



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/14226/2018

THE IMMIGRATION ACTS

Heard at: Bradford
On: 19 September 2019

Decision & Reasons Promulgated
On: 23 September 2019

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

HA

(ANONYMITY DIRECTION MADE)

Respondent

Representation

For the Appellant: Mrs Pettersen, Senior Home Office Presenting Officer
For the Respondent: Ms Pickering, Counsel

DECISION AND REASONS

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the appellant.

1. I maintain the anonymity order because this decision refers to the respondent's international protection claim.

Background

2. The respondent ('HA') is a citizen of Iraq, of Kurdish ethnicity who originates from Kirkuk.
3. In a decision dated 14 December 2018, the appellant ('the SSHD') refused HA's protection claim and refused to revoke the deportation order made against him. The SSHD has appealed against a decision of the First-tier Tribunal ('FTT') (Judge Turner) dated 17 July 2019 in which HA's appeal was allowed on asylum grounds. The FTT carefully considered HA's evidence together with the country background evidence and country guidance in AAH (Iraqi Kurds – internal relocation) Iraq CG UKUT 212 (IAC). The FTT concluded that HA would not be able to obtain a CSID and in any event would be at risk in his home area, and; internal relocation would be unduly harsh.

Appeal to the Upper Tribunal

4. The SSHD relied upon written grounds of appeal which challenged the FTT's findings on the (i) inability of HA to obtain a CSID; (ii) safety of return to Kirkuk and (iii) reasonableness of internal relocation to the Iraqi Kurdish Region ('IKR'). The SSHD was granted permission to appeal by FTT Judge Pooler in a decision dated 13 August 2019. He observed it to be arguable that the FTT erred in law, inter alia, in failing to take into account the SSHD's assertion in the decision letter that the Iraqi Embassy had approved a 'laissez-passer' for HA.
5. At the hearing before me, Mrs Pettersen accepted that if she was unable to persuade me that the FTT made an error of law in relation to the CSID issue, it followed that the other two grounds of appeal were immaterial. Mrs Pettersen therefore confined her submissions entirely to one point: the FTT failed to appreciate that the SSHD had an approved 'laissez passez' for HA. When I pointed out that the country guidance in AAH makes it clear that such a document is not sufficient to result in a CSID, Mrs Pettersen took the time to check AAH. Upon doing so she indicated that she was obviously in difficulty and had no further submissions to make. In the circumstances, I did not need to hear from Ms Pickering and announced that the SSHD's appeal is dismissed.
6. I now provide my decision with reasons, which I can set out briefly, given the position adopted on behalf of the SSHD at the hearing before me.

Error of law discussion

7. The head note in AAH includes the following (my emphasis):

"1. Whilst it remains possible for an Iraqi national returnee (P) to obtain a new CSID whether P is able to do so, or do so within a reasonable time frame, will depend on the individual circumstances. Factors to be considered include:

i) Whether P has any other form of documentation, or information about the location of his entry in the civil register. An INC, passport, birth/marriage certificates or an expired CSID would all be of substantial assistance. For someone in possession of one or more of these documents the process should be straightforward. **A laissez-passer should not be counted for these purposes: these can be issued without any other form of ID being available, are not of any assistance in 'tracing back' to the family record and are confiscated upon arrival at Baghdad;**

ii) The location of the relevant civil registry office. If it is in an area held, or formerly held, by ISIL, is it operational?

iii) Are there male family members who would be able and willing to attend the civil registry with P? Because the registration system is patrilineal it will be relevant to consider whether the relative is from the mother or father's side. A maternal uncle in possession of his CSID would be able to assist in locating the original place of registration of the individual's mother, and from there the trail would need to be followed to the place that her records were transferred upon marriage. It must also be borne in mind that a significant number of IDPs in Iraq are themselves undocumented; if that is the case it is unlikely that they could be of assistance. A woman without a male relative to assist with the process of redocumentation would face very significant obstacles in that officials may refuse to deal with her case at all.

