



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

Appeal Numbers: UI-2022-000430
(PA/51741/2020); IA/01438/2020

THE IMMIGRATION ACTS

**At: Bradford (remote)
On: 15th September 2022**

**Decision & Reasons Promulgated
On: 27th October 2022**

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

**SLA
(anonymity direction made)**

Appellant

And

Secretary of State for the Home Department

Respondent

**For the Appellant: Ms Cleghorn, Counsel instructed by Barnes Harrild
& Dyer Solicitors**

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

DECISION AND REASONS

1. The Appellant is a national of Iraq born in 1987. He has been seeking protection in the United Kingdom for some 15 years. Today his claim comes down to one last arguable point. Will he face a real risk of destitution in Iraq such that the United Kingdom would be precluded from removing him there under Article 15(b) of the Qualification Directive?
2. In a decision dated the 5th August 2021 First-tier Tribunal Judge Ali concluded that he would not. Specifically Judge Ali found that the Appellant is still in contact with his family in Iraq, and that they could offer him assistance if necessary in obtaining a 'CSID' identity document which will provide him with access to work, benefits and

enable him to travel through the country unimpeded. Judge Ali found that the Appellant likely still held a copy of his old CSID, and that this would enable him to get a new one from the Iraqi embassy in London.

3. Permission was granted by Upper Tribunal Judge Sheridan on the 23rd March 2022. Judge Sheridan thought it arguable that the First-tier Tribunal had failed to engage with the substance of the country guidance given in SMO, KSP & IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 400 (IAC) (“SMO I”), the extant country guidance at the time of its decision.
4. Before me Mr Diwnycz accepted on behalf of the Respondent that the decision of Judge Ali was indeed flawed for error of law, namely a failure to engage with the main point in SMO I, subsequently amplified in SMO & KSP (Civil status documentation; article 15) Iraq CG [2022] UKUT 00110 (IAC) (‘SMO II’), that there is in Iraq a new type of biometric identity card known as the ‘INID’. Whether a returned individual is or is not reasonably likely to end up facing destitution, and thus inhuman and degrading circumstances, depends very much on whether the civil registry in their home area continues to dispense the old CSID type card, or the new INID. That is because a CSID can be obtained by proxy (for instance by family, friends or paid agents such as lawyers) but an INID cannot. To obtain an INID an individual must present himself to the actual office – in this case this would be in Mosul, Nineveh governate – in order to enrol his biometrics. This he cannot do if he is stuck at Baghdad International Airport, since he needs a valid identity card to be able to get through the many checkpoints that lie between him and his final destination. The First-tier Tribunal fails to make findings on any of this: crucially the decision is silent on where the Appellant’s home registry is, or whether it is still issuing CSIDs.
5. On this basis the decision of Judge Ali is set aside.
6. In remaking the decision the parties invited me to consider the following matters. The Appellant does not have an actual CSID. All he ever had, back when he arrived in 2007, was a copy document. Regardless of whether that document is still in his possession that photocopied page would not pass muster at a checkpoint. The Appellant needs a new document. He is from Al-Noor, a district of Mosul. Mr Diwnycz, in his typically diligent fashion, checked to see if Al-Noor fell within one of the areas in Nineveh believed by the Home Office to still be issuing CSIDs. It is not. Mosul itself was heavily damaged during the ISIL occupation, and we know that the terrorists deliberately targeted government infrastructure for destruction. In SMO II the panel found that the roll-out of INIDs is now largely complete in urban areas. It may be reasonably deduced from these facts that the civil registry in the Al-Noor district of Mosul is now issuing only INIDs. To get a new INID the Appellant would need to present himself to that office. He is being returned to Baghdad.

7. Having regard to those agreed facts I find that the appeal must be allowed. Without a valid identity card the Appellant cannot get from Baghdad to Mosul to get his new INID. He has no family in Baghdad to support him. He will be stuck in the airport. Applying the guidance in SMO II there would in those circumstances be a real risk of a violation of Article 15(b) of the Directive.

Anonymity

8. Until the deadline for appeal of this decision has passed, and the relevant document issued by the Respondent, the Appellant continues to seek protection. Having had regard to the Presidential Guidance Note 2022 No 2: Anonymity Orders and Hearings in Private¹ I am satisfied that in those circumstances it would therefore be appropriate to make an order in the following terms:

“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, any of his witnesses or any member of his family. This direction applies to, amongst others, both the Appellant and the Respondent. Failure to comply with this direction could lead to contempt of court proceedings”

Decisions

9. The decision of the First-tier Tribunal is set aside.
10. The decision in the appeal is remade as follows: the appeal is allowed on protection grounds.
11. There is an order for anonymity.



Upper Tribunal Judge Bruce
15th September 2022

¹ Paragraph 28 of the Guidance Note 2022 No 2: Anonymity Orders and Hearings in Private reads: In deciding whether to make an anonymity order where there has been an asylum claim, a judge should bear in mind that the information and documents in such a claim were supplied to the Home Office on a confidential basis. Whether or not information should be disclosed, requires a balancing exercise in which the confidential nature of the material submitted in support of an asylum claim, and the public interest in maintaining public confidence in the asylum system by ensuring vulnerable people are willing to provide candid and complete information in support of their applications, will attract significant weight. Feared harm to an applicant or third parties and "harm to the public interest in the operational integrity of the asylum system more widely as the result of the disclosure of material that is confidential to that system, such confidentiality being the very foundation of the system's efficacy" are factors which militate against disclosure. See R v G [2019] EWHC Fam 3147 as approved by the Court of Appeal in SSH D & G v R & Anor [2020] EWCA Civ 1001