



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

Appeal Number: PA/10413/2018

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 17 July 2020**

**Decision & Reasons Promulgated  
On 30 July 2020**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**EJH  
(anonymity direction made)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr C Cole, a solicitor with Parker Rhodes Hickmotts Solicitors

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

**DECISION AND REASONS**

1. On 30 April 2019, the Upper Tribunal set aside a decision of the First-tier Tribunal having found a material error of law and gave directions for the matter to be reheard to enable the Upper Tribunal to substitute a decision to either allow or dismiss the appeal.

## **Background**

2. The appellant is a citizen of Iraq born on 19 November 1996 who arrived in the UK on or around 14 February 2018. The appellant's application for asylum was refused by the Secretary of State against which the appellant appealed. The First-tier Tribunal allowed the appeal and although that decision has been set aside the adverse credibility findings, findings in relation to the appellant's immigration history, findings in relation to his parents, relatives, contacts in Iraq, and possession of a passport are all preserved findings.
3. The preserved findings can be summarised in the following terms:
  - The appellant lied about his sexuality.
  - The appellant's parents made a concerted effort to have him brought to the UK because they knew that he would be safe here.
  - When asked about contact with his family the appellant was evasive and reluctant to give straightforward answers.
  - The appellant's claim not to have contact with his family was rejected and found to lack credibility. The Judge finds "I find it lacks credibility that a young man, familiar with social media for several years would lack the wherewithal to utilise the power of the Internet to keep in touch with his family".
  - The appellant's own evidence is that he has contacted with a friend in his home area in Iraq despite initially claiming to have no such contact. The appellant stated he had contacted his uncle in Kirkuk on one occasion too.
  - The appellant has fabricated his claim to be a gay man and has not been honest about his family circumstances in Iraq.
  - The appellant's evidence regarding documentation is inconsistent claiming he left Iraq on his own passport which was now with his parents but failing to explain why had stated in interview that the passport was still in Iraq.
  - It is accepted the appellant originates from Tuz Khurmatu which was part of the contested area.

## **Grounds and submissions**

4. The appellant asserts the key issues for determination in this appeal are:
  - i. Is the Appellant at real risk of serious harm in Tuz Khurmatu?
  - ii. Is it reasonably likely that the Appellant will not be able to obtain a CSID/INID, either in the UK or reasonably soon after arrival in Iraq?

- iii. If he is at real risk of serious harm in Tuz, then is it reasonably likely that the Appellant has no external support in Baghdad, thus making internal relocation to Baghdad unreasonable?
- iv. If he is at real risk of serious harm in Tuz, then is it reasonably likely that the Appellant has no viable support in the IKR and no ability to secure accommodation and employment in the IKR, thus making internal relocation to the IKR unreasonable?

## **Discussion**

5. Although the issue of the closure of airports in Iraq as a result of the Covid-19 pandemic was mentioned at the hearing this element has not been factored into consideration of the merits of the appeal in light of the fact that it is not relevant to the legal issues in hand and the announcement that airports in Iraq are reopening from the 23 July 2020.
6. In relation to the first question posed by the appellant, it is submitted by the appellant that the country information detailed in SMO, KSP & IM (Article 15(c); identity documents) Iraq CG [2019]UKUT 00400 (IAC) is such to justify the conclusion that he has a sufficiently enhanced risk profile such that his return to Tuz Khurmato would engage Article 15(c).
7. This is not conceded by Mr Diwnycz who has provided an online map in support of his claim showing that the latest picture over Tuz Khormatu at the date of hearing did not show ongoing military activity by any party or of ongoing violence in the appellants home area: <https://iraq.liveuamap.com> .
8. The appellant relies upon a number of reference to his home area in SMO, KSP & IM (Iraq) set out the Mr Cole's skeleton argument as follows

"...Tuz Khurmato is "the most violent, most divided place in the country" due to their being "so many layers of conflict". The situation in Tuz is considered to be very unstable due to the presence of various armed groups in addition to ethno-sectarian violence." [ARHB -para 20, p37]

"There were higher rates of violence after the removal of ISIL, however, including abduction and killing and the destruction and deprivation of property. This was largely attributed to the PMU." [ARHB -para 78, p49]

"When the Kurds were expelled from Tuz Khurmato in the aftermath of the Referendum, the city was taken over by one of the most senior commanders in the Badr Organisation, one of the most powerful Shia militia. He has reportedly developed a personal militia with the local Turkmen Shia, who are reportedly involved in looting, arms and drugs trafficking. Displacement and civilian casualties continue to occur in the area due to conflict between armed actors in

the region, including the comparatively recently formed White Flag group.”[ARHB -para 79, p49]

“Dr Fatah stated that Tuz Khurmato was said to be the most dangerous place. The Kurds were being 'kicked out' and the insurgency was quite high.”[ARHB -para 85, p50]

