



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/10093/2019**

THE IMMIGRATION ACTS

**Heard at Bradford
On 19 December 2022**

**Decision & Reasons Promulgated
On the 10 January 2023**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

HO

(Anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Cleghorn instructed by Halliday Reeves Law Firm.

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

DECISION AND REASONS

1. The appellant is a citizen of Iraq born in 1998 who arrived in the UK on 7 January 2016 and applied for asylum which was refused by the Secretary of State in a decision dated 3 October 2019. The appellant's appeal against that decision came before a judge of the First-tier Tribunal on 16 December 2019 and 13 January 2020. In a decision promulgated on 20 February 2020 the judge dismissed the appellant's appeal on all grounds.

2. The appellant sought permission to appeal to the Upper Tribunal asserting the First-tier Tribunal erred in law in the application of the guidance in the country guidance case of SMO & KSP and IM (Article 15 (c); identity documents) Iraq CG [2019] UKUT 00400 (IAC). The Designated Judge of the First-tier Tribunal who granted permission on 17 April 2020 noted there was no challenge to the adverse credibility findings made against the appellant.
3. At an Initial Hearing at Manchester CJC on 20 July 2020 another Senior Presenting Officer conceded the error for the reasons outlined in the application for permission to appeal and grant of permission to appeal. The Upper Tribunal judge hearing that appeal therefore found material legal error made out and also found:
 4. The grounds of appeal did not challenge the FTT's negative credibility findings. It follows that the sole issue to be remade relates to whether or not the appellant will have access to the requisite documents to reside in Iraq without the risk of serious harm, in light of the country guidance in SMO and the associated country background information.
4. The preserved findings of the First-tier Tribunal are in the following terms:
 19. However, I find it incredible that the Appellant would not have been able to recall the name of the person who had known him and his uncle, and who had contacted him through his Facebook account to inform him of his uncle's death. I conclude that the Appellant's account was deliberately vague so as to deflect cross examination on details which you would be unable to provide.
 - ...
 21. Having considered the evidence before me in the round, I conclude that the Appellant has provided an evolving and largely inconsistent account through the asylum interviewing process. This leads me to conclude that it has been fabricated in order to give foundation to his asylum application, and side dismiss it in its entirety.
5. The Judge also added at [23] *"Given that I have dismissed the Appellant's account in its entirety, it may well be that he has family in Iraq who could provide him with the required details, if he is not already in possession of them, to obtain a CSID in the UK from the Embassy or Consulate."*
6. In the Refusal letter the appellant's nationality and ethnicity as a Kurd was accepted by the Secretary of State.
7. The appellant claimed his home area was in Daquq. In his interviews when providing personal details he stated his country and town of birth was Albu Mohamad, Daquq, Kirkuk, Iraq. That was not disputed before me.
8. A major change that has occurred since the matter was considered by the First-tier Tribunal is that Secretary of State now enforces returns to all airports within Iraq, not just to Baghdad, for failed asylum seekers. There is in an international airport in Kirkuk but there was no challenge to the information provided by Mr Diwnycz that there are flights directly to Kirkuk by Turkish Airways.
9. Mr Diwnycz core submission was that the appellant could be returned to Kirkuk where he will be able to pass through the airport, go to his local CSA office and acquire the documents that are necessary to

enable him to live a normal life within Iraq. Ms Cleghorn's core submission was that such an approach was too simple as there were procedures within the airport in Kirkuk that would mean that without the required documents the appellant would not be able to leave the airport, and may experience difficulties giving even if he could, giving rise to an entitlement to a right of international protection.

Discussion

- 10.** The appellant was asked in his interview about the time he lived in Abu Mohammed Village, which he confirmed was between 2010 and 2015, at which time he had a CSID. The appellant was asked in his asylum interview why he could not return to Iraq and back to his village and go to the local CSA to obtain a replacement CSID to which he claimed he could not because his village had been demolished and his life was not secure and that people would recognise him.
- 11.** When asked if he was returned to Iraq, and putting his alleged problems to one side, he could not go to the local CSA contain a replacement CSID he claimed "I cannot go there because everybody in that office are Shia and I cannot tell them who I am and change my ID card and asked them to change it..... I can't return because if I go there I will be asked about my parents ID card and I don't have that site cannot renew the civilian ID card. Your father is not there they do not change it for you. You cannot change religion without your father".
- 12.** There is no evidence that there will be a CSA office in a local village and it is more credible that the appellant's local office will be in Daquq in the Kirkuk Governorate. The skeleton argument filed on his behalf states that his documents are registered in Daquq.
- 13.** Shortly prior to the hearing Mr Diwnycz provided the Tribunal and the appellants representatives with an update of the request made under paragraph 144(13) of SMO & KSP (Civil status documents; article 15) Iraq CG [2022] UKUT 00110 (IAC), the current and only country guidance case relating to Iraq. That document sets out a completely different situation from that which existed prior to the disclosure of this document when it was believed that only two CSA offices, Mosul and the surrounding areas of Nineveh, continued to issue the CSID. The updated information says that 23 CSA offices in Nineveh Governorate and two in Kirkuk Governorate are currently issuing CSID's.
- 14.** The document itself has attached a schedule showing the CSA offices by reference to individual governorates and within those governorates the individual CSA offices, with those highlighted in red appearing to be those that continue to issue the CSID. In relation to Kirkuk Governorate it reads:

