



**Upper Tribunal
(Immigration and Asylum Chamber)** Appeal Number: PA/09707/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 18 September 2019**

**Decision & Reasons
Promulgated
On 27 September 2019**

Before

Upper Tribunal Judge Sheridan

Between

**LYR
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Dirie, instructed by Wick & Co solicitors

For the Respondent: Ms Everett, Home Office Presenting Officer

DECISION AND REASONS

1. By my decision promulgated on 24 July 2019 I set aside the decision of the First-tier Tribunal. I now remake that decision.
2. The appellant is a Sunni Kurd citizen of Iraq born on 24 September 1996.

The Appellant's Claim

3. The appellant claims that:
 - a. he cannot be expected to return to his home area because of the risk he would face from indiscriminate violence which meets the threshold under Article 15(c) the Qualification Directive (2004/83/EC);
 - b. because he does not have (and would not be able to obtain) a civil status identity card (CSID) he would face a real risk of destitution in all parts of Iraq such that article 3 ECHR would be engaged and/or it would be unduly harsh for him to relocate internally anywhere in Iraq;
 - c. even with a CSID he cannot safely relocate to the IKR because he will be connected to his father and uncle, who worked in intelligence for Saddam Hussain and/or it would be unduly harsh for him in the IKR because of a lack of family support and an inability to find work or afford accommodation; and
 - d. even with a CSID it would be unduly harsh and unreasonable to expect him to relocate to Baghdad because he does not speak Arabic, is Sunni and Kurdish, has very limited education, is of fighting age, and would be a target for kidnappers given the time he spent in the West.
4. The appellant's account, in summary, is as follows:
 - a. He is from a town called Shingal in Mosul.
 - b. He has very limited education and is illiterate; and speaks only minimal Arabic.
 - c. Both his parents are dead and he lived with his paternal uncle and uncle's family in Shingal until 2014.
 - d. In 2014 fighting broke out in his home area and he moved to the mountains and then to Syria. He then returned to Iraq and went to the Dakar camp with his uncle. He claims to have been threatened by Yazidis in the camp.
 - e. His uncle and father worked in intelligence for Saddam Hussain (but he has no knowledge of their roles). His uncle told him that this would put him at risk in the IKR.
 - f. He left Iraq for Turkey with his cousins but became separated from them on route to the UK. He has not had contact with any of his family since arriving in the UK and has not attempted to contact them through social media or otherwise.
 - g. He is not in possession of his civil status identity card ("CSID"), passport or any other identification documents.
5. I heard oral evidence from the appellant. Responding to questions from Ms Everett, the appellant maintained that he has not had contact with his uncle or any family or friends in Iraq and has no knowledge of their whereabouts. His explanation for not

attempting to contact friends or family via social media was that he is illiterate. He stated that when he travelled to Europe he was dependent on his cousins to maintain contact with his uncle but he became separated from them. In response to questioning about a blood transfusion referred to in his screening interview, the appellant stated that he could not remember when it had taken place but that it was before fighting broke out in his village.

The Respondent's Position

6. The respondent accepted that the appellant is a Kurdish Muslim from Iraq, but rejected the entirety of the rest of his claim. In the reasons for refusal letter it was acknowledged that the level of indiscriminate violence in the area from which the appellant claimed to originate met the article 15(c) threshold but it was maintained that the appellant could relocate to the IKR.
7. Ms Everett argued that the appellant has not been honest about losing contact with his uncle and that, upon being returned to Iraq, he would have the support of his uncle who would be able to assist him in all matters including obtaining his CSID. She argued that the appellant's claim that he has lost (and is unable to establish) contact with his uncle should not be accepted because he lacked credibility.
8. In her submissions, Ms Everett highlighted several aspects of the appellant's account which she considered to be undermining of his credibility. Firstly, Ms Everett drew attention to an inconsistency between the appellant's statement in his screening interview that he had a blood transfusion a year earlier (i.e. in 2015) and his response to questioning in cross examination when he stated that the transfusion took place before the fighting in his home area (in 2014). This is a discrepancy of about one year. Secondly, Ms Everett argued that that the lack of arrangements to keep in contact with his uncle and family when travelling to the UK was not plausible. Thirdly, she did not consider it plausible that the appellant would not have used social media (or asked someone to assist him, if he was unable himself) to try and locate his uncle of family.

