



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/11981/2019**

THE IMMIGRATION ACTS

**Decided under Rule 34 Without a Decision & Reasons Promulgated
Hearing On the 12 October 2020
On 5 October 2020**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

RSS

(anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

ERROR OF LAW FINDING AND REASONS

1. The appellant appeals with permission a decision of First-tier Tribunal Judge Richardson ('the Judge'), promulgated on 26 February 2020, in which the Judge dismissed the appeal on protection and human rights grounds.
2. Permission to appeal was granted by another judge of the First-tier Tribunal, the operative part of the grant being in the following terms:
 - “3. In a brief and erudite judgement, the Judge has dismissed the appellant’s claims principally, it would appear, on account of the fact that he did not accept he was undocumented and that he knew his page and family book details.

4. That may well be the case but it is arguable, and I accept in relation to all four grounds, that at the Judge may have fallen into error.
 5. In ground 1 the Judge arguably does not engage with the appellant's own account, in ground 2 the Judge arguably failed to consider properly the country guidance case and the errors alleged in ground 3 and ground 4 speak for themselves."
3. Following the grant of permission the Upper Tribunal issued directions to the parties indicating a provisional view that the question of whether the Judge had erred in law in a manner material to the decision to dismiss the appeal could be determined on the papers without a hearing. The parties were invited to state their view on such a proposal and provided with time to file additional material they were seeking to rely upon. The time for complying with such directions has passed.
 4. The Overriding Objective is contained in the Upper Tribunal Procedure Rules. Rule 2(2) explains that dealing with a case fairly and justly includes: dealing with it in ways that are proportionate to the importance of the case, the complexity of the issues, etc; avoiding unnecessary formality and seeking flexibility in the proceedings; ensuring, so far as practicable, that the parties are able to participate fully in the proceedings; using any special expertise of the Upper Tribunal effectively; and avoiding delay, so far as compatible with proper consideration of the issues.
 5. Rule 2(4) puts a duty on the parties to help the Upper Tribunal to further the overriding objective; and to cooperate with the Upper Tribunal generally.
 6. Rule 34 of The Tribunal Procedure (Upper Tribunal) Rules 2008 provides:
'34.—
 - (1) Subject to paragraphs (2) and (3), the Upper Tribunal may make any decision without a hearing.
 - (2) The Upper Tribunal must have regard to any view expressed by a party when deciding whether to hold a hearing to consider any matter, and the form of any such hearing.
 - (3) In immigration judicial review proceedings, the Upper Tribunal must hold a hearing before making a decision which disposes of proceedings.
 - (4) Paragraph (3) does not affect the power of the Upper Tribunal to—
 - (a) strike out a party's case, pursuant to rule 8(1)(b) or 8(2);
 - (b) consent to withdrawal, pursuant to rule 17;
 - (c) determine an application for permission to bring judicial review proceedings, pursuant to rule 30; or
 - (d) make a consent order disposing of proceedings, pursuant to rule 39, without a hearing.'

7. It has not been shown to be inappropriate or unfair to exercise the discretion provided in Rule 34 by enabling the error of law question to be determined on the papers. Nothing on the facts or in law makes consideration of the issues on the papers without oral submissions not in accordance with overriding objectives at this stage.