“Dr Fatah confirmed that the population of Salah al Din was in the region of 1.6 million and that more than three quarters of a million people were recognised

as being in need. He considered what was going on Salah al Din as revenge by the Shia militia against the Sunnis and the Kurds...The PMU was not like the police; they are not educated and are hard-line, sectarian people who had responded to a fatwa. Iran relied on them and had trained them. They had narrow political and religious views. They had not forgiven the Sunnis and they did not like the Kurds.”[ARHB -para 89, p50]

“Tuz Khurmato saw heavy violence in the aftermath of the Independence Referendum and has suffered serious damage. Violence continued into 2018. It is now ruled by a powerful Shia militia and, as Dr Fatah stated, the problems which remain are essentially of an ethnic nature, with Kurds in that area more likely to face difficulty from the controlling PMU.”[ARHB -para 263, p88]

It is thus submitted that, as a Sunni Kurd who fled Tuz on or around 16 October 2017 because of Hashd al Shabi, the appellant has a sufficiently enhanced risk profile such that he would be at real risk of serious harm in Tuz Khurmato.

9. Mr Diwnycz did not adduce country information to dispel such concerns stating the respondents policy at this time means the appellant will be returned to Bagdad.
10. The county material provided supports the concerns the appellant has regarding his personal safety if returned to his home area to live. The evidence considered in SMO refers to issues such as ethnic related reprisals and violence for those targeted who live in that area. If the appellant cannot return to live in his home area the issue becomes the reasonableness of internal relocation.
11. The submissions made on the appellants behalf have been carefully considered and it noted they refer to an alleged bar on the appellant returning to his home area to live. What is not made out in the submissions is that there is a bar to the appellant visiting his home area and the local national identity card office opened in the Tuz Khurmato district on 17 December 2017 to provide the biometric information, such a Iris scan and fingerprints, which need to be provided in person to obtain a New Iraqi Identity Card (INID). It is not made out that his presence on a visit will become known to individuals who may have a grievance against Kurds or want to target the

- appellant in such circumstances; accepting he will need to have the required documents to enable him to travel there in the first place.
12. In his second issue the appellant asserts that it is reasonably unlikely he will be able to obtain a replacement CSID/INID, either in the UK or reasonably soon after arrival in Iraq.
  13. The Upper Tribunal in SMO, KSP & IM (Iraq) confirm that, as the INID programme continues to expand, more and more CSA offices will have an INID terminal making obtaining a CSID by proxy more difficult: "The likelihood of obtaining a replacement identity document by the use of a proxy, whether from the UK or on return to Iraq, has reduced due to the introduction of the INID system. In order to obtain an INID, an individual must attend their local CSA office in person to enrol their biometrics, including fingerprints and iris scans. The CSA offices in which INID terminals have been installed are unlikely -as a result of the phased replacement of the CSID system -to issue a CSID, whether to an individual in person or to a proxy."
  14. It is accepted the new form of Iraqi identity card (INID) can only be obtained in Iraq, but the country information provided does not support a finding that no other form of identity document is available to an Iraqi national at this time. Within Iraq the appellant's own evidence refers to the percentage of biometric identity cards being issued but this is clearly not the universal picture. Urban areas in which the national identity card offices have been equipped with the means to capture the required data and produce the cards have a greater percentage uptake than those in rural areas. Whilst for Iraqi nationals outside Iraq there is no facility for a INID to be issued the appellant has not established on the evidence that this means those outside Iraq have no means of obtaining any other form of identity document to confirm they are who they claim to be and an entitlement to be recognised as a national of Iraqi.
  15. A country report 'Kurdistan Region of Iraq (KRI) Report on issuance of the new Iraqi ID card' by the Danish Immigration Services, dated November 2018 in relation to possibility for issuance of new ID cards to Iraqis living abroad, record that when asked what Iraqi citizens abroad can do to either renew an old ID-card or to replace an ID-card that is lost, Director Azaz replied that Iraqi citizens, who live abroad, need to go to Iraq to obtain a new national ID card. When asked if it was possible for issuance of old ID cards to Iraqis living abroad he responded that an Iraqi citizen abroad, who wants to apply for an old ID card, an ID document that is still in use in Iraq, must go to an Iraqi embassy to have their fingerprints taken. In addition, an applicant must bring a power of attorney, and the three main documents: the old/expiring ID card, the nationality certificate, and the residency card (only held by the head of household). The way to prove Iraqi nationality to the embassy is by a power of attorney. The embassy will forward the application to the Ministry of Foreign Affairs and the Ministry of the Interior in Baghdad. The process is very long and can easily take from six months to a year. The source added that there are many problems in the procedure, and that the applicant must give

proof of life. When the application is approved, the applicant will be issued an old ID card - not the new national ID card.

