Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: UI-2022-006020**
[HU/13318/2019]

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 11 March 2024

Before

UPPER TRIBUNAL JUDGE KOPIECZEK

Between

RK
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms K. McCarthy, Counsel instructed by Direct Access
For the Respondent: Ms A. Nolan, Senior Home Office Presenting Officer

Heard at Field House on 22 January 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant and any member of her family is granted anonymity.

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 (*and/or other person*). Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

INTRODUCTION

1. This appeal comes back before me following a hearing on 3 April 2023 following which I decided that the First-tier Tribunal ("FtT") erred in law in its decision dismissing this appellant's appeal which was based solely on Refugee Convention grounds. I decided that the decision would be re-made before me in the Upper Tribunal ("UT").

2. In order to put into context my decision on re-making it is useful to reproduce certain paragraphs of my earlier (error of law) decision as follows.

> "1. The appellant is a citizen of Iraq, born in 1997, who arrived in the UK on 10 November 2014. He was granted humanitarian protection ("HP") on 10 November 2016 after a successful appeal to the First-tier Tribunal ("FtT") and then 12 months' discretionary leave to remain on 8 June 2020 ("DLR").
>
> 2. On 14 December 2018 he pleaded guilty to unlawful wounding and having a bladed article in a public place. On 31 January 2019 he received a sentence of 15 months' imprisonment.
>
> 3. On 23 July 2019 the respondent made a decision to revoke the appellant's HP pursuant to paragraph 339GA of the Immigration Rules (change in country circumstances) and 339GB (exclusion from HP on the basis of danger to the community). At the same time a decision was made [to] refuse a human rights claim (in response to the appellant's representations made in terms of why his HP should not be revoked).
>
> 4. On 18 May 2020 the appellant was convicted of a further offence: detaining a child without lawful authority under section 2 of the Child Abduction Act 1984. He received a 12 months' conditional discharge and made the subject of a restraining order.
>
> 5. Although the respondent began deportation action by inviting representations from the appellant as to why he should not be deported, on 8 June 2020 a decision was made not to deport him for the time being because of the issues arising in terms of his ability to obtain official Iraqi documentation for use in internal relocation and reintegration. He was instead granted 12 months DLR.
>
> 6. The appellant appealed the decision to revoke his HP. The FtT allowed his appeal but the Upper Tribunal ("UT") found an error of law in the FtT's decision and the appeal was then dismissed by the UT on a re-making. That decision of the UT is reported as *Kakarash (revocation of HP; respondent's policy)* [2021] UKUT 00236 (IAC).
>
> 7. The UT allowed the appellant to revive a ground of appeal based on the Refugee Convention. The appeal was remitted to the FtT for the appeal to be heard on that ground alone.

8. The appeal came before First-tier Tribunal Judge Cartin ("the FtJ") at a hearing on 22 March 2022. In a decision promulgated on 30 June 2022 the FtJ dismissed the appeal based on the Refugee Convention ground.

9. Permission to appeal the decision of the FtJ was granted on the basis that it was arguable that the FtJ's conclusions are "inconsistent with the respondent's concession that the appellant was at risk of serious harm in Iraq", but the grant of permission was not limited.

...

Assessment and conclusions

40. The appellant is excluded from HP, as is clear from the decision of this Tribunal in *Kakarash (revocation of HP; respondent's policy)* [2021] UKUT 00236 (IAC). The only ground of appeal before the FtJ was that in relation to the Refugee Convention.

41. The respondent's letter to the appellant dated 4 June 2020 said the following at paragraph 8:

> "...the Secretary of State will not be taking steps to deport you for the time being. This is because there is currently a legal barrier that prevents you from being deported; the situation regarding access to and acquisition of official Iraqi government documentation, and its use in relocation and re-integration in Iraq, as set out in the case of *SMO, KSP & IM (Article 15(c); identity documents) (CG)*."

42. Paragraph 11 states as follows:

> "While the objective evidence continues to indicate that conditions in the formerly-disputed areas of Iraq are such that there is not a general risk to individuals there which would engage Article 3 or Article 15(c) of the EC Qualification Directive (indeed, *SMO* confirms there to be no generalised risk, and the disputed area to be limited to a remote region only), other findings in *SMO* relating to the availability of official documentation, the risk of internal travel in the absence of such documentation, and your known personal circumstances lead the Secretary of State to accept a risk on return as identified in *SMO*. To that end, arguments under Immigration Rule 339GA are no longer relied upon."