Kirkuk

1048 Kirkuk
 1049 Al Toon Kubri
 1050 Tazah
 1051 Qara Hasan
 1052 Al Moltaqa (in red)
 1053 Al Hwaijah (in red)

1054 Al Riyadh (in red)
 1055 Al Zab (in red)
 1056 Al Abaasi (in red)
 1057 Daqooq
 1058 Al Rashad (in red)
 1059 Al Aahed
 1060 Al Dibs
 Merging Al Quds with Al Dibs
 1062 Shwaan (in red)
 1063 Qara Hanjir

- 15.** The appellant's home area and local CSA office is stated throughout the case to be that of Daquq, but no issue was raised before me that that is also the place referred to in the up-to-date information at 1057 albeit spelt as Daqooq.
- 16.** The importance of this information is that it means that the appellant will not be able to obtain an updated CSID within the UK or on return to Iraq as his local CSA is only issuing the more up-to-date biometric INID.
- 17.** It also important to consider the appellants chronology. The appellant stated in his asylum interview that he left Iraq in 2015 with the help of an agent. It has been shown he was fingerprinted in Bulgaria on 20 September 2015, after he claimed asylum there, and he arrived in the UK on 7 June 2016 where he claimed asylum. The INID system was introduced in Iraq on the 1 January 2016 which would mean the appellant having left Iraq prior to that document being introduced.
- 18.** It was not disputed, and indeed is confirmed in SMO that it is not currently possible to apply for an INID outside Iraq.
- 19.** The appellant does not establish that he would not be able to obtain a laissez passer which he could use to fly or be flown directly to either an airport within the IKR which, as an Iraqi Kurd, there is no evidence he would not be able to pass through without difficulty or to Kirkuk.
- 20.** If the appellant was flown to the IKR he would have to cross a checkpoint to enable him to return to his home area for which he would need either a CSID or INID. If he was returned to Kirkuk Ms Cleghorn's submission was that it is unlikely he will be able to get out of the airport without appropriate documentation as all arrivals will be checked, or that if he was able to pass through the airport he will be likely to face the prospect of having to pass through checkpoints within Kirkuk Governorate.
- 21.** It is also necessary to consider the recent history of Kirkuk airport which was a base operated by the US until they withdrew from Iraq, was taken from the Kurdish Peshmerga by the Iraqi army who occupied it following their success against ISIS, and when it was reopened to civilian flights on 16 October 2022, without announcement in a low-profile ceremony attended by the Iraqi minister of transportation attended by Arabs and Turkmen officials, no Kurds were invited.
- 22.** The appellant's skeleton argument states that the starting point for considering the merits of the appeal is that the appellant does not have any family in Iraq as his family had been killed, his brother and sister and father were shot and the paternal uncle who assisted him in

leaving had died in a river. The appellant in his recent witness statement, and oral evidence, repeated this claim which he also made before the First-tier Tribunal, but it is a preserved finding that such claims, together with the claimed events in Iraq, are not true.

- 23.** The appellant has not established he does not have family within Iraq who will not be able to meet him at the airport but without the required identity documents it is not likely he will be able to return to his home area or internally relocate within the IKR.
- 24.** I find the submission by Ms Cleghorn that it is reasonably likely the appellant will have to pass through checkpoints within the Kirkuk Governorate itself plausible, especially in light of ongoing security issues in that area including soldiers being killed in Kirkuk City on 24 January 2022 as a result of a bomb blast targeting their patrol, the Iraqi security forces seizing and destroying bomb-making material on 14 April 2022, and at least nine police officers being killed in a blast near Kirkuk on 18 December 2022 whilst travelling in convoy. It is known the main security checkpoints in Kirkuk are located at all the entrances to the city.
- 25.** The Refusal letter dated the 3 October 2019 speaks of the ability of an individual to re-document themselves, reference to male family members, and relevant case law, but without making a specific statement in relation to the appellant's own situation. It was not submitted by Mr Diwnycz that the appellant has or could be provided with the required documentation when he landed at the airport, the submission being more in line with the fact that it was only a distance of 10 miles or so between the airport in Kirkuk and the appellant's home area where he will be able to re-document himself.
- 26.** I do not find it made out on the evidence that there is a reasonable prospect of the appellant being able to secure his original CSID as there is nothing in the evidence to show that he is either in possession of this document or that it has been left with family members who are reasonably likely to be able to send it to him or meet him at the airport with it. The submission made on the appellant's behalf that as the family fled their home area in 2015 when ISIS were approaching his village it is highly unlikely his family would have thought or managed to take his documents with them together with their own when they fled, is plausible on the specific facts of this case.
- 27.** Section 4.10.3 of the respondents CIPU: internal relocation, civil documentation and returns, Iraq, reads:

4.10.3 On 27 March 2022 the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) published a report, citing various sources, entitled 'Iraq Humanitarian Needs Overview 2022' which stated:

'The lack of identity and civil documents affects all aspects of a person's life, and the impact is multidimensional. People without an official recognition of nationality and identity have limited access to essential services and are often unable to exercise their fundamental rights. Without documents to prove identity, IDPs' and returnees' physical safety is at risk due to potential arbitrary arrests and detention, rights violation at checkpoints, and limited freedom of movement.

- 28.** Although the appellant has not established he faces a real risk on return for a reason recognised by the Refugee Convention, his claims in that respect having been found to lack credibility, I accept that in light of the fact he has established that he does not possess the required ID documents and/or is able to obtain the same to prove his identity before he will face a real risk of harm for the reasons set out in the country material, that is sufficient to entitle him to a grant of humanitarian protection. On that basis only I allowed the appeal.

Decision

- 29. I allow the appeal.**

Anonymity.

- 30.** 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. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

Signed.....
Upper Tribunal Judge Hanson

Dated 4 January 2023