Background

8. The appellant is a citizen of Iraq born in 1993. The appellant applied for asylum in 2016 which was refused and an appeal against that decision dismissed by another First-tier Tribunal Judge who found the appellant lacked credibility. On 29 August 2019, the appellant made a fresh application for asylum which was refused by the respondent on 18 November 2019 against which the appellant appealed before the Judge.
9. The Judge noted the key issue in the current appeal was whether the appellant can obtain an Iraqi identity card known as a CSID which would allow him to travel within Iraq with relative safety, as without such a document the appellant claimed he will be at risk of a real breach of article 3 ECHR if required to travel from Baghdad airport to his home town of Jalawla.
10. The Judge refers to the country guidance in force at the date of the hearing, SMO and Others [2019] UKUT 00400.
11. In relation to contact with his family in Iraq the Judge records at [10-11]:
 - “10. He says that he has sought to contact his family in Iraq but has had no contact with them since he left Iraq. He had contacted a person in Iraq on Facebook in 2016 who had told him his family were in a refugee camp in Kirkuk. He has not been able to have any more news about them since then so has approached the Red Cross to seek their assistance in tracing any family members. It was unclear from his evidence as to what stage the Red Cross enquiry had reached as he was unable to attend the most recent meeting with them.
 11. During his oral evidence he was asked as to whether he had ever held a CSID and if so what had happened to it. He said that all of his ID documents, save for one that had been left at home had been taken by ISIS when he had been seized and imprisoned by them. It was explained to the appellant that the previous judge had not accepted that he had been detained by ISIS but he maintained his account on this point. In submission Ms Ahmed suggested that I could accept the original finding by Judge Law that he had come in to contact with ISIS and that it was at this point that he had lost his identity documents but that was not the appellant’s evidence and therefore I am not satisfied that the appellant lost his Iraqi identity documents as claimed.”

12. At [14] the Judge found it will be open to the appellant to apply for a CSID in the UK. The Judge noted if the appellant did not have his identity documents the question will be whether he was unaware of the book and page number of his family registration details with there being no evidence to suggest he was unaware of such details. The Judge records as a person who previously had employment and worked as a driver, he was likely to have held documents which contain such details that he would have been aware of.
13. At [18] Judge records not being satisfied that the appellant is unable to successfully apply for a CSID either in the UK or by proxy with the assistant of his family members in Iraq.
14. The Judge is said to have erred in law as at [5] of his witness statement the appellant clearly stated he did not know his book and page number of the family registration details, claiming that matters were not "important" to remember.
15. The claim the Family Book details are not important is contrary to the country guidance caselaw which reinforces the importance of a CSID for which such details will be required. The appellant would have needed identity documents to obtain employment and a valid CSID to enable him to go to school he stated he studied at for seven years in his screening interview. Any information required could be obtained from this source.
16. As the appellant had not persuaded the Judge his claim to have lost his identity documents is credible, it was not made out they would not be available or accessible by the appellant.
17. Following the introduction of the new Biometric Identity Cards (INID) in Iraq the CSID has been phased out and it is unlikely the appellant would be able to obtain a replacement CSID either in the United Kingdom or in Iraq now. The Upper Tribunal in SMO, KSP & IM (Iraq) confirm that, as the INID programme continues to expand, more and more CSA offices will have an INID terminal making obtaining a CSID by proxy more difficult: "The likelihood of obtaining a replacement identity document by the use of a proxy, whether from the UK or on return to Iraq, has reduced due to the introduction of the INID system. In order to obtain an INID, an individual must attend their local CSA office in person to enrol their biometrics, including fingerprints and iris scans. The CSA offices in which INID terminals have been installed are unlikely -as a result of the phased replacement of the CSID system -to issue a CSID, whether to an individual in person or to a proxy."
18. It is accepted the new form of Iraqi identity card (INID) can only be obtained in Iraq, but the country information does not support a finding that no other form of identity document is available to an Iraqi national at this time. Whilst for Iraqi nationals outside Iraq there is no facility for a INID to be issued the appellant has not established on the evidence

that this means those outside Iraq have no means of obtaining any other form of identity document to confirm they are who they claim to be and an entitlement to be recognised as a national of Iraqi.

19. A country report 'Kurdistan Region of Iraq (KRI) Report on issuance of the new Iraqi ID card' by the Danish Immigration Services, dated November 2018 in relation to possibility for issuance of new ID cards to Iraqis living abroad, record that when asked what Iraqi citizens abroad can do to either renew an old ID-card or to replace an ID-card that is lost, Director Azaz replied that Iraqi citizens, who live abroad, need to go to Iraq to obtain a new national ID card. When asked if it was possible for issuance of old ID cards to Iraqis living abroad he responded that an Iraqi citizen abroad, who wants to apply for an old ID card, an ID document that is still in use in Iraq, must go to an Iraqi embassy to have their fingerprints taken. In addition, an applicant must bring a power of attorney, and the three main documents: the old/expiring ID card, the nationality certificate, and the residency card (only held by the head of household). The way to prove Iraqi nationality to the embassy is by a power of attorney. The embassy will forward the application to the Ministry of Foreign Affairs and the Ministry of the Interior in Baghdad. The process is very long and can easily take from six months to a year. The source added that there are many problems in the procedure, and that the applicant must give proof of life. When the application is approved, the applicant will be issued an old ID card - not the new national ID card.