43. In other words, on the basis of the then country guidance and the appellant's "known personal circumstances", the lack of documentation held by him and the risk of internal travel without such documents, it was accepted that the appellant would be at risk on return to Iraq. It can reasonably be assumed, given the reference to the appellant's "known personal circumstances", that the Secretary of State also had in mind in that letter the findings made by Judge Jones in his decision that it would be "unduly harsh for the appellant to relocate within the IKR" ([74]-[75]).

44. The FtJ considered Judge Jones' decision and the basis for the conclusion he reached that the appellant would not be able to relocate internally to the IKR. At [27] he referred to the concession that the appellant would be at risk of serious harm "on account of the risk of internal travel in the absence of the requisite documentation". He went on to focus on the question that he had to determine, namely whether "the risk is one that engages the Refugee Convention".

45. It is not apparent from the FtJ's decision that submissions were made on behalf of the respondent resiling from the position clearly set out in the letter dated 4 June 2020 to which I have referred above. I accept, therefore, that Ms McCarthy is right when she says that nowhere has the respondent suggested that the appellant could voluntarily relocate to Erbil and document himself there. The letter of June 2020 does not say so, albeit that it was written in the light of the situation in Iraq as it was then, and such does not appear to have been the respondent's case before the FtJ, as far as can be determined.

46. The FtJ was right, in assessing whether the appellant could bring himself within the Refugee Convention, to refer to the guidance given in *SA (Iraq)*, at paragraph (ii) of the headnote, namely that:

> "A person ("P") who would be at risk on an enforced return but who could safely make a voluntary return is not outside P's country on account of a well-founded fear of persecution. P is consequently not owed the obligation of non-refoulement in Article 33(1) of the Refugee Convention and cannot succeed on the ground of appeal in s84(1)(a)."

47. The FtJ's primary conclusion was that the appellant was not able to bring himself within any Refugee Convention ground with reference to a return to his home area. Mr Clarke was in a sense correct to submit that the FtJ was not concerned with risk but whether the appellant could bring himself within the Refugee Convention. However, the risk on return to his home area is relevant in that context. The guidance given in *SA (Iraq)*, which I have quoted above, is predicated on the basis of a 'safe' voluntary return, a matter to which the FtJ adverted more than once. The findings made by Judge Jones, and implicitly taken into account in the respondent's letter of June 2020, are inconsistent with the proposition that the appellant could make a safe return to his home area, based amongst other things on his particular circumstances.

48. The FtJ concluded that the appellant would not in fact be at risk in his home area, for the several reasons that he gave. I have not been referred to the various authorities on the issue of concessions, but I do not need to refer to them for myself. Mr Clarke did not resile from the suggestion that there was a concession on the part of the respondent in play here in terms of risk on return. Indeed, the submission before me on behalf of the respondent that the concession was a concession "of its time" accepts that there was such a concession. Although it was submitted that the letter of June 2020 does not make any concession with reference to the findings in 2015 by Judge Jones, as I have indicated [it can] reasonably be assumed that the Secretary of State

also had in mind in that letter the findings made by Judge Jones in his decision that it would be "unduly harsh for the appellant to relocate within the IKR".

49. Even if it could be said that the June 2020 [letter] did not make any concession with reference to Judge Jones' decision of 2015, those findings in relation to Article 3 risk remained undisturbed by any intervening judicial decision prior to the hearing before the FtJ.

50. In the circumstances, I am satisfied that the FtJ did err in law in his reliance on *SA (Iraq)* for the conclusion that the appellant could safely return to his home area and in his assessment of the safety of the appellant's return there, given the respondent's position in the June 2020 letter, the findings of Judge Jones, and the way the case appears to have been put by the respondent before the FtJ. The focus for the FtJ's enquiry should have been in terms of a return to Baghdad because it could not be said that a safe return to his home area, or to the IKR if Gwer is not in the IKR, was available to the appellant.

51. Specifically in relation to ground 4, the FtJ referred at [45] to the argument about risk to the appellant on account of his Kurdish ethnicity, westernisation and being a Sunni Muslim. He said that those arguments were premised on the appellant being forcibly returned to Baghdad which, he said, was not the appellant's situation. He went on to consider the westernisation point in detail and made findings on that issue.