Section E of Country Guidance annexed to the Court of Appeal's decision in AA (Iraq) v Secretary of State for the Home Department [2017] Imm AR 1440; [2017] EWCA Civ 944 is replaced with the following guidance:

2. There are currently no international flights to the Iraqi Kurdish Region (IKR). All returns from the United Kingdom are to Baghdad.

3. For an Iraqi national returnee (P) of Kurdish origin in possession of a valid CSID or Iraqi passport, the journey from Baghdad to the IKR, whether by air or land, is affordable and practical and can be made without a real risk of P suffering persecution, serious harm, Article 3 ill treatment nor would any difficulties on the journey make relocation unduly harsh.

4. **P is unable to board a domestic flight between Baghdad and the IKR without either a CSID or a valid passport.**

5. **P will face considerable difficulty in making the journey between Baghdad and the IKR by land without a CSID or valid passport.** There are numerous checkpoints en route, including two checkpoints in the immediate vicinity of the airport. If P has neither a CSID nor a valid passport there is a real risk of P being detained at a checkpoint until such time as the security personnel are able to verify P's identity. It is not reasonable to require P to travel between Baghdad and IKR by land absent the ability of P to verify his identity at a checkpoint. This normally requires the attendance of a male family member and production of P's identity documents but may also be achieved by calling upon "connections" higher up in the chain of command."

8. AAH makes it clear at [100] that a critical part of the enquiry will be what documents the individual in question has or might be expected to get. The FTT accepted HA does not have a CSID and would not be able to engage the necessary support of any family members to get one. He has been outside of

Iraq for 20 years and has no family in Iraq. The suggestion in the grounds of appeal that HA could obtain a CSID via a national back up in Baghdad entirely fails to address the FTT's findings at [36] that he does not have the requisite identification (such as a birth certificate) and the fact that he does not have family to vouch for him. The grounds of appeal make no meaningful attempt to challenge the FTT's finding that the country guidance in AAH must be applied, notwithstanding further country evidence set out in the SSHD's CPIN.

9. I do not accept the suggestion in the grounds of appeal that the FTT failed to take into account the assertion in the decision letter that the Iraqi Embassy had approved a laissez-passer for HA. The FTT referred to the use of a laissez passer at [16] when summarising the SSHD's case. In any event as Mrs Petersen acknowledged, it is significant that the headnote in AAH (which remains binding country guidance) is itself supportive of the FTT's reasoning that HM would not have the relevant form of identification for CSID purposes. It is clear from AAH that a laissez passez is insufficient – see the third sentence of the headnote at [1(i)] of AAH. The contrary suggestion in the decision letter is inconsistent with the country guidance and was not accepted by the FTT.
10. I turn briefly to the other grounds of appeal. The FTT provided adequate reasons why Kirkuk remains unsafe at [31] – [33]. The grounds of appeal merely disagree with this finding. In any event, the grounds do not articulate how, assuming HA will be safe in Kirkuk, he can travel without a CSID to either Kirkuk or the IKR. Headnote [2] of AAH unequivocally states that there are no flights to the IKR and all returns from the UK are to Baghdad. As headnote [4] and [5] of AAH make clear, HA would be unable to board a plane from Baghdad to the IKR or travel overland safely without a CSID. AAH remains country guidance, notwithstanding the evidence contained in the SSHD's CPIN. It follows that the finding that HA would not be able to obtain a new CSID was sufficient to dispose of the appeal in HA's favour.
11. The finding that HA would be unable to access employment and accommodation in the IKR has been adequately reasoned by the FTT and is entirely consistent with [9] and [10] of the headnote in AAH.

Decision

12. The SSHD has not identified an error of law in the decision of the FTT and is not set aside.

Signed: *UTJ Plimmer*
Judge of the Upper Tribunal

Dated: 19 September 2019