16. In relation to obtaining a replacement CSID in the UK, the Upper Tribunal in SMO, KSP & IM (Iraq) at paragraph 383 endorse paragraph 26 of AAH (Iraqi Kurds -internal relocation) Iraq CG [2018] UKUT 00212 (IAC) which details the numerous and varied documents that are required in order to obtain a CSID from the Iraqi Embassy in the UK. Paragraph 26 of AAH states: *"If applying through a consulate abroad the requirements are different. Having contacted the consulate in London, and checked on the website of the Iraqi embassy in Sweden, Dr Fatah states that the authorities will require the applicant to first make a statement explaining why he needs a CSID and attach this to his application form, which must be countersigned by the head of the applicant's family and stamped by the consulate or embassy; he must then produce his Iraqi passport and proof of status in the country where he is applying, the name of a representative (proxy) in Iraq, an additional form completed by the head of the applicant's family verifying that the contents of his application form were true, four colour copies of his INC, and 10 colour photographs. Crucially the applicant must be able to produce something which can establish the location of his family's details in the civil register. This should be a CSID, an INC or birth certificate. If none of these are available to the applicant he must supply the identity documents of his parents. This evidence again accords with that of Landinfo (December 2017) who conclude that it can be difficult to obtain replacement ID documents from an embassy abroad for the individual who is unable to verify his or her identity."* The appellant submits it is reasonably unlikely that he will not be able to obtain a replacement CSID in the UK as he does not have access to the required documents, but this not made out.
17. As the advocates were advised at the start of the hearing a search of the website of the Republic of Iraq, Ministry of Foreign Affairs website re acquisition of replacement CSID, checked on 15 July 2020 states:

The Consular Section organizes the papers to obtain the Civil Status Card and send them to the General Directorate of Travel and Nationality / Directorate of Civil Status in accordance with the following steps : -

1. The citizen submits an application to the mission stating his or her need for the Civil Status Card.
2. The citizen attaches with the application form (Form Annex 1) the original copy, not the copied. This form is used to obtain the Civil Status Card for the first time or to renew it or to get damaged or lost alternate form and stamp with the circular stamp of the consulate.
3. The form above filled in by the head of the family or family housewife or the owner of the record, or the guardian, or the legal agent signing in their explicit

signatures as the contents serve as a personal acknowledgement of the correctness of what they stated.

The form includes the following information: -

The number of the page, the record, the name of the directory and the governorate, in which the registration happened according to the census of 1957 and full descriptions and the names of those the applicant wants to give them a personal card. The applicant must sign and write his full name and address in the cell provided and the form must be stamped by the consul.

4. Two 3 x 3 cm photos must be attached with the form and two copies of each person attached one in the box provided to the photo of the applicants and the second photo attached to it.
5. In case of request a lost identity replacement the Consul should write down the statement of the applicant in the back of the form in addition to the above. The statement must include answering three questions, namely, (Where do you think the place of loss of the identity card, when do you lost it and how do you lost it?) The statement must be signed by the applicant and install the full name and left thumb fingerprint and signed by the consul and stamped by the stamp of the consulate and sent with the application form a copy of the lost identity card, a copy of the identity card of his father, his brother or non married sister - certified by the consul being as a replica. In case of request damaged replacements the applicant must write down a statement signed by him and signed and stamped by the Consul and attach the damaged identity with the form. The applicant must attach with the application of lost replacement or damaged a recent photograph of him.
6. Any official document must be attached with the application to support the personality of the applicant.
7. Amount of (750) dinars is met, equivalent in foreign currency one dollar fee for the issuance of identity and under a receipt of accounting (37 A). (Consulate Letter No. 8 / 4 / 21/84715).
8. The embassy to send what is mentioned above in a letter to the General Directorate of Travel and Nationality / Directorate of Civil Status and a copy of it to the Consular Department for its information and for following-up and accelerating the completion of the documents.
9. The citizen can authorize one of the citizens inside Iraq (private authorization) to come to the Civil Affairs Department for the purpose of following-up.
10. The department of Nationality and Civil Status holds competent of auditing the information and then organize the Civil Status identity based on records in 1957 and sent to the Ministry of Foreign Affairs to send it to the embassy or the mission concerned for the purpose of delivery to its owner.

Note: For the purpose of obtaining the Civil Status Card to the children of Iraqi citizens abroad this requires the following actions:

