



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/07743/2016

THE IMMIGRATION ACTS

Heard at Glasgow
On 28th July 2017

Decision & Reasons Promulgated
On 7th September 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE FARRELLY

Between

AJR
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr McGlashan of McGlashan MacKay
For the Respondent: Mr S.Kotas, Home Office Presenting Officer.

DETERMINATION AND REASONS

Introduction

1. The appellant is a Kurd who lived in Kirkuk. He worked for the British forces as an engineer and said he was threatened by ISIS. He also worked as a freelance journalist. He was writing an article on corruption within the Peshmerga. He said he received threats from both sides, causing him to leave his country. The respondent accepted his identity but not that he was threatened by ISIS or that he was a journalist. Because Kirkuk was a contested areas it was felt he could safely go to the I KR.

2. His appeal was heard by Judge of the First-tier Tribunal PA Grant Hutchinson and was dismissed in a decision promulgated on 11 April 2017. He acknowledged that Kirkuk was a contested region and the intention was that the appellant would not be returned there. Instead, the plan was for him to go to the I KR. There, ISIS did not have a presence and would not present a risk. He accepted that he was a journalist and was at risk from corrupt Peshmerga in Kirkuk. However, he could relocate to the I KR where he would not be at risk. The appellant said he studied in Arabic and spoke Kurdish, Arabic and some English. He concluded he would be able to obtain employment there, pointing out he was young, healthy, spoke the language and had qualifications.
3. Permission to appeal was sought on the basis the appellant could not be returned to the IKR because he was not Kurdish. This misstates the undisputed factual position that he is Kurdish. Permission was granted on the basis it was arguable the judge erred in law in not applying the guidance set out in AA Iraq [2015] UK UT 544, section E. This deals with returns to the IKR. It is not apparent if the Upper Tribunal Judge in granting leave was aware the factual background had been materially misstated. A discrete ground in the application was that the judge failed to enquire about documentation to facilitate return or the factors set out in D 15 of AA Iraq [2015] UK UT 544 concerning relocation to Baghdad. These include the availability of a CSID, the ability to speak Arabic and family support.
4. The presenting officer acknowledged that the decision of the First-tier judge failed to set out the relevant factors for the return to Baghdad. The refusal however is primarily on the basis that removal to Baghdad would be for purposes of transit to the I KR. The presenting officer submitted that whilst the judge made no specific findings about the appellant's contact with his family the appellant had indicated the existence of family. I was referred to questions 15-16, 47, and 48 of his substantive interview where he denied being in contact with his family and said he could not find any way to telephone. At question 110 and 111 he repeated that he could not manage to contact his family. It was pointed out that at screening the appellant said he had worked as an engineer and as a journalist and that he spoke Arabic. It was submitted that he would be able to obtain employment and the transition would be assisted by the voluntary assistance package.
5. Mr McGlashan submitted that the judge materially erred in law and that the appeal should be remitted for a fresh hearing. The judge had accepted he had written about Peshmerga corruption and would be at risk in Kirkuk. He submitted that for the same reason he would be at risk in the I KR. He submitted that given what was happening in the country it was possible his family would be lying low. He said that the country guidance was silent as to travel beyond Baghdad. He said the appellant would be travelling on a laissez-passer which would be taken from him on arrival in Baghdad. The appellant has always lived in Kirkuk. He cannot stay there and the judge

acknowledged the risk there. He referred to the cost of travel by air from Baghdad to Erbil which he put at £200 .He submitted there was no evidence the appellant would have access to such funds. He said there were 2,000,000 displaced people in the I KR. The appellant would need to register there and the Peshmerga would be aware about his background. He submitted that it would be too dangerous for him to relocate to the I KR.

Consideration.

6. The evidence was that the appellant is educated to graduate level and worked as an engineer as well as in journalism. He spoke Kurdish, Arabic and some English. He was a young single male with no significant health problems. The judge concluded he was likely to be able to obtain employment on return.
7. It is known he has family in Iraq. He referred to his father being able to make arrangements for his departure. He also referred to help given by his married brother. There was a telephone in their home but he said he had been unable to make contact.
8. When he came to the United Kingdom he brought documentation to support his claim. He brought his degree certificate. He provided his journalist union card. He brought a letter of recommendation from a British soldier in respect of the work he did. He was able to provide his Iraqi identity card number. He did not produce a passport but he indicated he had been issued with one. It is my conclusion from this and the fact he has family members in Iraq he should have little difficulty in establishing his identity with the Iraqi authorities. Following from this, I conclude he would be able to obtain the CSID necessary to access aid within the country. For the same reason I find he would be able to obtain the necessary travel documentation.
9. He is not from the IKR. There are direct flights there from the United Kingdom but he would not be flown directly because he does not originate from there. Instead, he would be flown to Baghdad. The intention is that this would be a transitional move for onward travel within the country to the IKR. Available information indicates air travel to Baghdad and from there to Erbil is feasible. Should he have to remain in Baghdad for any length of time then the country information indicates that he would not face a 15(c) risk there. I can see no reason why, given his background, he could not establish himself there.
10. In any event, the intention is that he will only be in transit. It was suggested by Mr McGlashan that he would be stranded in Baghdad. He suggested his laissez-passer would be taken from him and the county guidance case was silent about the documentation required for onward travel. There was also the likely cost of airfare.

11. The nature of a laissez-passer is that it is issued by the Iraqi authorities here to facilitate return. If this is taken from the appellant on arrival at Baghdad airport the country guidance case is silent as to the need for documentation for onward travel within the country. Put another way, I have not been referred to any evidence that further documentation is required for travel within Iraq. The onus is not on the respondent to prove in each case what documents are required to board an internal flight from Baghdad to the IKR. Nor does she have to show that the appellant has them or can access them. Paragraph 170 of the County Guidance case was a discussion on internal relocation which does not make its way into the head note. The Court of Appeal's comments on para 170 (AA (Iraq) [2017] EWCA Civ 944) does not affect my conclusion as I find he would be entitled to a laissez-passer.
12. Consequently, on the basis the appellant can get to the IKR the judge has already indicated his likely employment prospects. He has experience. He is Kurdish. He also speaks Arabic and has some English. He will have the benefit of the assisted return and the local aid packages. He has family in country that should be able to assist.
13. For these reasons I find the grounds and the submissions on behalf of the appellant do not show a material error of law in the decision of the First tier Tribunal. Consequently it shall stand.

Decision

The appeal is dismissed and the First Tier Tribunal decision shall stand.

Signed

Deputy Upper Tribunal Judge Farrelly