20. In relation to obtaining a replacement CSID in the UK, the Upper Tribunal in SMO, KSP & IM (Iraq) at paragraph 383 endorse paragraph 26 of AAH (Iraqi Kurds -internal relocation) Iraq CG [2018] UKUT 00212 (IAC) which details the numerous and varied documents that are required in order to obtain a CSID from the Iraqi Embassy in the UK. Paragraph 26 of AAH states: *"If applying through a consulate abroad the requirements are different. Having contacted the consulate in London, and checked on the website of the Iraqi embassy in Sweden, Dr Fatah states that the authorities will require the applicant to first make a statement explaining why he needs a CSID and attach this to his application form, which must be countersigned by the head of the applicant's family and stamped by the consulate or embassy; he must then produce his Iraqi passport and proof of status in the country where he is applying, the name of a representative (proxy) in Iraq, an additional form completed by the head of the applicant's family verifying that the contents of his application form were true, four colour copies of his INC, and 10 colour photographs. Crucially the applicant must be able to produce something which can establish the location of his family's details in the civil register. This should be a CSID, an INC or birth certificate. If none of these are available to the applicant he must supply the identity documents of his parents. This evidence again accords with that of Landinfo (December 2017) who conclude that it can be difficult to obtain replacement ID documents from an embassy abroad for the*

individual who is unable to verify his or her identity.” The appellant submits it is reasonably unlikely that he will not be able to obtain a replacement CSID in the UK as he does not have access to the required documents, but this not made out.

21. The respondent’s latest Country Policy & Information Note dated 30 June 2020 contains information at Appendix I from the Respondent’s Returns Logistics Department. This states the following:

“CSID cards are being phased out and replaced by INID (Iraq National Identification) cards. It is not currently possible to apply for an INID card outside of Iraq. As a result, the Iraqi embassy in London are advising their nationals in the UK to apply instead for a ‘Registration Document(1957)’ which they can use to apply for other documents such as passports or an INID card once they have returned to Iraq.” Thus, it appears that the Iraqi Embassy in London will not issue a CSID but instead will issue a ‘Registration Document (1957)’ which can be used to apply for an INID in Iraq. SMO, KSP & IM (Iraq) is very clear that to safely pass through checkpoints in Iraq it is necessary to show a CSID or an INID and other forms of identity document (even a passport) is not acceptable. It is submitted that the appellant would be unable to travel safely across Iraq even if he were able to be issued with a ‘Registration Document (1957)’ by the Iraqi Embassy in London. A copy of this document appears at Annex A to this judgment.
22. It is clear the Registration Document is an official document issued by the authorities in Iraq as confirmation of an individual’s status as an Iraqi national. It is also clear that the stated intention of the Iraqi authorities is that possession of such a document is a means to enable an individual to obtain further identity documents required which, in light of the up-to-date country information must refer to the new Identity Document, when they do not have the means to obtain the same for themselves in Iraq.
23. The appellant’s argument has always been that he could not contact any family in Iraq. In his screening interview when the appellant was asked what family he had in Iraqi, he stated his parents, brother and sister, maternal and paternal uncles. The appellant’s claim to have lost contact with such family members was found to lack credibility which is finding within the range of those available to the Judge on the evidence. The appelanst also stated his parent and his own family were living in Kirkuk not Jalawla. The claim to have lost contact and be unable to trace his family members was found to lack credibility.
24. The appellant claimed that no family member would be able to obtain all of the documents required by paragraph 26 of AAH such that the appellant could be issued a CSID or ID document in the UK. The difficulty for the appellant with such submission is that many things that he has claimed have been shown not to be true. As he has not contacted his family in Iraq, which the Judge did not accept is not possible, the appellant cannot establish that the requisite documents could not be obtained. The appelanst fathers or paternal uncles’ own

entries in the family book will enable the appellants family details to be traced. It is not shown the application form could not be completed by the male family members as appointed agent or the family in Iraq could not themselves appoint a person approved for this purpose, if needed.