1. The citizen has to prove reality of his marriage to the Department of Civil Status of being married.

2. The citizen should mark the birth certificate of the new-born in the Department of Civil Status.
  3. After Checking the items ( 1 ) and ( 2 ) above , the citizen can apply to the embassy for the purpose of obtaining the Civil Status Card to his children within the contexts the embassy informed by.
18. The appellant further submits that the position in relation to obtaining replacement documentation in the UK has moved on from SMO, KSP & IM (Iraq) in that the respondent's latest Country Policy & Information Note dated 30 June 2020 contains information at Appendix I from the Respondent's Returns Logistics Department. This states the following:
- "CSID cards are being phased out and replaced by INID (Iraq National Identification) cards. It is not currently possible to apply for an INID card outside of Iraq. As a result, the Iraqi embassy in London are advising their nationals in the UK to apply instead for a 'Registration Document(1957)' which they can use to apply for other documents such as passports or an INID card once they have returned to Iraq." Thus, it appears that the Iraqi Embassy in London will not issue a CSID but instead will issue a 'Registration Document (1957)' which can be used to apply for an INID in Iraq. SMO, KSP & IM (Iraq) is very clear that to safely pass through checkpoints in Iraq it is necessary to show a CSID or an INID and other forms of identity document (even a passport) is not acceptable. It is submitted that the appellant would be unable to travel safely across Iraq even if he were able to be issued with a 'Registration Document (1957)' by the Iraqi Embassy in London. A copy of this document appears at Annex A to this judgment.
19. Although Mr Cole submitted it was not clear what the effect of the Registration Document was it is clear this is an official document issued by the authorities in Iraq as confirmation of an individual's status as an Iraqi national. It is also clear that the stated intention of the Iraqi authorities is that possession of such a document is a means to enable an individual to obtain further identity documents required which, in light of the up-to-date country information must refer to the new Identity Document, when they do not have the means to obtain the same for themselves in Iraq.
  20. The appellant's argument has always been that he could not contact any family in Iraq, including his paternal uncle, but his claim with regard to such has been found to lack credibility. The appellant further submits that even if he were able to contact his uncle in Kirkuk there is nothing to suggest that the uncle would be able to obtain all of the documents required by paragraph 26 of AAH such that the appellant could be issued a CSID in the UK. The difficulty for the appellant with such submission is that many things that he has claimed have been shown not to be true. As he has not contacted his uncle, which the First-Tier Tribunal preserved findings show is not an unreasonable suggestion, the appellant cannot establish that the requisite



documents could not be obtained. The Paternal uncles own entry in the family book will enable the appellants family details to be traced. It is not shown the application form could not be completed by the uncle as the appellants appointed agent or the uncle could not appoint a person approved for this purpose, if needed.

21. The appellant also attended school in Iraq, according to replies given by him in his screening and asylum interview, where there should also be required details concerning his CSID number and/or other information confirming his official identification in accordance with normal procedures. It is known that a valid CSID is required to enable an Iraqi to obtain access to education.
22. The appellant has also not established that he does not have access to his own immediate family. The First-Tier Tribunal specifically records that when asked about contact with his family the appellant was 'evasive and reluctant to give straightforward answers' and it is a preserved finding that his claim to have no such contact was not found credible. As it has not been shown the appellant does not have contact with his family the requisite details could be obtained from that source too.
23. In relation to obtaining either his original or replacement passport the First-Tier Tribunal found the evidence in relation to the same inconsistent. The appellant claimed his passport was with his parents and, as it has been found his claim not to have contact with his parents is not credible, the appellant could have the passport sent to him in the UK which the appellant could then provide to the Iraqi embassy.
24. As the appellant has not made out that he cannot be returned to Iraq with an identity document issued by the Iraqi authorities and a valid passport he has not made out he will not be able to be returned to Baghdad and, in light of the return of availability of internal flights within Iraq, travel to the IKR. The submissions made regarding the need for documentation to pass through roadblocks so far as they relate to travel by land has not been shown to be relevant although, if land travel was required, the appellant fails to establish that the documentation that he will possess, which will not be removed from his possession on arrival at the airport, will not be sufficient to enable him to travel internally. The appellant has also not established that as he has contact with both his family and/or an uncle they cannot vouch for his identity if required.
25. In the headnote of SMO it is recorded that 'P is unable to board a domestic flight between Baghdad and the IKR without either a CSID, an INID or a valid passport. If P has one of those documents, the journey from Baghdad to the IKR by land is affordable and practical and can be made without a real risk of P suffering persecution, serious harm, or Article 3 ill treatment nor would any difficulties on the journey make relocation unduly harsh.'
26. It is not disputed that the appellant could not remain in Baghdad as he has no family or other connections in Baghdad.

27. In relation to the reasonableness of internal relocation to the IKR, the appellant submits this is not viable and relies upon SMO, KSP & IM (Iraq) which specified the relevant factors for consideration in relation to the reasonableness of relocation to the IKR: “The UNHCR’s stance is therefore that internal relocation within the IKR is not generally available as a result of the humanitarian situation. The only exceptions to that general stance are where it can be established that the individual would have access to:
- (i) Adequate shelter in the proposed area of relocation in the KR-I, noting that IDP camps or informal settlements would not qualify as “adequate shelter”;
  - (ii) Access to essential services in the proposed area of relocation in the KR-I, such as potable water and sanitation, electricity, health care and education; and
  - (iii) Livelihood opportunities; or in the case of applicants who cannot be expected to provide for their own livelihood (for example female-headed households, elderly applicants or applicants with disabilities), proven and sustainable support to enable access to an adequate standard of living.”

