



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/09187/2018

**THE IMMIGRATION ACTS**

Heard at Field House  
On 29 November 2018

Decision & Reasons Promulgated  
On 9 January 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN

Between

RHR  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr. R. Parkin of Counsel, instructed by Barnes Harrild & Dyer  
Solicitors  
For the Respondent: Mr. S. Walker, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Buckwell, promulgated on 19 September 2018, in which he dismissed the Appellant's appeal against the Respondent's decision to refuse a grant of asylum.
2. As this is an asylum appeal I make an anonymity direction.
3. Permission to appeal was granted as follows:

“The first ground was arguable. The Appellant relied on country guidance set out in AAH Iraq CG [2018] UKUT 00212 and made submissions based upon his personal circumstances on return. It appeared to be accepted by the Judge that the Appellant would be returning without any family support. In concluding that, despite that, it would not be unduly harsh for the Appellant, reliance was placed on him being a non-disabled adult, who had been able to make his way to the UK. There was no apparent consideration of the other relevant factors highlighted in AAH (and in submissions at [58]), regarding accommodation and maintenance. If they were considered, there was no explanation of how they had been weighed by the Judge.”

4. At the hearing, it was accepted by Mr. Walker that the decision of the First-tier Tribunal involved the making of a material error of law, with reference to paragraph [64].
5. Taking into account this concession, and having considered the decision, I set the decision aside to be remade. I heard submissions on the remaking.

### **Error of law**

6. The decision states at [64]:

“The question arises as to whether the Appellant would therefore be able to relocate to the IKR and whether that requirement would be unduly harsh. The Appellant emphasised in some detail that he has no immediate family members, extended family members or friends who could assist him on return. However the Appellant is an adult who is intelligent and who was able to make his way to this country, even if assisted by an agent, over a prolonged timescale. I do not find that the Appellant is under any disability and he is therefore an adult who could re-establish himself within the IKR. In all the circumstances I do not find that it would be unduly harsh to expect the Appellant to return to the IKR.”

7. This is the full extent of the Judge’s consideration of whether it would be unduly harsh for the Appellant to relocate to the IKR. I find that inadequate reasons are given, especially given the country guidance case of AAH. The case is referred to at [58] of the decision when the Judge summarises the submissions made by Mr. Parkin. It is apparent that Mr. Parkin referred to the fact that the Appellant had no family in the IKR, that the refugee camps were closed to new people, and the problems of renting accommodation. He also referred to the problems securing employment. He had submitted in conclusion that there would be significant difficulties for the Appellant on relocation.
8. None of these issues are addressed by the Judge at [64]. There is no reference to the factors set out in the headnote to AAH. I find that there is inadequate reasoning given as to why the Appellant could return to the IKR and why it would not be unduly harsh.

## Remaking

9. It was agreed by both parties, before they made their submissions, that the issue before me was whether it was unduly harsh to expect the Appellant, who has no family support, to return to the IKR. It was accepted by Mr. Parkin, as found in the First-tier Tribunal, that the Appellant could physically travel from Baghdad to the IKR given that he had a CSID. The issue is what the position would be for the Appellant once he arrived in the IKR, given that he has no family support.

10. I have carefully considered the case of AAH. Paragraphs [7] to [10] of the headnote state:

*“7. Whether P would be at particular risk of ill-treatment during the security screening process must be assessed on a case-by-case basis. Additional factors that may increase risk include: (i) coming from a family with a known association with ISIL, (ii) coming from an area associated with ISIL and (iii) being a single male of fighting age. P is likely to be able to evidence the fact of recent arrival from the UK, which would dispel any suggestion of having arrived directly from ISIL territory.*

*8. If P has family members living in the IKR cultural norms would require that family to accommodate P. In such circumstances P would, in general, have sufficient assistance from the family so as to lead a ‘relatively normal life’, which would not be unduly harsh. It is nevertheless important for decision-makers to determine the extent of any assistance likely to be provided by P’s family on a case by case basis.*

*9. For those without the assistance of family in the IKR the accommodation options are limited:*

*(i) Absent special circumstances it is not reasonably likely that P will be able to gain access to one of the refugee camps in the IKR; these camps are already extremely overcrowded and are closed to newcomers. 64% of IDPs are accommodated in private settings with the vast majority living with family members;*

*(ii) If P cannot live with a family member, apartments in a modern block in a new neighbourhood are available for rent at a cost of between \$300 and \$400 per month;*

*(iii) P could resort to a ‘critical shelter arrangement’, living in an unfinished or abandoned structure, makeshift shelter, tent, mosque, church or squatting in a government building. It would be unduly harsh to require P to relocate to the IKR if P will live in a critical housing shelter without access to basic necessities such as food, clean water and clothing;*

*(iv) In considering whether P would be able to access basic necessities, account must be taken of the fact that failed asylum seekers are entitled to apply for a grant under the Voluntary Returns Scheme, which could give P access to £1500. Consideration should also be given to whether P can obtain*

*financial support from other sources such as (a) employment, (b) remittances from relatives abroad, (c) the availability of ad hoc charity or by being able to access PDS rations.*