52. However, in the light of the error in the FtJ's analysis of the appellant's return to his home area, his conclusions in relation to a return to Baghdad cannot stand.

53. In summary, I am satisfied that grounds 1, 2 and 4 in the appeal before me are made out. I have not specifically addressed ground 3 because it is not necessary to do so."

3. As I also said in my error of law decision, the decision of Judge John Jones QC dated 9 December 2015 resulted in the appellant being granted humanitarian protection ("HP") after his appeal was allowed on Article 3 and HP grounds. The appeal before Judge Jones was not advanced on the basis of the Refugee Convention, a claim which appears to have been originally advanced on the basis that the appellant was a member of a particular social group, but his age at the time of the appeal precluded his reliance on that ground.

4. The reference in my error of law decision to ground 3, is a reference to a ground concerning redocumentation in terms of *SMO, KSP & IM (Article 15(c); identity documents)* Iraq CG [2019] UKUT 00400 (IAC) (this being the earlier decision in *SMO* before it was remitted to the Upper Tribunal by the Court of Appeal for further consideration).

5. At the instant appeal I heard preliminary submissions from the parties in relation to whether the appeal should be remitted to the FtT or remain in the UT for the decision to be re-made. I decided that nothing had changed

since the provisional view I expressed in my error of law decision, namely that the appeal should remain in the UT.

THE ORAL EVIDENCE

6. In examination-in-chief the appellant said that he had told the truth in his previous statement(s). He had never been to Baghdad and does not know anyone who lives in Baghdad. Whilst in the UK he had not made any friends who have contacts in Baghdad. He had worked in the UK as a hairdresser. He has no other work qualifications.

7. In cross-examination the appellant was referred to the decision of Judge Jones following his appeal in [2015], at para 63, which mentions a paternal uncle in Iraq. The appellant said that he does not know if that uncle is still there as he has had no contact with anyone in Iraq since being in the UK since his arrival in 2015.

8. The appellant accepted, as stated at para 24 of Judge Cartin's decision, that he had a document with him when he arrived in 2015 which he gave to the Home Office. It had his name and date of birth and the names of his mother and father on it. It also said where he came from. He does not remember whether or not it had the family book number on it.

9. He had not used that document to approach the Iraqi embassy in the UK to obtain Iraqi documentation because he does not have that document with him. He only had a copy which he gave to his then solicitor. He gave that solicitor the only copy. He no longer has that solicitor. As soon as he gave the document to the Home Office they gave him leave to remain for five years. The leave to remain document that the Home Office gave him was what he used as his ID.

10. He does not know who the previous solicitors are so as to be able to contact them. He was taken by social services to the solicitor, with an interpreter.

11. As to what other educational qualifications he has obtained in the UK, he went to college to study English. As to his current religious beliefs, he is a Muslim.

12. If he had to return to Iraq his son would remain in the UK and that would be a problem as he has to support him.

THE PARTIES' ORAL SUBMISSIONS

13. In her submissions Ms Nolan referred to Judge Cartin's decision at paragraph 24 where he referred to directions having been given to the respondent in 2019 to produce the document that the appellant said that he travelled to the UK with, but the respondent had not done so. She pointed out that Judge Cartin had said that the expert evidence was that the appellant would not be able to rely on a photocopy (to document

himself). Ms Nolan agreed, therefore, that it was not clear whether the family book number is in that document.

14. Ms Nolan submitted that it was not established that the appellant was unable to obtain documentation in the UK to allow him safely to return to Baghdad. In paragraph 63 of his decision, Judge Jones referred to the ID document that the appellant had. Although the appellant's evidence is that he does not remember whether it had the family book number in it, the fact is that there is some ID document in the UK. Although he also says that he has no copy of it now, it was submitted that he could easily find out who his previous solicitors were that he gave it to, and obtain a copy of it. His evidence was that he had not approached the Iraqi embassy.

15. Ms Nolan referred to *SMO & KSP (Civil status documentation; article 15) Iraq* CG [2022] UKUT 00110 (IAC), in particular paragraph 14 of the guidance in the headnote in terms of the ability of an individual to obtain a replacement CSID whilst in the UK. It was submitted that it was "more likely than not" that the appellant used his CSID to leave Iraq and travel to the UK. Although the expert evidence in 2019 was that he would not be able to rely on a photocopy, he could still approach the Iraqi embassy in the UK.