“In respect of a Kurdish individual from the Formerly Contested Areas, the UNHCR’s stance essentially replicates the guidance given in AAH(Iraq), albeit in a more compressed form. Decision makers must consider whether a Kurdish returnee has a viable support network in accordance with that decision. In the event that they do not, consideration must be given to their individual’s specific circumstances with a view to determining their ability to secure accommodation and employment in the IKR. It will be unreasonable for a Kurdish individual to relocate from the Formerly Contested Areas to the IKR in the absence of a viable support network or the means to find accommodation and employment in accordance with the guidance in AAH (Iraq), the ongoing application of which is confirmed.”

28. The appellant claims he has no family in the IKR and that there is no evidence that he has any sort of viable support network in the IKR. He claims it is unlikely that he would be able to find accommodation other than critical shelter arrangements. It is claimed the high unemployment rates (70% for IDPs) and the appellant’s lack of connections would make it unlikely that he is able to obtain a regular income especially as he has no particular skills. Thus, applying the factors detailed in SMO, KSP & IM (Iraq) the appellant claims he has no realistic prospect of securing a regular income, or support by other means, and thus internal relocation to the IKR is unduly harsh.
29. What the submission relating to internal relocation options does not refer to is the fact the appellant has an uncle in Kirkuk, who assisted the family when they fled their home area. The appellant claims this relative is unwilling to assist him as a result of his sexuality and the

reason he fled and claimed asylum, but that element of the appellants claim has been found not to be credible.

30. The uncle lives in Kirkuk. It is now the case that the level of violence in this area is not sufficient to cross the Article 15(c) threshold.
31. It is not made out on the evidence that the appellant would become destitute in the short time he would have to spend in Baghdad while he made arrangements to re-join his paternal uncle in Kirkuk.
32. I find the appellant has a patrilineal relative living near Kirkuk who could assist him to obtain a replacement identity document whilst the appellant is in the UK and after his return. Even if the appellant cannot remember the details of where his family information is to be found, it is much more likely than not that his paternal uncle has that information. Also, as stated in AAH, the uncle would be under an obligation to assist the appellant. Upper Tribunal Judge Bruce in AAH found that:

"3. 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. ?

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."

33. On the evidence before me, therefore, even if there is an Article 15(c) risk in Tuz Khurmatu, the appellant could obtain a passport and identity document and be taken in by his paternal uncle in Kirkuk. He has a viable internal relocation option away from Tuz Khurmatu and accordingly, the standard for international protection is not met and the appeal falls to be dismissed.
34. Internal relocation within the Formerly Contested Area was considered in SMO who published the following guidance:

Relocation within the Formerly Contested Areas (and Disputed Territories)

400. As a result of the respondent's concession in AA (Iraq)(that situation in the Contested Areas, as they then were) generally reached the Art 15(c) threshold, the possibility of relocation within the Formerly Contested Areas has not previously arisen for consideration in a country guidance decision. That concession having been withdrawn, however, the respondent made it clear in her written submissions, at [148]-[149] in particular, that relocation within the Formerly Contested Areas was a possibility upon which she relied, albeit that she recognised the 'particular care' which was necessary in doing so.

401. The UNHCR urges more than particular care in this respect. Under the sub-heading 'Areas of Iraq where an IFA/IRA is not available', the UNHCR straightforwardly discounts the possibility of relocation within the Formerly Contested Areas or the Disputed Territories for the following reasons: UNHCR considers that an IFA/IRA is not available in areas formerly controlled by ISIS or otherwise affected by conflict in light of continued human rights violations and abuses by state and non-state actors, continued ISIS presence and ongoing anti-ISIS military operations in these areas. UNHCR further considers that an IFA/IRA is not available in the disputed areas due to these areas' sensitive security, political and demographic dynamics and the risk of further destabilizing the situation through population movements, including in the Districts of Kirkuk, Khanaqin (Diyala Governorate) and Tuz Khurmatu (Salah Al-Din Governorate).
402. Whilst we are required to attach significance to the views of the UNHCR, we consider these statements to be somewhat too prescriptive and to apply too broad a brush to the situation in the areas under consideration. We have concluded that the situation in the formerly contested areas does not in general (with one exception) engage Article 15(c). And we do not consider that the return of an individual to those areas would in general breach Article 3 ECHR. In so concluding, however, we have recognised that the situation is different in each of the governorates under consideration and at a more localised level. For example, although the situation in Western Mosul will not generally contravene Article 3 ECHR, it might be thought that relocation to an area with such badly damaged infrastructure and other such problems would be unduly harsh or unreasonable under Article 8 QD. We respectfully disagree with the UNHCR's view that relocation within the Formerly Contested Areas must be ruled out in all cases; there may be some cases in which an individual could safely and reasonably relocate within the Formerly Contested Areas.
403. All must depend on the facts and there must, in the context of Iraq, be an assessment of the three factors. As in any assessment of internal relocation under the Refugee Convention or the Qualification Directive, a decision maker must assess whether a place of relocation would be safe for the individual applicant and whether he can reasonably be expected to stay in that part of the country. Whether as part of the latter enquiry or as a freestanding consideration, it will also be necessary to consider whether the individual can feasibly access and reside in the place of relocation. The UNHCR provides valuable guidance on each of these issues (safety, feasibility, and reasonableness), and we rely significantly on that guidance in our analysis.
404. Safety. There is, as we have explained at length, no general Article 15(c) or Article 3 ECHR risk throughout the Formerly Contested Areas. Where an individual originates from that small part of the Formerly Contested Areas in which there is a general Article 15(c) risk, or where it is found as a result of the sliding scale analysis that the article is engaged by reference to their particular circumstances, relocation within the Formerly Contested Areas or the Disputed Territories may obviate the risk to that individual. In the latter type of case, a decision-maker will be required to consider whether the specific circumstances which engaged the sliding scale in the home area will continue to be relevant in the place of relocation. The significance of ethno-religious identity will vary from area to area, for example.
405. Feasibility. On 25 April 2019, the UNHCR issued a position paper entitled Access and Residency Requirements in Iraq: Ability of Persons Originating from Formerly ISIS held or Conflict-Affected Areas to Legally Access and Remain in Proposed Areas of Relocation. It made clear that people from these areas (particularly Sunni Arabs) were likely to require the following in order to settle in another area: a sponsor, a recommendation from the local mukhtar and security clearance from the relevant agencies. (These documents are over and above the ordinary requirement for civil status documentation, without which freedom of movement and subsistence are impossible in any event). In