Findings of Fact

9. Having carefully considered the evidence that was before the First-tier Tribunal, the appellant's oral evidence, and the submissions of Ms Everett and Ms Dirie, I have formed the view that the appellant has been truthful when describing what occurred to him in Iraq and his loss of contact with his family. This is because:
 - a. The appellant's account has been broadly consistent. Ms Everett highlighted a discrepancy about the date of a blood transfusion. I agree with Ms Everett that there is a difference

of approximately one year between the account given in the screening interview and at the hearing; but I do not agree that this has any relevance to the appellant's credibility. The appellant is a young illiterate man whose screening interview took place on the day he arrived in the UK. Stating that a blood transfusion – which has no particular relevance to the claim – took place a year ago instead of 2 years ago does not, in my view, tell us anything about his credibility. It simply tells us that he did not remember how long ago the operation was. In cross examination, the appellant gave a straightforward response, explaining that although he could not recall when the operation took place he did remember that it was before the fighting that took place in his village. I do not consider it to be damaging to credibility that a person does not remember how long ago an operation took place but can remember whether or not it was before a momentous event in his life (such as fighting that forced him to leave his home).

b. The appellant's account is plausible. Firstly, it is consistent with the objective evidence, which indicates that fighting in his home area occurred as claimed. Secondly, even though it might be expected that the appellant would have made efforts through social media to contact his family, given his illiteracy and lack of education I consider it plausible that he has not. Similarly, it is plausible that he relied on his cousins to keep in contact with his uncle and that he lost the ability to remain in contact when he became separated from them.

10. Applying the lower standard of proof applicable in protection claims, I accept, and find as a fact, that the appellant (a) is from Mosul; (b) does not have a CSID or other Iraqi identification document; (c) is not in contact with family in Iraq and does not have family or friends to whom he could turn for assistance; (d) speaks only limited Arabic; and (e) has only a low level of education and is illiterate.

Article 15(c) risk in the appellant's home area

11. The first question to address is whether the appellant can return to his home area. According to *AA (Article 15(c) Iraq CG [2015] UKUT 00544* (and the amended country guidance in *AA (Iraq) v Secretary of State for the Home Department [2017] EWCA Civ 944*), the level of indiscriminate violence in his home area reaches the article 15(c) threshold under the Qualification Directive (2004/83/EC). Although there clearly have been substantial changes in the appellant's home area since *AA* was decided, the respondent has not submitted evidence to show that the threat to civilians from indiscriminate violence has diminished. In the absence of any such evidence, I am unable to depart from the extant country guidance caselaw. I therefore find that the appellant cannot be expected to

return to his home area because of the risk of serious harm under article 15(c).

Internal relocation

12. As the appellant cannot be expected to return to his home area, the issue to be addressed is whether he can relocate internally.
13. It is clear from both *AA* and *AAH (Iraqi Kurds - internal relocation)* *Iraq* CG UKUT 00212 (IAC) that without a CSID it is very difficult to function and survive in Iraq, and there is a significant risk of destitution. In *AA* the respondent conceded that a returnee who is unable to obtain a CSID would face a real risk of destitution in all parts of Iraq engaging article 3 ECHR. In *AAH* the Tribunal found at paragraph 98:

*“With those caveats in mind we accept that a person who is unable to replace a missing CSID, and who has no family or others to whom he could turn for assistance, is likely to face significant difficulties in accessing housing, employment, healthcare and other services. We do not need to dwell on the issue of whether a return to a situation of destitution would, of itself, breach Article 3 - see for example the consideration of this issue by the Court of Appeal in *Said v SSHD* [2016] Imm AR 1084 and *MA (Somalia)* [2018] EWCA Civ 994 - it is sufficient that we conclude that it would not be reasonable to require a returnee to internally relocate to a situation of destitution.”*

14. Given my findings of fact at paragraph 10 above that the appellant does not have a CSID or family/friends to whom he can turn for assistance, following *AAH*, internal relocation will not be reasonable unless the appellant is able to replace his missing CSID.
15. Having regard to the country guidance in both *AAH* and *AA*, I am satisfied that it is not reasonably likely that the appellant will be able to replace his CSID. This is because
 - a. He does not have any of the other documentation identified in paragraph 1(i) of the headnote to *AAH*;
 - b. The relevant civil registry office is in an area that was formerly held by ISIL and is likely to be destroyed;
 - c. In order to access the relevant civil registry office (if it has not been destroyed) the appellant would need to travel to a location where the risk of indiscriminate violence meets the threshold under article 15(c) and he cannot be expected to do this; and
 - d. he does not have contact with family members and therefore does not have access to assistance from someone who would be able to assist in locating the original place of registration.

16. In conclusion, I find that:

- a. The appellant cannot be returned to his home area because of the risk of indiscriminate violence which meets the threshold under article 15(c);
- b. it is not reasonable to expect the appellant to relocate internally to anywhere in Iraq (including the IKR) because he does not (and will be unable to obtain within a reasonable timeframe) a CSID and will not have the support of family or friends.

17. The appeal is therefore allowed.

Notice of Decision

The appeal is allowed.

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 their 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



Deputy Upper Tribunal Judge
Sheridan

Dated: 26 September 2019