



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/09280/2017

**THE IMMIGRATION ACTS**

Heard at Bradford  
On 3<sup>rd</sup> September 2018

Decision & Reasons Promulgated  
On 17<sup>th</sup> September 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

SHAGAR [K]  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Ms S Khan of Counsel, instructed by Morgan Dias Immigration Consultants Ltd  
For the Respondent: Mrs R Pettersen, Home Office Presenting Officer

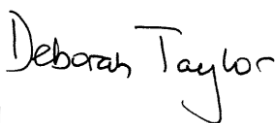
**DECISION AND REASONS**

1. This is the appellant's appeal against the decision of Judge Hillis made following a hearing at Bradford on 19<sup>th</sup> January 2018. Judge Hillis dismissed the appellant's appeal against the decision, made on 6<sup>th</sup> December 2017, to refuse to grant him refugee status in the UK.
2. It is not disputed that the appellant comes from Hawija, in the Kirkuk governorate of Iraq. Neither was it argued that he could internally relocate to the Iraqi Kurdish

Region. The judge found that he could not safely remain in Baghdad city. Mrs Pettersen told me that she did not resile from that position.

3. It was the respondent's case that the appellant could return to Kirkuk city, where he had spent some time prior to leaving Iraq. The judge agreed.
4. The appellant challenged the judge's decision on a number of grounds, including that he had erred in law in his assessment of whether the appellant would be able to obtain a CSID, and he had erroneously departed from the country guidance case of AA (Iraq) v SSHD [2017] EWCA Civ 944.
5. I am satisfied that the judge erred in law.
6. He records the evidence at paragraph 28 that the appellant stated that he last spoke to his father's friend Khabat when they were in Turkey together, and he has no contact number for him. Later in the determination, at paragraph 40, the judge said that there was no evidence before him that Khabat is no longer in or near Kirkuk and would not provide the appellant with support on return. The judge's conclusion that the appellant could obtain a CSID card shortly after his arrival in Iraq was therefore not based on a proper consideration of all of the evidence.
7. Furthermore, in concluding that the appellant could return to Kirkuk city, the judge accepted the respondent's policy guidance as set out at paragraph 2.2.4 of his policy document, updated on 11<sup>th</sup> September 2017, without consideration of the test to be applied when a judge is considering whether to depart from extant country guidance, namely whether the material now presented amounts to cogent evidence of a durable change in circumstances.
8. Accordingly, the judge erred in law and his decision is set aside.
9. Credibility findings will need to be remade and the appeal is therefore remitted to the First-tier Tribunal.
10. The position at the remitted hearing will be as follows. The respondent accepts that the appellant is from Hawija. The respondent does not argue that he could reasonably relocate to Baghdad or the IKR but says that he could go to Kirkuk city, which the appellant contests. The next judge will have to decide whether the appellant could reasonably obtain a CSID document on return and whether he could reasonably relocate to Kirkuk city.

No anonymity direction is made.



Signed

Date 14 September 2018

Deputy Upper Tribunal Judge Taylor