Diyala, these were known to be the requirements but in Khanaqin District, an individual would be required to produce letters from National Security and Intelligence in addition. In Kirkuk, sponsorship requirements had been lifted but a support letter from the local mukhtar in the proposed areas of settlement would be required. The respondent's February 2019 CPIN on Internal Relocation, civil documentation and returns serves, at 8.1.1 to confirm that the situation regarding entry to Kirkuk is somewhat restrictive. The material cited therein is from the Danish Fact Finding Report. We note that the UNHCR's May 2019 guidance underlines the importance of considering whether an individual can take up residency and 'durably remain' in the area under consideration, particularly with reference to Sunni Arabs and Sunni Turkmen.

406. Viewed in context, we find these statements unsurprising. As we have demonstrated with reference to qualitative and quantitative data, the situation in Iraq is incomparable to how it was in the period 2014-2017. A (massively depleted) threat from ISIL and other security challenges remain, however, and it is clear that the security agencies including the PMU are rigorous about checking the identities of individuals who travel from one area to another. That they should make further checks in the event that an individual seeks not merely to travel, but to settle, is the understandable product of this environment, and particularly so in the Formerly Contested Areas. In the event that an individual has a connection with a proposed place of relocation in the Formerly Contested Areas, we see no reason why they would be unable to secure the necessary documentation in order to settle in such an area. In the event that there is no such connection, however, we consider it is unlikely to be feasible for a person from within the Formerly Contested Areas to relocate within that area.
407. Reasonableness. We record that we were not presented with extensive argument on the correct approach to this question. Insofar as the speeches in *Januzi* [2006] UKHL 5; [2006] 2 AC 426 and *AH (Sudan)* [2007] UKHL 49; [2008] 1 AC 678 generated controversy which was considered at length in *AAH (Iraq)*, the argument has been settled by the decision of the Court of Appeal in *AS (Afghanistan)* [2019] EWCA Civ 873. The dominant test is as expressed by Lord Bingham at [21] of *Januzi*: The decision maker, taking account of all relevant circumstances pertaining to the claimant and his country of origin, must decide whether it is reasonable to expect the claimant to relocate or whether it would be unduly harsh to expect him to do so.
408. We bear in mind, but shall not set out, the additional guidance given by Underhill LJ (with whom King and Singh LJ agreed) at [61] of *AS (Afghanistan)*. In particular, we bear in mind the injunction that the assessment must be holistic, taking account of all the circumstances of the proposed place of relocation and the circumstances of the particular individual. It is in the context of that instruction that we hesitate before giving guidance which might be thought too prescriptive; what might be unduly harsh or unreasonable (these being two sides of the same coin) for one individual, might not be for another. We nevertheless consider that the general position in respect of the Formerly Contested Areas is as set out by the UNHCR. Given the multitudinous problems faced by those in the Formerly Contested Areas and the Disputed Territories, it will often be unreasonable for an individual to relocate within that area. Whilst the conditions in those areas do not cross the threshold for Article 15(c) or Article 3 ECHR protection, the humanitarian considerations in those areas are such that it will often be unreasonable to expect an individual to resettle there.
409. The position in respect of those who are able to access a viable support network in a proposed place of relocation within the Formerly Contested Areas is potentially different. An individual who seeks to relocate, for example, from the mountainous area near Baiji in which ISIL have doctrinal control could potentially relocate to Baiji city without undue hardship if he is found to have a supportive family network there. In any such case, decision-makers will need

to undertake a holistic assessment, taking into account the personal characteristics of the individual in question and the situation in the area of proposed relocation. Whilst relocation within this area is likely to be the exception rather than the rule, we agree with the respondent that the assessment requires particular care, and disagree with the UNHCR's conclusion that it is to be ruled out altogether.