25. The appellant also attended school in Iraq, according to replies given by him in his screening and asylum interview, where there should also be required details concerning his CSID number and/or other information confirming his official identification in accordance with normal procedures as noted above.
26. As the appellant has not made out that he cannot be returned to Iraq with an identity document issued by the Iraqi authorities it is not made out he will not be able to be returned to Baghdad and, in light of the return of availability of internal flights within Iraq, travel to the IKR. The submissions made regarding the need for documentation to pass through roadblocks so far as they relate to travel by land has not been shown to be relevant although, if land travel was required, the appellant fails to establish that the documentation that he will possess, which will not be removed from his possession on arrival at the airport, will not be sufficient to enable him to travel internally. The appellant has also not established that his family in Iraq cannot vouch for his identity if required.
27. It is not made out the appellant will face a real risk of suffering persecution, serious harm, or Article 3 ill treatment in light of the findings made.
28. It is not disputed that the appellant could not remain long term in Baghdad as he has no family or other connections in Baghdad.
29. The appellant stated his family live in Kirkuk. It is now the case that the level of violence in this area is not sufficient to cross the Article 15(c) threshold.
30. It is not made out on the evidence that the appellant would become destitute in the short time he would have to spend in Baghdad while he made arrangements to re-join his parents in Kirkuk or elsewhere.
31. Also, as stated in AAH, the family would be under an obligation to assist the appellant. Upper Tribunal Judge Bruce in AAH found that:

"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. ?

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."

32. In relation to the prospects of an internally displaced person being able to obtain an INID Danish Immigration Services report, November 2018:

"Implementation of the new national ID card in Erbil

15. The Directorate of Nationality and Civil Status in Erbil issued new national ID cards to 25 percent of the citizens; while in Baghdad, 75 percent of the populations already got their new national ID card.
16. With regard to IDPs in Erbil, they must go to their place of origin to apply for a new national ID card. There is a plan to open an office for IDPs, but it might take more than one year to establish. Director Azaz further said that when this office is established, and, for instance, if an IDP, who is from Mosul, obtains an ID card from this office, it would appear on the ID card that the card was issued in Mosul. This could potentially cause a problem for IDPs living and getting married in KRI.
17. For disabled or very old people, the Directorate of Nationality and Civil Status may go to the home of the person to register him or her there. The office will bring a mobile laptop and equipment to take the person's biometrics in their home."

33. The respondents latest CPIN on the issue of redocumentation states-

'Redocumentation

6.1 Assistance

- 6.1.1 The British Embassy Baghdad, in a letter dated 4 December 2014, explained that given the long history of displacement in Iraq, there were 'well established' procedures whereby those not in possession of their civil documents could obtain replacement documents
- 6.1.2 EASO stated in February 2019: 'In 2014, UNHCR reportedly assisted with re-documentation efforts, supporting the Ministry of Migration and Displacement and the Ministry of Interior with establishing re-documentation centres for IDPs who fled Mosul, Salah al Din, Diyala, Anbar, and Kirkuk, as well as in Anbar. It assisted 7000 IDP children in 2015-2016, many of whom were supported in acquiring civil documentation. UNHCR reported that in the course of 2017, 18600 "vulnerable Iraqis" had received legal documents and more than 23300 had received legal assistance in relation to documentation through its centres, mobile courts, or mobile documentation teams. 'According to experiences described by IDPs interviewed by MRG, there are "no standard registration of application requirements" that government offices follow, the process of applying for reissuance is complex, "non-standardized and fraught with allegations of corruption".
- 6.1.3 On 1 November 2019, UNHCR published a report on civil documentation for IDPs. The report provided updates on the