16. It was submitted, therefore, that there was no serious risk to the appellant on return to Baghdad even if it is accepted that he has no contact with family members there. He could, therefore, travel to another area of Iraq.

17. As to the issue of westernisation, it was submitted that the appellant had not made out that he is 'westernised'. He still practises his religion. His son would not be with him, and there was nothing to suggest that it would be immediately obvious that he has a son in the UK.

18. Whilst he may not have a support network in Iraq, there was nothing to suggest that he could not obtain employment on return given, for example, that he has experience as a hairdresser in the UK.

19. Ms McCarthy relied on her skeleton argument. She submitted that the appellant had given frank evidence that when he came to the UK as a minor he had a document stating where he was from, and containing the names of his parents, and that he could not remember whether it had the family book number on it. That document was given to the Home Office when he was a minor, and to his solicitors. The Home Office had been asked to produce it but had failed to do so. Despite the fact that at the time of arrival the appellant was under the care of social services and had had numerous different solicitors, the respondent has suggested that he could obtain a copy of the document.

20. Ms McCarthy submitted that it was clear from *SMO* that the family book number is the significant reference that needs to be provided. On all the evidence in this case it was submitted that the appellant could not be documented in the UK.

21. It was further submitted that in any event, even if documentation could be obtained in order to put him on a flight to Baghdad, the issue remains as to whether that would be reasonable to send a person with his characteristics to Baghdad. It was also not clear where it is suggested he could move to given that he would not be able to go to the Kurdish region.

22. Ms McCarthy submitted that the appellant only speaks Kurdish Sorani and English, and does not speak Arabic. He is a Sunni Muslim and is therefore in the minority. In addition, it was submitted that the country guidance and Home Office policy guidance refer to the need for a support network for housing and employment, and the like. This appellant does not know anyone in Baghdad, has never been there, and has no contacts in the UK who could help. He would be completely isolated even if he had documentation. I was referred to paragraph 25 of the headnote in *SMO* in terms of the need for genuine support.

23. Ms McCarthy indicated that although she did not wish to overstate the position, there is a degree of westernisation in that the appellant had lived in the UK for 10 years. His private life arrangements are "unconventional" relative to the conservative values in Baghdad, in that he has a child from a former partner who is no longer with. It was submitted that this would become known in his attempts to make friends and establish himself. He would be a person who would not fit in in terms of abiding by the surrounding norms. It was accepted, however, that he had not given up his religion.

24. It was submitted that because of those cumulative factors, it would not be reasonable for the appellant to relocate to Baghdad.

ASSESSMENT AND CONCLUSIONS

25. It was agreed between the parties that the following matters, as set out in the appellant's skeleton argument at paras 10-13, are not in dispute. These are that the appellant has no Iraqi status documents, it having been conceded that it is unsafe for him to return to his home region of Gwer in the IKR to obtain them; that he is Kurdish, in his mid-twenties and from the Kurdish region of Iraq; that he speaks Kurdish Sorani and reasonable English but does not speak any Arabic at all; and that he is a Sunni Muslim.

26. At the start of the hearing Ms Nolan was not able to agree paragraphs 14 and 15 of the appellant's skeleton argument in terms of the appellant's support network in Baghdad and westernisation.

27. As I stated in my error of law decision at paragraph 50, the focus for this appeal is the prospective return of the appellant to Baghdad, because he cannot return to his home area, or to the Iraqi Kurdish Region ("IKR") if Gwer, where he comes from, is not in the IKR. The issue, therefore, is one of internal relocation. In that respect I have considered *Januzi v Secretary of State for the Home Department* [2006] UKHL 5 as explained, for

example, in *AH (Sudan) v Secretary of State for the Home Department* [2007] UKHL 49.

28. *SMO*, the most recent country guidance decision of the UT on Iraq, provides the following guidance in relation to the all-important CSID.

