these documents.
7. In the light of the Court of Appeal's judgment in HF (Iraq) and Others v Secretary of State for the Home Department [2013] EWCA Civ 1276, 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.
8. Where P is returned to Iraq on a laissez passer or expired passport, P will be at no risk of serious harm at the point of return by reason of not having a current passport.

C. The CSID

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. 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 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 her agents to assist P's return have been exhausted, it is reasonably likely that P will still have no CSID.

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.

11. P's ability to obtain a CSID is likely to be severely hampered if P is unable to go to the Civil Status Affairs Office of P's Governorate because it is in an area where Article 15(c) serious harm is occurring. As a result of the violence, alternative CSA Offices for Mosul, Anbar and Saluhaddin have been established in Baghdad and Kerbala. The evidence does not demonstrate that the "Central Archive", which exists in Baghdad, is in practice able to provide CSIDs to those in need of them. There is, however, a National Status Court in Baghdad, to which P could apply for formal recognition of identity. The precise operation of this court is, however, unclear.

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.

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).

E. IRAQI KURDISH REGION

17. There are currently no international flights to the Iraqi Kurdish Region (IKR). All returns from the United Kingdom are to Baghdad.

18. For an Iraqi national returnee (P) of Kurdish origin in possession of a valid CSID or Iraqi passport, the journey from Baghdad to the IKR, whether by air or land, is affordable and practical and can be made without a real risk of P suffering persecution, serious harm, Article 3 ill treatment nor would any difficulties on the journey make relocation unduly harsh.

19. P is unable to board a domestic flight between Baghdad and the IKR without either a CSID or a valid passport.

20. P will face considerable difficulty in making the journey between Baghdad and the IKR by land without a CSID or valid passport. There are numerous checkpoints en route, including two checkpoints in the immediate vicinity of the airport. If P has neither a CSID

nor a valid passport there is a real risk of P being detained at a checkpoint until such time as the security personnel are able to verify P's identity. It is not reasonable to require P to travel between Baghdad and IKR by land absent the ability of P to verify his identity at a checkpoint. This normally requires the attendance of a male family member and production of P's identity documents but may also be achieved by calling upon "connections" higher up in the chain of command.

21. Once at the IKR border (land or air) P would normally be granted entry to the territory. Subject to security screening, and registering presence with the local mukhtar, P would be permitted to enter and reside in the IKR with no further legal impediments or requirements. There is no sponsorship requirement for Kurds.

22. Whether P would be at particular risk of ill-treatment during the security screening process must be assessed on a case-by-case basis. Additional factors that may increase risk include: (i) coming from a family with a known association with ISIL, (ii) coming from an area associated with ISIL and (iii) being a single male of fighting age. P is likely to be able to evidence the fact of recent arrival from the UK, which would dispel any suggestion of having arrived directly from ISIL territory.

23. If P has family members living in the IKR cultural norms would require that family to accommodate P. In such circumstances P would, in general, have sufficient assistance from the family so as to lead a 'relatively normal life', which would not be unduly harsh. It is nevertheless important for decision-makers to determine the extent of any assistance likely to be provided by P's family on a case by case basis.

24. For those without the assistance of family in the IKR the accommodation options are limited:

(i) Absent special circumstances it is not reasonably likely that P will be able to gain access to one of the refugee camps in the IKR; these camps are already extremely overcrowded and are closed to newcomers. 64% of IDPs are accommodated in private settings with the vast majority living with family members;

(ii) If P cannot live with a family member, apartments in a modern block in a new neighbourhood are available for rent at a cost of between \$300 and \$400 per month;

(iii) P could resort to a 'critical shelter arrangement', living in an unfinished or abandoned structure, makeshift shelter, tent, mosque, church or squatting in a government building. It would be unduly harsh to require P to relocate to the IKR if P will live in a critical housing shelter without access to basic necessities such as food, clean water and clothing;

(iv) In considering whether P would be able to access basic necessities, account must be taken of the fact that failed asylum seekers are entitled to apply for a grant under the Voluntary Returns Scheme, which could give P access to £1500. Consideration should also be given to whether P can obtain financial support from other sources such as (a) employment, (b) remittances from relatives abroad, (c) the availability of ad hoc charity or by being able to access PDS rations.

25. Whether P is able to secure employment must be assessed on a case-by-case basis taking the following matters into account:

- (i) Gender. Lone women are very unlikely to be able to secure legitimate employment;
- (ii) The unemployment rate for Iraqi IDPs living in the IKR is 70%;
- (iii) P cannot work without a CSID;
- (iv) Patronage and nepotism continue to be important factors in securing employment. A returnee with family connections to the region will have a significant advantage in that he would ordinarily be able to call upon those contacts to make introductions to prospective employers and to vouch for him;
- (v) Skills, education and experience. Unskilled workers are at the greatest disadvantage, with the decline in the construction industry reducing the number of labouring jobs available;
- (vi) If P is from an area with a marked association with ISIL, that may deter prospective employers.

F. EXISTING COUNTRY GUIDANCE DECISIONS

22. This decision replaces all existing country guidance on Iraq