10. *Whether P is able to secure employment must be assessed on a case-by-case basis taking the following matters into account:*

- (i) Gender. Lone women are very unlikely to be able to secure legitimate employment;*
- (ii) The unemployment rate for Iraqi IDPs living in the IKR is 70%;*
- (iii) P cannot work without a CSID;*
- (iv) Patronage and nepotism continue to be important factors in securing employment. A returnee with family connections to the region will have a significant advantage in that he would ordinarily be able to call upon those contacts to make introductions to prospective employers and to vouch for him;*
- (v) Skills, education and experience. Unskilled workers are at the greatest disadvantage, with the decline in the construction industry reducing the number of labouring jobs available;*
- (vi) If P is from an area with a marked association with ISIL, that may deter prospective employers."*

11. Going through these paragraphs in turn as they apply to the Appellant, I find that the Appellant would be returning as a single male of fighting age (7(iii)). However, as accepted by Mr. Parkin, given that he would have arrived from the United Kingdom, this would dispel any suggestion of having arrived from ISIL territory.
12. With reference to paragraph 8 of the headnote, the circumstances set out there for an individual returning to family members in the IKR do not apply to the Appellant. It is in paragraph 9 where the difficulties for those who do not have the assistance of family in the IKR are set out. In his submissions Mr. Walker referred only to paragraph 9(iv) and the Voluntary Returns Scheme grant.
13. Going through the factors set out in paragraph 9, I find that the Appellant would be unlikely to find accommodation in a refugee camp in the IKR (9(i)). In relation to paragraph 9(ii) there is no evidence before me that the Appellant would be able to afford between US\$300 and US\$400 per month from his own resources in order to rent accommodation, and it was not submitted by Mr. Walker that he would be able to do. Paragraph 9(iii), which sets out the third option of accommodation, would be to squat in e.g. an abandoned building or tent. Paragraph 9(iii) makes it clear that it would be unduly harsh to expect an individual to relocate to the IKR if he would live in a "critical housing shelter" without access to basic necessities.
14. Mr. Parkin accepted that the Appellant could access the Voluntary Returns Scheme grant, but queried what would happen when that money ran out. He submitted that the Appellant would not be able to find employment without patronage and family support.

15. The issues regarding the ability of an individual to secure employment are set out at paragraph 10 of the headnote. Mr. Parkin submitted that the factors which were relevant were those set out at 10(ii), that there was 70% unemployment, 10(iv), that patronage and nepotism were still important and that there was an advantage for those with family connections, and 10(v) that skills, education and experience were important, and it was unskilled workers who were suffering as there was a lack of employment.
16. I find that, were the Appellant to be able to access accommodation by renting, he would need to find between US\$300 and US\$400 per month. He would also need money for basic necessities such as food. There was no indication that there would be remittances for the Appellant from family members abroad, and Mr. Walker did not suggest that there would be. The third option of ad hoc charity would not provide a permanent source of income. There was no submission made by Mr. Walker that there would be any particular availability of charity or rations which would enable the Appellant to support himself in the long term.
17. Therefore, while a Voluntary Returns Scheme grant may cover a few months of the basic cost of living, the Appellant would then need to find employment to cover these costs. I find that unemployment runs at 70% (10(ii)). The Appellant would not have any family support or patronage to enable him to find employment (10(iv)). At his screening interview the Appellant said that he had been educated only to primary school level (2.6). He said at his asylum interview that he had been a welder (Q52), and that he had worked doing a car wash job in Turkey (Q87). Paragraph 10(v) refers specifically to the greatest disadvantage being for unskilled workers, especially “with the decline in the construction industry reducing the number of labouring jobs available”.
18. No evidence was provided to suggest that the Appellant would not fall within the general position set out in the headnote to AAH, which is that there are significant difficulties for those people who do not have family support. Those difficulties inevitably result in the conditions being unduly harsh for such persons. The exceptions which may take an individual out of the unduly harsh category, those of having ample resources, family connections or secure accommodation, do not apply to the Appellant. It was accepted by Mr. Walker that the only part of AAH which applied to the Appellant was paragraph 9(iv) of the headnote, given that he had no family. But a grant is not a long term solution.
19. Taking all of this into account, I find that the Appellant, given that he has no family support, and is not a professional or skilled worker, would be unlikely to find employment in the IKR so that, once any funds from the Voluntary Returns Scheme grant ran out, he would not be able to afford the basic necessities or accommodation. I therefore find that it would be unduly harsh to expect the Appellant to return to the IKR.

**Notice of Decision**

20. The decision of the First-tier Tribunal involves the making of a material error of law and I set the decision aside.
21. I remake the decision allowing the Appellant's appeal on asylum grounds.

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 19 December 2018

**Deputy Upper Tribunal Judge Chamberlain**

**TO THE RESPONDENT**  
**FEE AWARD**

The appeal was exempt from the payment of a fee so there can be no fee award.

Signed

Date 19 December 2018

**Deputy Upper Tribunal Judge Chamberlain**