> ***C. CIVIL STATUS IDENTITY DOCUMENTATION***
>
> *11. The CSID is being replaced with a new biometric Iraqi National Identity Card – the INID. As a general matter, it is necessary for an individual to have one of these two documents in order to live and travel within Iraq without encountering treatment or conditions which are contrary to Article 3 ECHR. Many of the checkpoints in the country are manned by Shia militia who are not controlled by the GOI and are unlikely to permit an individual without a CSID or an INID to pass.*
>
> *12. In order to obtain an INID, an individual must personally attend the Civil Status Affairs ("CSA") office at which they are registered 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. The reducing number of CSA offices in which INID terminals have not been installed will continue to issue CSIDs to individuals and their proxies upon production of the necessary information.*
>
> *13. Notwithstanding the phased transition to the INID within Iraq, replacement CSIDs remain available through Iraqi Consular facilities but only for those Iraqi nationals who are registered at a CSA office which has not transferred to the digital INID system. Where an appellant is able to provide the Secretary of State with the details of the specific CSA office at which he is registered, the Secretary of State is prepared to make enquiries with the Iraqi authorities in order to ascertain whether the CSA office in question has transferred to the INID system.*
>
> *14. Whether an individual will be able to obtain a replacement CSID whilst in the UK also depends on the documents available and, critically, the availability of the volume and page reference of the entry in the Family Book in Iraq, which system continues to underpin the Civil Status Identity process. Given the importance of that information, some Iraqi citizens are likely to recall it. Others are not. Whether an individual is likely to recall that information is a question of fact, to be considered against the factual matrix of the individual case and taking account of the background evidence. The Family Book details may also be obtained from family members, although it is necessary to consider whether such relatives are on the father's or the mother's side because the registration system is patrilineal.*

> *15. Once in Iraq, it remains the case that an individual is expected to attend their local CSA office in order to obtain a replacement document. All CSA offices have now re-opened, although the extent to which records have been destroyed by the conflict with ISIL is unclear, and is likely to vary significantly depending on the extent and intensity of the conflict in the area in question.*
>
> *16. An individual returnee who is not from Baghdad is not likely to be able to obtain a replacement document there, and certainly not within a reasonable time. Neither the Central Archive nor the assistance facilities for IDPs are likely to render documentation assistance to an undocumented returnee."*

29. It is agreed that the appellant has no Iraqi status documents. It is submitted on behalf of the respondent that he could obtain the necessary document(s) from the Iraqi embassy in the UK on the basis that he could obtain from his former solicitors the ID document that he gave to them at the time of his arrival.

30. Putting aside the irony of the suggestion that the appellant could obtain the document that the respondent was directed to provide in 2019 but failed to provide, the appellant arrived in the UK in November 2014 when he was 17 years old as an unaccompanied minor. His evidence before Judge Jones in 2015 was that he had lost the document and had lost the memory card from his mobile phone which had a photograph of the document. Judge Jones found credible the appellant's account of his phone having been taken by the agents who facilitated his travel to the UK, and of his having lost the memory card. It does not appear from Judge Jones' decision that there was an adverse credibility finding in relation to the lost document itself.

31. The submission that the appellant was in the care of social services after his arrival is consistent with his evidence given to Judge Jones and consistent with his then age. The further submission that the appellant has had numerous solicitors since his arrival may, or may not be, correct. No evidence was put before me either way. However, given that it is almost 10 years since the appellant's arrival in the UK, there is no reason to doubt his evidence that he does not know who those solicitors were. The respondent has not suggested that the Home Office records reveal who the original solicitors were. In addition, it is not at all clear that after a period of 10 years those solicitors would still have his documents.

32. The appellant's evidence that he does not remember whether the document has the family book details is reasonably likely to be true. I come to that conclusion on the basis that the other evidence that the appellant gave before Judge Jones in relation to that document was found to be credible. In addition, almost 10 years have passed since the appellant had that document in his possession and at a time when he was relatively young. Furthermore, as suggested by Ms McCarthy, it could be said that if the appellant had not been telling the truth about the

document, he may have been more likely to say that the family book details were not on it rather than that he could not remember whether or not they were.

33. In the circumstances, I am not satisfied that the appellant would be able to obtain a replacement CSID in the UK. The guidance in *SMO* about the potential for relatives to be able to provide details of the family book is also relevant, but as explained below, the evidence is that the appellant does not have family members who could assist.

34. It is again to be remembered that this appeal, on refugee convention grounds, is now focussed on the question of internal relocation. The appellant will need either a CSID or IND (a biometric Iraqi identity card). In the light of my conclusions above, and considering the current country guidance on Iraq, it would not be reasonable to expect the appellant to relocate to Baghdad, because he would be without a CSID or IND.

