



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

Appeal Number: PA/07754/2016

THE IMMIGRATION ACTS

Heard at Field House
On 14 July 2017

Decision & Reasons Promulgated
On 17 July 2017

Before

UPPER TRIBUNAL JUDGE KEKIĆ

Between

**SARKAR SAMAD
(ANONYMITY ORDER NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Sharif of Fountain Solicitors

For the Respondent: Mr D Clarke, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant challenges the determination of First-tier Tribunal Judge Aujla dismissing his appeal for protection. He is an Iraqi national born on 3 November 1991 who arrived here on 23 January 2016 and claimed asylum on the grounds that he was gay and would be persecuted for that reason if he returned.
2. The appeal came before First-tier Tribunal Judge Aujla at Taylor House on 8 February 2017. The appellant was represented. The judge heard

oral evidence from the appellant and, having considered it along with the documentary evidence, concluded that the appellant had fabricated the claim and would not be at risk on return as his claim of homosexuality was untrue.

3. The appellant sought permission to appeal on the following grounds: (1) that the judge had failed to assess risk on return; specifically, as a failed asylum seeker and in the context of the AA (Article 15(c)) Iraq CG [2015] UKUT 00544 (IAC) factors and had not assessed the feasibility of return and whether internal relocation would be unduly harsh; (2) that the judge should have assessed the risk of return to Iraq rather than Iran and (3) that there was inadequate reasoning for the findings on the claim of homosexuality.
4. Permission was only granted on the first ground. Although Judge Page did not give any reason for rejecting the second argument, it is plain that the references to Iran rather than Iraq in the standard paragraphs 44 and 45 are typographical errors rather than examples of factual errors. The judge was plainly aware that the assessment was to be made for Iraq as it clear from the remainder of the determination. This was a slip in the judge's proof reading rather than anything else and whilst it is regrettable and not condoned, I find no material error arises from it.
5. Having heard the submissions of the parties on the first ground, I reach the following conclusions. Despite Mr Sharif's criticism of the judge for his failure to consider the issues now raised in the grounds, it is plain from the evidence before the judge that there was no suggestion that the appellant would be at risk for *any reason* other than his sexuality. It was *never* part of the appellant's claim that he would be at risk as a failed asylum seeker, that he did not have documents and would be at risk because of that or that he could not relocate because of his ethnicity or other reasons. The *sole* claim was that he was gay and that his problems on return would be as a result of that.
6. As far as relocation was concerned, the only concern the appellant raised was that those who were aware of his sexuality would seek him out. No other fears were raised at the interview, at the hearing, in written statements or in the skeleton argument. As confirmed by the representative at the hearing before the First-tier Tribunal, whom I am now informed formulated the grounds for permission, the sole issue was asylum. There was no reliance on article 15(c) or indeed article 8 and this is confirmed by the skeleton argument. No evidence was called or adduced in any other form to support the claim now made that the appellant would be at risk for other reasons. If these newly raised issues formed part of the appellant's case, they should

have been put forward earlier, certainly by his representatives if not the appellant himself. Mr Sharif suggested that *"enquires should have been made"*. Indeed they should have, but this was not a task for the judge. It was the task of the representatives to ensure that all reasons for a potential risk on return were identified and argued before the judge.

7. I invited Mr Sharif to point me to any evidence before the judge, other than the copy of AA, which addressed the issues now relied on and which the judge might have considered of his own volition. He was unable to do so.
8. I therefore conclude that the appellant's complaints are not made out. He came here recently from Iraqi Kurdistan and that is where he can return. As Mr Clarke pointed out, even if the issue of documentation had been raised as a matter requiring attention, there is nothing in the country guidance which identifies the necessity of a CSID card for the return to that area.
9. It follows that I find no material errors have been made by the judge and that his determination is sound.

10. Anonymity

11. I was not asked to continue the anonymity order made by the First-tier Tribunal and see no reason to do so.

12. Decision

13. The judge's determination stands. The appeal is dismissed.

Signed



Upper Tribunal Judge

Date: 14 July 2017