



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-003138

First-tier Tribunal Nos: PA/57899/2023
LP/01955/2024

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On the 24 October 2024**

Before

UPPER TRIBUNAL JUDGE McWILLIAM

Between

**MD
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss J Mason, Broudie Jackson Canter

For the Respondent: Mr J Thompson, Home Office Presenting Officer

Heard at Field House on 17 October 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant 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

DECISION AND REASONS

1. The Appellant is a citizen of Iraq. His date of birth is 28 July 1994.
2. On 5 August 2024 Upper Tribunal Judge Gill granted the Appellant permission to appeal against the decision of the First-tier Tribunal (Judge Ruck) to dismiss his appeal against the decision of the Respondent on 20 May 2020 on protection grounds.

3. The Appellant's evidence, in summary, is that he is of Kurdish ethnicity and a Kakai. He lived in Chakhmakha with his family. They were forced to flee their home in 2014 when ISIS took control. The Peshmergas were able to seize back the area so that the Appellant and his family could return. In 2017 Hashd al Shabi seized control of the area and pushed the Peshmergas out. The Kakais became a target again. In January 2020 the Appellant's father was abducted and the Appellant fled Iraq.
4. The Respondent accepted that the Appellant is a national of Iraq of Kurdish ethnicity and followed the Kakai faith and farmed land in Chakhmakha. It is not accepted by the Respondent that his family were targeted by Hashd al Shabi and in any event the Respondent's position is that he can internally relocate to the IKR. The Respondent did not accept that the Appellant's CSID card was destroyed during the war with ISIS. The Respondent's position is that the Appellant or his family have access to it or his family could assist him to obtain a replacement.
5. The judge did not find the Appellant credible and dismissed his appeal.
6. The judge made the following findings:-
 - i. It is not reasonably likely that the Appellant's account is true.
 - ii. The external evidence confirms minority groups such as those from the Kakai religion were targeted by ISIS in 2014. The judge did not accept the Appellant's account with regard to the specific events that he described thereafter which he said caused him to leave Iraq.
 - iii. The Appellant's account was not internally consistent for the reasons set out by the judge at paragraph 14.
 - iv. The inconsistencies in the Appellant's evidence are fundamental and significantly undermine his credibility.
 - v. Section 8 of the 2004 Act applied and the Appellant's failure to make an application for asylum in France which is a safe country undermined his overall credibility.
7. In relation to the Appellant and his CSID card the judge made the following findings:-
 - "18. The Appellant claims that he has not had a CSID card since 2014 when he (sic) it was destroyed in the war against ISIS. Having regard to the external evidence regarding the requirement for Iraq nationals to have ID cards and the significant delay in obtaining services without it, I do not accept the Appellant's account that he was able to live in Iraq since 2014 without a CSID card, including on his account to travel to hospital for treatment.
 19. I find that the Appellant is not a credible witness. There have been inconsistencies in relation to every aspect of his account. Having considered all the evidence in the round, I therefore find that the Appellant does have his CSID card or would be able to obtain it with the assistance of his family who I also find he is in contact with".

The Grounds of Appeal

Ground 1

8. The thrust of ground 1 is that the findings in respect of the Appellant's CSID card at para 18 do not sit with the findings at para 13 of the decision where the judge accepted the evidence relating to events pre 2014. The Appellant's evidence was that his CSID was destroyed by ISIS in 2014. At para 18 the judge said that she did not accept that he has not had a CSID since 2014. This is contrary to the finding at para 13.

Ground 2

9. The thrust of ground 2 is that the judge did not follow the guidance in SMO v KSP (Civil status documentation article 15) Iraq CG [2022] UKUT 110 in respect of Dr Fatah's evidence that he could not recall that a hospital would require to see a CSID. In any event, this was not a matter that was put to the Appellant.
10. The judge failed to consider the plausibility of the Appellant being able to retain any documentation having been processed through the UK asylum system and being searched on arrival. The finding that the Appellant would be able to obtain a CSID card with the assistance of his family is unclear. The Respondent's position in the Reasons for Refusal Letter is that they could assist him to apply for a replacement, however as set out in the Appellant's skeleton argument the Respondent's guidance accepts that a replacement CSID card cannot be obtained.

Submissions

11. Ms Mason relied on the grounds. Mr Thompson relied on the Rule 24 response opposing the appeal.

Conclusions

12. There is no lack of clarity in the judge's findings in respect of the Appellant's. The judge said at para 13 that she accepted the external evidence confirms that minority groups such as those from the Kakai religion were targeted by ISIS in 2014. The judge said that she did not accept the Appellant's account with regards to the specific events that he described thereafter in 2016 and 2017 which the Appellant claims led him to leaving Iraq. From this finding it is clear that the judge accepted the Appellant's account which was supported by the background evidence; namely, that he was targeted by ISIS on grounds of ethnicity and that he fled his home in 2014. There is no contradiction between para 13 and what the judge said at para 18 when engaging with the Appellant's evidence concerning his CSID card. The judge did not accept that the Appellant's CSID was lost. The findings was open to the judge on the evidence.
13. The judge said "having regard to the external evidence regarding the requirement for Iraq nationals to have ID cards and the significant difficulty in obtaining services without it, I do not accept the Appellant's account that he was able to live in Iraq since 2014 without a CSID card, including on his account to travel to hospital for treatment". This finding was open to the judge. The

evidence of Dr Fatah is set out at length in the grounds. It supports that many Iraqi's are without CSID cards and have lost their documents when their homes were destroyed or when fleeing at short notice. The findings of the judge must be considered in the context of the adverse credibility findings. The judge rejected the core of the Appellant's account. The grounds rely on Dr Fatah's evidence set out at Annex A of SMO. The evidence is contained at para 9. Dr Fatah was asked whether he was aware that hospitals might need to see a CSID and he said that he could not recall having heard this. I do not accept that the finding of the judge does not accord with Dr Fatah's account. Mr Fatah's evidence was inconclusive on the matter. The Appellant did not rely on evidence that supported that hospitals do not need to see a CSID card. In any event, while the grounds focus on this point, it does not reflect the complete findings on the matter. The judge did not accept the Appellant's evidence because he was able to live in Iraq since 2014 without a CSID despite the significant difficulties in obtaining services. This finding is unarguably supported by the background evidence and the country guidance.

14. The burden of proof rests on the Appellant. It was not for the judge to ask him questions about the hospital visit. The Appellant was represented and had the opportunity to advance evidence explaining how he managed to overcome the significant difficulties faced by those without a CSID since 2014 in the light of the background evidence.
15. There is no error of law in the decision of the First-tier Tribunal.
16. The appeal is dismissed.

Upper Tribunal Judge McWilliam
Judge of the Upper Tribunal
Immigration and Asylum Chamber

23 October 2022