



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

Appeal Number: PA/00319/2019

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice
Centre
On 12 September 2022**

**Decision & Reasons Promulgated
On 4 April 2023**

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

AREAN JAMAL ALI

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms G Patel, instructed by Broudie Jackson & Canter
Solicitors

For the Respondent: Mr A Tan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Iraq, born on 5 October 1983. He claims to have arrived in the United Kingdom on 12 December 2016. He was served with removal papers as an illegal entrant on 12 December 2016 and claimed asylum that day. His claim was refused on 31 December 2016.

2. The basis of the appellant's claim, as originally stated, was that he feared being imprisoned or killed by the government. He claimed to have worked for the Iraqi police force from 15 April 2003 and to have latterly held the role of driving detainees from Kirkuk to Baghdad. He claimed that on one such

occasion, on 25 August 2015, when transporting detainees from Kirkuk to Baghdad, he and his colleagues were ambushed by ISIS who took all of the detainees. He returned to Kirkuk to explain to his supervisors what had happened and was warned by a friend that the government was starting an investigation against him and his colleagues, accusing them of working with ISIS. After fleeing Iraq he was informed that his colleagues had been sentenced to 20 years in prison and he feared that he would be imprisoned or killed himself if he returned.

3. The respondent, in the decision refusing the claim, did not accept the appellant's account of having worked for the Iraqi police and having been accused of working with ISIS, noting various inconsistencies in his evidence, and found that he had no genuine subjective fear of returning to Iraq and that he was at no risk on return to that country.

4. The appellant appealed against that decision and his appeal was heard by First-tier Tribunal Judge Chowdhury on 2 April 2019. At the hearing the appellant argued that he could not return to his home area of Kirkuk as it was not safe and that he could not live in Baghdad. He argued that he could not obtain a CSID in Baghdad and that it was too dangerous for him to travel to Kirkuk from Baghdad. He believed that there would be an arrest warrant issued against him. He did not have a CSID and did not have the information required to obtain a replacement CSID. He had no male family members who could assist him in getting the required details.

5. Judge Chowdhury accepted that the appellant was a member of the Iraqi police force but did not accept his account of being involved in the incident with ISIS prisoners escaping and did not accept that he was at risk on return on such a basis. Whilst she accepted that the appellant attended at the Iraqi consulate in Manchester she did not accept that he had made a genuine attempt to obtain a new CSID when he was there. She accepted that the appellant had lost his CSID en route to the UK but she did not accept that he did not retain a record of his CSID or of his details in the family register in Iraq and found it likely that he either knew, or had access to details or copies of his expired CSID and/or family register. The judge accepted that, because of the situation in Kirkuk, the appellant could not return there to obtain a replacement CSID, but she concluded that he would be able to obtain a replacement CSID reasonably soon after returning to Baghdad and that he could relocate to Erbil or the IKR from Baghdad and, as a former police officer, would be able to re-establish contact with people who could assist him. She accordingly dismissed the appeal on all grounds.

6. Following a grant of permission to appeal to the Upper Tribunal, the Upper Tribunal upheld the decision of Judge Chowdhury. However, the Court of Appeal subsequently set aside that decision and remitted the matter to the Upper Tribunal for the decision to be re-made applying the most recent country guidance SMO, KSP & IM (Article 15(c); identity documents) CG Iraq [2019] UKUT 400. The Court directed that the findings of fact in Judge Chowdhury's decision were, however, preserved and that the Upper Tribunal was to assume

that the appellant had access to the details of the location of his previous CSID and family book register.

7. Following a case management review hearing before myself on 2 December 2020, the appeal was listed for a resumed hearing in the Upper Tribunal to determine the above issues.

8. Prior to the hearing, Ms Patel served a skeleton argument relying on the latest Home Office Country Policy and Information Note Iraq: "Internal relocation, civil documentation and returns Version 13.0 July 2022", which in turn contained two emails from the Iraqi Embassy in the UK confirming that only the CSA offices in Mosul and the surrounding areas of Nineveh Governorate continued to issue CSIDs. In her skeleton argument Ms Patel submitted as follows:

"19. The Appellant comes from Kirkuk and will be returned to Baghdad as per SMO. The FTTJ accepted that he had lost his CSID on route to the U.K. The Appellant does not have access to an existing CSID and cannot obtain a replacement in the U.K because his local CSA office in Iraq has transferred to the INID system.

Therefore, the Appellant would be returned to Baghdad without a CSID or INID.

The Appellant would be unable to travel to his local CSA from Baghdad to apply for new documentation without a CSID or INID and cannot get his documentation within a reasonable period of time in Baghdad.

20. The Appellant cannot obtain replacement documents in Baghdad he can only get them at his local CSA office, which is in Kirkuk. The Appellant will have to attend in person in Kirkuk to enrol his biometrics including fingerprints and iris scans.

21. The Respondent's own evidence contained within the emails from the Iraqi government is that the Appellant's home area of Kirkuk is an INID terminal area .

22. The Appellant will be returning to Baghdad without a CSID, he would be required to travel internally to a CSA office in Kirkuk to obtain an INID so as per SMO his return to Iraq would be in breach of article 3 of EHCR.

23. It is respectfully submitted in the circumstances that his appeal be allowed on asylum grounds or humanitarian protection grounds."

9. The matter then came before me again. Mr Tan accepted, in light of Ms Patel's skeleton argument and the latest CPIN, that since the appellant was from Kirkuk he would not be able to obtain appropriate documentation to enable him to travel from Baghdad and that he would be at risk on return to Baghdad. He therefore conceded that the appeal should be allowed on Article 3 and humanitarian protection grounds.

10. In light of Mr Tan's concession, and on the basis of the evidence presented by Ms Patel, I accordingly find that the appellant has demonstrated that his removal to Iraq would give rise to an Article 3 risk and that he is entitled to humanitarian protection. The appeal is accordingly allowed on those grounds.

DECISION

11. The making of the decision of the First-tier Tribunal involved an error on a point of law and has been set aside. I re-make the decision by allowing the appeal on humanitarian protection and Article 3 human rights grounds.

Signed S Kebede
Upper Tribunal Judge Kebede
2022

Dated: 12 September