



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

Appeal Number: PA/13390/2017

THE IMMIGRATION ACTS

Heard at Birmingham CJC

On 16 January 2019

**Decision & Reasons
Promulgated**

On 6 February 2019

Before

**DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL**

Between

**MR REBAZ ANWAR JALAL
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Bhachu, Counsel, instructed by Genesis Law Associates Ltd

For the Respondent: Mr D Mills, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a national of Iraq of Kurdish ethnicity, has permission to challenge the decision of Judge O'Garro of the First-tier Tribunal (FtT) sent

on 24 October 2017 dismissing his appeal against a decision made by the respondent on 8 December 2017 refusing his protection claim.

2. The grounds allege that the judge erred in law in (1) departing from Tribunal country guidance as set out in **AA (Iraq)** [2015] UKUT 544 (IAC) which identified the appellant's home area of Salah-al-Din as a "contested area" at the level of Article 15(c) general risk; (2) wrongly concluding that the appellant had or would be able to obtain a CSID, as he did not possess a CSID and his family was in Salah-al-Din and so could not reasonably be expected to obtain one on his behalf; and (3) in finding that the appellant would have a viable internal relocation alternative in the IKR, when he would not be able to obtain the necessary travel documents or CSID.
3. I am grateful to both representatives for their pertinent submissions.
4. I find none of the appellant's grounds made out.
5. As regards ground (1), whilst the judge did not cite case law principles clarifying that cogent reasons were required for departing from Tribunal country guidance (**SG (Iraq)** [2012] EWCA Civ 940), the judge's decision evinces a very cogent reason for departing from **AA (Iraq)**, namely that the country background information disclosed that only those parts of Salah-al-Din touching the Baghdad Belts remain now in a contested area. Coupled with the judge's specific finding of fact in the same paragraph that the appellant's ability to go in and out of Salah-al-Din made it unlikely he was from the contested part, this evidence afforded sufficient basis to depart from **AA** [2015] particularly given that it was corroborated by evidence in the public realm that ISIS was not any longer a force in this area.
6. Ms Bhachu sought to argue that the CIPIN report - just one report - was insufficient basis to depart from a Tribunal country guidance case. However, the methodology used in the CIPIN report is to draw on multiple sources of country of origin information (COI) including reputable country reports. The appellant's representatives did not adduce for the hearing before the judge any recent evidence to show that this area was still contested. `Contrary to her submissions, the judge did not seek to rely on the decision by Cranston J in **R (On the application of Amin) v SSHD** [2017] 2417 (Admin) as a factual precedent in relation to Salah-al-Din (the case concerned Kirkuk), but for the broader point that in considering country guidance decisions judges must have regard to what is happening on the ground.
7. Ms Bhachu also submitted that the judge's reliance on the CIPIN involved procedural unfairness because it was not produced at the hearing and so must have been identified by way of independent research. Mr Mills was able to refer to a note on the respondent's file from the Presenting Officer who represented stating that he had produced the CIPIN report at the hearing. By contrast, Ms Bhachu said she had not been able to establish

from her own file whether the CIPIN had been produced or not. Given that it is for the appellant to make out his grounds and that the appellant's representatives have had ample time to establish what in their view was or was not produced at the hearing, that is simply not good enough. The fact that this report is not in the respondent's bundle does not help her argument, since on Mr Mills' evidence the document was produced loose-leaf. In short, there is nothing to substitute the allegation that the judge obtained the CIPIN report proprio motu.

8. At the end of the hearing before me, I gave an oral direction that Ms Bhachu had until the end of the day to confirm whether or not the appellant's representatives accepted that the judge had accurately described the contents of the CIPIN report relating to Salah-al-Din. Nothing was forthcoming to show any inaccuracy.
9. As regards the appellant's ground (2), it must be borne in mind that the judge made extensive adverse credibility findings, none of which have been challenged, and made a specific finding that he has a mother and brother in Salah-al-Din. Given the judge's proper finding that the part of Salah-al-Din where the appellant's family lived was not in a contested area, it was entirely in accordance with the Tribunal country guidance as modified by the Court of Appeal in **AA (Iraq)** and as developed by the UT in **BA** [2017] UKUT 18 (IAC), to conclude that the appellant would be able to obtain a CSID. The fact that he had obtained a passport before he left and had also held employment identity documentation further bespoke the reasonableness of the judge's assessment regarding this matter.
10. Ground (3) is devoid of arguable merit. Given the judge's primary findings of fact, the appellant could return safely and reasonably to his home area of Salah-al-Din and so the findings made on relocation to the IKR were in the alternative and a challenge to them cannot found an error of law. In any event, given the judge's findings regarding the CSID availability, coupled with the evidence that the appellant had worked in the IKR for two years and had a mother who originated from there, it was clearly open to the judge to find that the appellant would be safe in the IKR, could access that area and would not confront any significant difficulties or hardships there.
11. For the above reasons I conclude that the judge did not materially err in law and accordingly his decision must stand.

No anonymity direction is made.

Signed

Date: 2 January 2019



Dr H H Storey

Judge of the Upper Tribunal