35. In relation to the prospects of an internally displaced person being able to obtain an INID Danish Immigration Services report, November 2018:

Implementation of the new national ID card in Erbil

15. The Directorate of Nationality and Civil Status in Erbil issued new national ID cards to 25 percent of the citizens; while in Baghdad, 75 percent of the populations already got their new national ID card.
16. With regard to IDPs in Erbil, they must go to their place of origin to apply for a new national ID card. There is a plan to open an office for IDPs, but it might take more than one year to establish. Director Azaz further said that when this office is established, and, for instance, if an IDP, who is from Mosul, obtains an ID card from this office, it would appear on the ID card that the card was issued in Mosul. This could potentially cause a problem for IDPs living and getting married in KRI.
17. For disabled or very old people, the Directorate of Nationality and Civil Status may go to the home of the person to register him or her there. The office will bring a mobile laptop and equipment to take the person's biometrics in their home.

36. The respondents latest CPIN on the issue of redocumentation states-  
Redocumentation

6.1 Assistance

- 6.1.1 The British Embassy Baghdad, in a letter dated 4 December 2014, explained that given the long history of displacement in Iraq, there were 'well established' procedures whereby those not in possession of their civil documents could obtain replacement documents
- 6.1.2 EASO stated in February 2019: 'In 2014, UNHCR reportedly assisted with re-documentation efforts, supporting the Ministry of Migration and Displacement and the Ministry of Interior with establishing re-documentation centres for IDPs who fled Mosul, Salah al Din, Diyala, Anbar, and Kirkuk, as well as in Anbar. It assisted 7000 IDP children in 2015-2016, many of whom were supported in acquiring civil documentation. UNHCR reported that in the course of 2017, 18600 "vulnerable Iraqis" had received legal documents and more than 23300 had received legal assistance in relation to documentation through its centres, mobile courts, or mobile documentation teams. 'According to experiences described by IDPs interviewed by MRG, there are "no standard registration of application requirements" that government offices follow, the process of applying for reissuance is complex, "non-standardized and fraught with allegations of corruption".
- 6.1.3 On 1 November 2019, UNHCR published a report on civil documentation for IDPs. The report provided updates on the 'Mobile Civil Documentation Project' and stated: 'Since April 2019, UNHCR has collaborated with the Ministry of Interior (MoI) of the Government of Iraq to implement mobile missions to dispatch government officials to issue civil documentation to IDPs in camps and out-of-camp locations. 'By November 2019, with the collaboration of the

Kurdistan Regional Government (KRG), MoI has launched missions to issue Civil Status IDs (CSIDs) and Iraqi Nationality Certificates (INCs) to IDPs in three camps in Erbil Governorate (Baharka, Harsham, Debaga), three camps in Ninewa Governorate (Hasansham U2 and U3, AlKhazir) and five camps in Duhok Governorate (Chamishko, Darkar, Bersive 1 and 2, Garmawa). As of the end of November, MoI issued a total of 7,123 CSIDs and 11,226 INCs to IDPs. 'In addition, between 26 October and 3 November, MoI piloted a mission in a UNHCR-supported community centre in Kasnazan sub-district in Erbil Governorate to issue Unified ID Cards (UNIDs) to IDPs living in urban areas. As a result, MoI issued a total of 471 UNIDs for IDPs displaced from Anbar Governorate. During November, MoI also launched missions to issue UNIDs in camps in Sulaymaniyah Governorate (Ashti) and Kirkuk Governorate (Laylan 1). 'Throughout the missions, UNHCR and partners provided material and technical support to MoI by preparing applications, establishing registration centres, and providing necessary equipment such as computers, printers and office supplies. UNHCR and partners will continue to work with MoI to expand the missions to different governorates to facilitate IDPs' access to civil documentation.'

6.1.4 UNHCR published a fact sheet of the documentation of IDPs in October 2019 and stated that 'As part of its effort to help IDPs obtain documentation, since 2018, UNHCR has rehabilitated 2 offices in Kirkuk Governorate and three offices in Ninewa Governorate and donated five vehicles to the Mosul Civil Affairs Directorate Office. Rehabilitation of 4 more offices in Ninewa is ongoing.'<sup>65</sup> Furthermore, 'In November [2019], the Ninewa Directorate of Civil Affairs, Passports and Residencies inaugurated the first national identification card centre in Ninewa. UNHCR rehabilitated the building and provided furniture and devices.

