



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

Appeal Number: PA/13927/2016

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 5 December 2018**

**Decision & Reasons Promulgated  
On 21 January 2019**

**Before**

**UPPER TRIBUNAL JUDGE ALLEN**

**Between**

**HASTYAR AHMAD RASOUL  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: No representative

For the Respondent: Mr T Melvin, Home Office Senior Presenting Officer

**DECISION AND REASONS**

1. The appellant is a national of Iraq. He appealed to the First-tier Tribunal against the Secretary of State's decision of 16 November 2016 refusing his asylum claim and refusing to grant humanitarian protection and also dismissing the human rights appeal.
2. I need to say little about the judge's decision, since it was appealed and subsequently in a decision promulgated on 13 March 2018 I concluded that there was an error of law in the judge's decision in concluding that the appellant would be able to obtain preclearance from the KRI

authorities and would be granted temporary leave to enter. In fact he is not from the KRI but from Kirkuk and clearly therefore there had to be an evaluation of his ability to return in the first place. There was also an issue as to how he might be able to get the necessary documentation to return to Kirkuk and any difficulties he might face in Baghdad.

3. There was subsequently a hearing listed for 25 April 2018, at which time it said by Ms McCarthy who was instructed by Quality Solicitors (AZ Law) that they had not been able to contact the appellant and had last spoken to him on 9 January 2018. The matter was adjourned partly for the reason of his absence and also because there was country guidance forthcoming which was likely to be of assistance in resolving issues in the case.
4. Ms McCarthy appeared again at a hearing on 28 August 2018 at which time she confirmed there was still no response from the appellant but the country guidance authority was now out and she sought an adjournment during which time the appellant's representatives would continue to seek contact, but asked that a date for hearing be fixed. The date was fixed for today, the 5 December 2018. There was no appearance by or on behalf of the appellant. His representatives came off the record on 16 November 2018.
5. Mr Melvin had handed up written submissions together with authorities and background evidence referred to in those submissions.
6. I am satisfied that notice of the date, time and place of the hearing was sent to the appellant and to his representatives and that is appropriate to proceed to decide the appeal. I do so on the basis of the documentation before me.
7. The judge found the appellant to lack credibility. He had claimed to be at risk on return to Iraq fearing attempts to take revenge against him on the basis of his father who is a member of the Ba'ath Party killing many Kurdish people, claiming to have been attacked previously, and also claiming to be at risk from ISIS. He is from Kirkuk.
8. As I say, the judge found the appellant's claim to lack credibility and concluded that he would be able to obtain travel documents through the Iraqi Embassy in London with the assistance of his relatives in Kirkuk, remarking also that he would be able to obtain preclearance in the KRI authorities and be granted temporary leave to enter. As noted above, an error of law in that regard was identified in my earlier decision.
9. The grounds of appeal contended that the judge had failed to apply country guidance to assess the appellant's ability to reapply for a laissez-passer in return to Iraq and apply for a CSID once he was there. Reliance was placed in the grounds on the Tribunal's country guidance decision in AA [2017] UKUT 00119 (IAC).

10. In his written submissions Mr Melvin, who appeared on behalf of the Secretary of State, argued that bearing in mind inter alia the second report of Dr Joffe of 20 March 2018, the Iraqi authorities were now in total control in Iraq and had been since the end of 2017. He referred inter alia to a decision of Sir Ross Cranston sitting as a Judge of the High Court in Amin [2017] EWHC 2417 (Admin), stating that the Secretary of State was entitled to take the realities on the ground into account including the fact that Kirkuk was no longer a contested area and country guidance cases had to give way to the realities. The Home Office's written submissions make the point that it is clear from the objective evidence that Kirkuk has been under the protection of Kurdish forces since April 2015. It is argued that the evidence shows that the area of Kirkuk has not for some time come anywhere near reaching the Article 15(c) threshold. It was also argued that there are strong grounds supported by cogent evidence to depart from the assessment in AA that any areas of Iraq engage the Article 15(c) high threshold. The submission is that there is no longer a high level of indiscriminate violence anywhere in Iraq such that substantial grounds exist for believing that an applicant would, solely by being present there, face a real risk threatening their life or person.
11. With regard to the CSID issue, reliance is placed by the respondent on the October CPIN Note "Iraq: internal relocation, civil documentation and returns". There it is said that inter alia that there is a central register (civil status records) backup in Baghdad that includes all civil records of all of the provinces in the event of any form of damage or destruction. This covers all records from 1957.
12. The point is made that, given that the appellant was found to lack credibility, the claim that he made to have lost all contact with family members in Iraq was to be treated with scepticism and given that he had provided vague evidence that he had an Iraqi passport/ID documents prior to coming to the United Kingdom, there were documents that existed which could prove his identity and he was clearly deliberately withholding them in an attempt to avoid removal. It was argued that since he previously held an Iraqi passport there was no reason why he could not approach the Iraqi authorities in the UK to obtain a replacement passport/laissez-passer.
13. There is also reference in the CSID into to the remarks of the Iraqi ambassador that most returnees may be in possession of copies of their national IDs which may have not been disclosed previously. On this basis it is argued that the appellant would be able to obtain identity documents that would be sufficient for him to obtain a CSID either in the UK or on return to Baghdad within a reasonable period of time which would give him access to state agencies to enable the avoidance of destitution, and he would also be eligible to apply for the Voluntary Return Scheme (relocation package) to assist with accommodation and onward travel Baghdad to his home area.

14. I am grateful to Mr Melvin for the written submissions and the attached documentation. No further evidence has been put in on behalf of the appellant, and it would appear that for most of this year he has been out of contact with his representatives.
15. I am satisfied from the documentation provided first that Kirkuk is no longer a contested area, as noted by Sir Ross Cranston in Amin, given the driving out of ISIS from the city, the Kurdish forces appear to accept that Kirkuk should be governed from Baghdad. The Article 15(c) threshold is not crossed in Kirkuk and indeed there are grounds to say that it is not crossed anywhere in Iraq in fact. As a consequence the evidence does not show that the appellant would face problems of a level such as to make unlawful his return in travelling to Kirkuk after arrival in Baghdad.
16. As regards the CSID issue, I am satisfied that the most up-to-date evidence shows that there is a central register in Baghdad which includes all the civil records of all the provinces and that as a consequence given that the appellant did give evidence that he had an Iraqi passport and ID documents previously, there are documents in existence which could prove his identity. I accept that it has not been shown that he could not approach the Iraqi authorities in the United Kingdom to obtain a replacement passport/ laissez-passer. It is open to him to approach the Iraqi Embassy in London and through them obtain a CSID to enable him to return to Iraq and travel from Baghdad to Kirkuk. As a consequence his claim to international protection fails and his appeal is dismissed on all grounds.
17. No anonymity direction is made.



Signed

Date 8 January 2019

Upper Tribunal Judge Allen