



**Upper Tribunal
(Immigration and Asylum Chamber)
No: UI-2021-000436**

Appeal

(FtT ref: PA/51497/2020); LP/00185/2021

THE IMMIGRATION ACTS

**Heard at George House, Decision & Reasons Promulgated
Edinburgh on 19 October 2022 on 27 November 2022**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

SUREN AHMED ABDULKAREEM

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Ms N Loughran, of Loughran & Co, Solicitors
For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. FtT Judge Prudham dismissed the appellant's appeal by a decision dated 27 May 2021. She failed in her substantive claim, as she had before a previous tribunal, and that is no longer in dispute. The remaining aspect of her case was alleged difficulty over lack of documentation.
2. At [36] the tribunal noted that the appellant and her husband "retain expired Iraqi passports", which were with the respondent, and went on to say that "in any event" they should be able to obtain a *laissez-passer*.

3. At [37], the tribunal found that difficulty could be avoided by obtaining a “registration document”.
4. *SMO, KSP & IM* (Article 15(c); identity documents) Iraq CG [2019] UKUT 00400 was added to the UT’s list of country guidance cases on 20 December 2019, removed on 26 April 2022, and replaced on that date by *SMO & KSP* (civil status documentation; article 15) Iraq CG [2022] UKUT. In the rest of this determination, I adopt Ms Loughran’s convenient way referring to those reports as “*SMO 2019*” and “*SMO 2022*”.
5. The appellant sought permission to appeal to the UT, on grounds of (1) wrongly departing from guidance in *SMO 2019* in respect of use of a registration document and (2) failing to follow *SMO 2019* in respect of “ability to move freely around KRG / Iraq” and inability to travel from an airport to a registry office to obtain an INID.
6. On 20 July 2021 FtT Judge Boyes refused permission, on the view that ground (1) ignored that the appellant and her husband have expired passports and ground (2) was based on travel difficulties from Baghdad to the KRG, not within the KRG, to where the appellant would be returned.
7. The appellant’s renewed application for permission was granted on 1 February 2022 by UT Judge Bruce (prior to *SMO 2022*).
8. Ms Loughran’s submissions firstly dealt in detail with error in supposing that either a *laissez-passer* or a registration document might be an answer to documentation difficulties.
9. It is sufficient to record that it is now clear that the tribunal was wrong on both those points. Mr Mullen did not contend otherwise.
10. Ms Loughran also drew attention to headnotes and to underlying passages in the guidance on the need to travel to a specific office to obtain an INID; areas of ongoing conflict; and difficulties of travel through militia checkpoints.
11. Ms Loughran said that the decision of the FtT should be set aside for unjustified departure from *SMO 2019*.
12. I asked what should follow if the decision were to be set aside. Ms Loughran in course of her submissions had referred to the principal conclusions both of *SMO 2019* and of *SMO 2022*. Her position was unclear on whether she was seeking a remit to the FtT, for some (unspecified) further fact-finding, or a remaking of the decision by the UT.
13. Procedure rules and practice directions require notice to be given of any application for consideration of evidence which was not before the FtT. No such notice has been given, and no potential further evidence has been referred to.

14. Ms Loughran had submitted, in effect, in course of her error of law submissions, on remaking the decision by applying *SMO 2022* to the findings made by both previous tribunals. When replying to the respondent's submissions, however, her position was that there should be a remit.
15. Mr Mullen submitted that errors over a *laissez-passer* and over a registration document were immaterial; those aspects were irrelevant to the conclusion dictated by the appellant having a passport, a matter which was common ground; there was no reason to set aside; if there were to be a set aside, no basis had been laid for a remit to the FtT; and the case was clear, on application of *SMO 2022* to the facts.
16. I reserved my decision.
17. The appellant and her husband have Iraqi passports, which may have expired. Both their children were born in the UK. Their older child has an Iraqi passport, obtained while the appellant was with him in Iraq, and used on their return to the UK. The younger child, who has not yet travelled from the UK, does not have a passport.
18. The appellant, her husband and their children are able to travel readily to Iraq on passports, renewed and obtained as may be necessary, provided through the Iraqi Embassy in London to Iraqi citizens as a matter of routine administration. The appellant has provided no reason to think otherwise.
19. As Mr Mullen pointed out, the problems of conflict, travel, and inaccessibility of local offices to which reference was made for the appellant all relate not to the KRG (or IKR) but to the rest of Iraq.
20. As stated in *SMO 2022* at headnote E (26), there are regular direct flights from the UK to the IKR.
21. It is the respondent's intention that any removal in this case would be to Erbil in the IKR.
22. *SMO 2022* headnote E (30) is to the effect that once at the IKR land or air border returnees, such as the appellant and her family members, "would normally be granted entry" and "subject to security screening, and registering presence with the local *mukhtar*, would be permitted to enter and reside in the IKR with no further legal impediments or requirements."
23. The final point argued for the appellant was that she might have to register at a different office (Erbil) from her husband and children (Sulaymaniyah) and that travel to those destinations would separate family members.
24. There is nothing to show that the family members would be compelled to go in different directions directly from the airport, or that registration requirements could not be accomplished over a time which would allow them to remain together.

25. Even if the members of the family had to separate temporarily in order to register, that is hardly a matter which interferes with their fundamental rights or entitles them to international protection.
26. The FtT did not need to go beyond the uncontentioned finding at [36] that the appellant and her husband have passports which would be made available to the Iraqi Embassy. It did not need to stray into consideration of a *laissez-passer* and a registration document. Those further findings were irrelevant and immaterial.
27. Alternatively, if the decision were to be set aside, there is no basis for remittal. Applying current country guidance to the established facts, the appellant and her family members are in no difficulty over documentation in Iraq and have shown no need for protection here.
28. The decision of the FtT shall stand.
29. No anonymity direction has been requested or made

H Macleman

19 October 2022
UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email.