35. However, I have considered the position in the alternative, on the assumption that the appellant would be able to obtain a replacement CSID whilst in the UK. In this context the following guidance in paragraph 25 of the headnote to *SMO* is relevant, with particular reference to relocation to Baghdad.

> *"Relocation to Baghdad. Baghdad is generally safe for ordinary civilians but whether it is safe for a particular returnee is a question of fact in the individual case. There are no on-entry sponsorship requirements for Baghdad but there are sponsorship requirements for residency. A documented individual of working age is likely to be able to satisfy those requirements. Relocation to Baghdad is likely to be reasonable for Arab Shia and Sunni single, able-bodied men and married couples of working age without children and without specific vulnerabilities. Other individuals are likely to require external support, ie a support network of members of his or her family, extended family or tribe, who are willing and able to provide genuine support. Whether such a support network is available is to be considered with reference to the collectivist nature of Iraqi society, as considered in AAH (Iraqi Kurds – internal relocation) CG [2018] UKUT 212."*

36. It is accepted that the appellant is not an Arab Shia but is Sunni and is Kurdish. Although neither party before me made submissions in relation to residency sponsorship, it would appear from *SMO* that such sponsorship is needed. The guidance in *SMO* at paragraph 25 refers to sponsorship requirements for residency. At paragraph 23 of the guidance in *SMO* it refers to the need to consider not only the safety and reasonableness of relocation but also the feasibility of that course, in the light of sponsorship and residency requirements in operation in various parts of the country. In addition, I note that the Country Policy and Information Note on Iraq dated October 2023 (referred to in the appellant's skeleton argument) quotes from the UNHCR report dated November 2022 which states at paragraph 8.1.2 that:

> "Individuals who do not originate from Baghdad Governorate, irrespective of their religious/ethnic profile, require two sponsors from the neighbourhood in which they intend to reside as well as a support letter from the mukhtar (or the local council or mayor). The two sponsors need to accompany the individual to the mukhtar (or the local council or mayor)…"

37. There is no evidence that the appellant knows anyone in Baghdad who could sponsor him. His evidence is that he does not know anyone there. At paragraph 75 of his decision dated December 2015, Judge Jones said that:

> "I find that he does not have family or [a] support network in Iraq that he can access, his family having dispersed and being untraceable…"

38. Although he made those findings in the context of the IKR, they are findings that plainly apply to Baghdad in that he found that his family, who are not from Baghdad anyway, are untraceable.

39. I bear in mind that the appellant has worked as a hairdresser in the UK, and that that is reasonably likely to be a transferable skill. However, he would still encounter the problem of a lack of sponsorship for residency. Furthermore, he would not have the necessary support network referred to in *SMO*.

40. The point about the appellant's 'westernisation' which Ms Mcarthy relied on, albeit without undue emphasis, had more relevance, it seems to me, in the context of earlier country guidance decisions and to which Judge Cartin referred at paragraph 46 of his decision. *SMO* replaced all existing country guidance and refers to westernisation as part of the guidance more particularly in relation to Article 15(c) of the Qualification Directive. It is not *irrelevant* to internal relocation to Baghdad but it is a matter of less significance than formerly. I do, nevertheless, consider that it is a factor that, on a cumulative basis, affects the reasonableness of relocation to Baghdad.

41. For the reasons given above, I am not satisfied that it would be reasonable to expect the appellant to relocate to Baghdad without undue hardship even if he was able to obtain the necessary replacement documentation in the UK.

42. In any event, as I have indicated, my primary conclusion is that the appellant would not be able to obtain such documentation and for that reason could not be expected to relocate to Baghdad as a person without a CSID or an IND. Accordingly, the appeal must be allowed on Refugee Convention grounds. Although not specifically referred to in submissions before me, the Convention ground is that of a particular social group, in that the appellant is Kurdish, to some extent westernised, undocumented

and from an area of Iraq where it has been accepted by the respondent that he is at risk.

Decision

The decision of the First-tier Tribunal involved the making of an error on a point of law. Its decision having been set aside, I re-make the decision by allowing the appeal.

A.M. Kopieczek

Upper Tribunal Judge Kopieczek 6/03/2024