'Mobile Civil Documentation Project' and stated: 'Since April 2019, UNHCR has collaborated with the Ministry of Interior (MoI) of the Government of Iraq to implement mobile missions to dispatch government officials to issue civil documentation to IDPs in camps and out-of-camp locations. 'By November 2019, with the collaboration of the Kurdistan Regional Government (KRG), MoI has launched missions to issue Civil Status IDs (CSIDs) and Iraqi Nationality Certificates (INCs) to IDPs in three camps in Erbil Governorate (Baharka, Harsham, Debaga), three camps in Ninewa Governorate (Hasansham U2 and U3, AlKhazir) and five camps in Duhok Governorate (Chamishko, Darkar, Bersive 1 and 2, Garmawa). As of the end of November, MoI issued a total of 7,123 CSIDs and 11,226 INCs to IDPs. 'In addition, between 26 October and 3 November, MoI piloted a mission in a UNHCR-supported community centre in Kasnazan sub-district in Erbil Governorate to issue Unified ID Cards (UNIDs) to IDPs living in urban areas. As a result, MoI issued a total of 471 UNIDs for IDPs displaced from Anbar Governorate. During November, MoI also launched missions to issue UNIDs in camps in Sulaymaniyah Governorate (Ashti) and Kirkuk Governorate (Laylan 1). 'Throughout the missions, UNHCR and partners provided material and technical support to MoI by preparing applications, establishing registration centres, and providing necessary equipment such as computers, printers and office supplies. UNHCR and partners will continue to work with MoI to expand the missions to different governorates to facilitate IDPs' access to civil documentation.'

6.1.4 UNHCR published a fact sheet of the documentation of IDPs in October 2019 and stated that 'As part of its effort to help IDPs obtain documentation, since 2018, UNHCR has rehabilitated 2 offices in Kirkuk Governorate and three offices in Ninewa Governorate and donated five vehicles to the Mosul Civil Affairs Directorate Office. Rehabilitation of 4 more offices in Ninewa is ongoing.'⁶⁵ Furthermore, 'In November [2019], the Ninewa Directorate of Civil Affairs, Passports and Residencies inaugurated the first national identification card centre in Ninewa. UNHCR rehabilitated the building and provided furniture and devices.'

34. The appellant, if classed as an IDP, fails to make out he would not be eligible for assistance from the UNHCR to assist with the redocumentation process including obtaining a New identity document in accordance with the above guidance if unable to return to his home area, although in relation to that area the Judge found at [20]:

20. The Upper Tribunal considered the risk posed in Dyala Province at para 268 to 272 of SMO, KSP & IM. In summary it was found the risk posed by ISIL activity in the area did not reach the Article 15 (c) threshold. Ms Ahmed relied on press reporting of ISIL activities, for example {AB Tab B page 11} but reporting on isolated incidents does not provide me with sufficient evidence to overturn a recent country guidance case which is carefully considered this issue. Therefore I am not able to find that the appellant qualifies for humanitarian protection through seeking to return to his hometown.

35. It is not made out the Judge erred in law and not believing the appellant. The Judge clearly considered all the evidence with the required degree of anxious scrutiny and gives sufficient reason to support the findings made.
36. The finding the appellant is not genuine regarding contact with family members and the rejection of the appellant's claim to have lost his Iraqi identity documents are findings within the range of those open to the Judge on the evidence.
37. It is important to read the decision as a whole. All the claims adverse to the appellant's case made before the First-tier Tribunal were found to lack credibility. It is also a case in which the appellant relies upon case law and country evidence to support his claim to be unable to obtain the necessary documentation to enable him to live reasonably in Iraq but the ability or otherwise to do so is fact specific. The appellant has not helped his case by relying on what the First-tier Tribunal effectively found are lies. The factual matrix as found does not support the appellant's claim that when applying the guidance contained in SMO and country information he is entitled to a grant of international protection. The appellant is no more than a failed asylum seeker who has not established even to the lower standards applicable in an asylum appeal that he cannot obtain an officially issued identity document, that he does not have a support network available to him on return to Iraq, or has lost contact with his family. The evidence clearly supports a finding that it is the opposite of what the appellant is claiming that is the true position.

Decision

38. There is no material error of law in the Immigration Judge's decision. The determination shall stand.

Anonymity.

39. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....
Upper Tribunal Judge Hanson

Dated the 5 October 2020