37. The appellant as an IDP fails to make out he would not be eligible for assistance from the UNHCR to assist with the redocumentation process including obtaining a New identity document in accordance with the above guidance if unable to return to his home area.
38. This is an appeal in which all the claim adverse to the appellant's case made before the First-Tier Tribunal were found to lack credibility. It is also a case in which the appellant relies upon case law and country evidence to support his claim to be unable to obtain the necessary documentation to enable him to live reasonably in Iraq but the ability or otherwise to do so is fact specific. The appellant has not helped his case by relying on what the First-tier Tribunal effectively found are lies. The factual matrix as found does not support the appellant's claim that when applying the guidance contained in SMO and country information he is entitled to a grant of international protection. The appellant is no more than a failed asylum seeker who has not established even to the lower standards applicable in an asylum appeal that he cannot obtain a replacement passport, officially issued identity document, does not have a support network available to him on return to Iraq, or has lost contact with his family. The evidence clearly supports a finding that it is the opposite of what the appellant is claiming that is the true position.

## **Decision**

39. **I remake the decision as follows. This appeal is dismissed.**

Anonymity.

40. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....  
Upper Tribunal Judge Hanson

Dated the 20 July 2020



## Annex A

Annex I: Information obtained from the Home Office's Returns Logistics Department - April 2020.

Failed Asylum Seekers (FAS) Laissez Passers (LPs)

- 1) Please can you describe the process of obtaining a Laissez Passer for a failed asylum seeker from the Iraqi Embassy in London in as much detail as possible (please include details of what documents are required, if they have to undergo an interview, timescales etc).

For the enforced return of a FAS there is no interview requirement. However, they will need to hold at least one of the following (copy or original, valid, or expired) in order for the Iraqi Embassy to issue a Laissez Passer:

- Passport
- Birth Certificate
- Marriage Certificate
- Civil Status ID (CSID)
- Iraqi Nationality Certificate (INC)
- Iraq National Identity Card (INID)
- Iraq residency card
- Registration Document (1957)

The embassy verification process tends to take 10-14 days.

We only currently have agreement to enforce the return of single males. All categories of voluntary cases will be considered (including those without documents) but they will usually require an interview face to face or by phone.

- 2) Can an individual obtain LPs for the rest of their family (i.e. spouses, children etc)?

Voluntary cases only. For enforced cases see answer to Q1.

- 3) What documents do family members in Iraq have to present to the Ministry of Foreign Affairs in order to prove the FAS's nationality?

Any from the list in response to Q1. Phone numbers or signed affidavits from family members in Iraq are also useful to the verification process.

- 4) What happens once a FAS's nationality is verified by the Ministry of Foreign Affairs in Iraq? i.e. does this verification get sent to the Iraqi Embassy in London to issue a LP?

Yes but most of the straight forward verification of documents can be done locally by the embassy.

- 5) How long does this verification take?

10-14 days locally, up to 30 days+ if enquiries are required in-country.

- 6) Are these processes the same for individuals who originate in the Kurdistan Region of Iraq?

Yes

#### Civil Status Identity Cards (CSIDs)

- 1) Please can you describe the process of obtaining a Civil Status Identity Card for a failed asylum seeker from the Iraqi Embassy in London in as much detail as possible (please include details of what documents or information are required, timescales etc).

CSID cards are being phased out and replaced by INID (Iraq National Identification) cards. It is not currently possible to apply for an INID card outside of Iraq. As a result, the Iraqi embassy in London are advising their nationals in the UK to apply instead for a 'Registration Document (1957)' which they can use to apply for other documents such as passports or an INID card once they have returned to Iraq. The registration document (1957) must be applied for on the applicant's behalf by a nominated representative in Iraq. In order to start the application, the individual requiring documentation would normally provide at least one copy of a national identity document (see above list Q1, FAS) and complete a power of attorney (to nominate a representative in Iraq) at the Iraqi embassy along with the embassy issued application forms. If they have no copies of identity documents they also would need to complete a British power of attorney validated by the FCO and provide parents' names, place, and date of birth to their nominated representative in Iraq. Once issued the nominated representative will send the registration document (1957) to the applicant in the UK. The process takes 1-2 months. The HO cannot apply for documentation other than Laissez Passers on someone's behalf but the embassy is willing to check to see if the individual already holds documents and provide copies if necessary.

- 2) Can an individual obtain CSIDs for the rest of their family (i.e. spouses, children etc)?

See answer to Q1 CSID cards. The male head of the family in the UK will apply on their behalf.

- 3) Please can you describe the process of obtaining a CSID via a proxy in Iraq in as much detail as possible including what information would be required, what government department issue the replacement CSID, timescales etc.

See above answer to Q1 (CSIDs).

- 4) What people in Iraq can act as a proxy for a FAS (i.e. is it strictly family members or can it be friends, Mukhtars in the FAS' village etc.

See response to Q1 (CSID cards). They need to obtain a power of attorney from the embassy (and a British one validated by the FCO is applicable) for a representative in Iraq to act on their behalf. It is just a nominated representative of their choice.

- 5) Would it be possible for the Iraqi Embassy in London to produce a CSID for the FAS while they are still in the UK based on the information provided by the proxy in Iraq?

Yes. See answer to Q1 above. The embassy just operates a 'post box service' for the Ministry of Interior who process them.

- 6) Are these processes the same for individuals who originate in the Kurdistan Region of Iraq?

Yes