



**Upper Tribunal  
(Immigration and Asylum Chamber)** Appeal Number: PA/07474/2018

**THE IMMIGRATION ACTS**

**Birmingham Civil Justice  
Centre  
On 11<sup>th</sup> May 2021**

**Decision & Reasons  
Promulgated  
On 15 June 2021**

**Before**

**UPPER TRIBUNAL JUDGE MANDALIA  
and  
DEPUTY UPPER TRIBUNAL JUDGE SHEPHERD**

**Between**

**R S H  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr M Mohzam, Burton & Burton Solicitors

For the Respondent: Ms C Bates, Senior Home Office Presenting Officer

**DECISION AND REASONS**

Anonymity

1. As this a protection claim, it is appropriate that an anonymity direction is made. 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 amongst others to all parties. Failure to comply with this direction could lead to contempt of court proceedings.

### Background

2. The appellant is a national of Iraq of Kurdish ethnicity. He arrived in the United Kingdom on 18<sup>th</sup> December 2017 and claimed asylum. His claim was refused by the respondent for reasons set out in a decision dated 6<sup>th</sup> June 2018. The appellant's appeal against that decision was dismissed by First-tier Tribunal Judge Chapman for reasons set out in a decision promulgated on 29<sup>th</sup> October 2018. Because it is relevant to our decision, we shall return to that decision shortly. For present purposes it is sufficient to note that Judge Chapman found the appellant is not a credible witness and he rejected the core of the appellant's claim that he is at risk upon return to Iraq because of a land dispute between his family and a Shia Turkmen family, known as the 'Bayati'.
3. Permission to appeal was granted by First-tier Tribunal Judge Shimmin on 20<sup>th</sup> November 2018. The appeal to the Upper Tribunal was heard by Upper Tribunal Judge Allen on 12<sup>th</sup> July 2019. In his decision promulgated on 12<sup>th</sup> August 2019, he said:

“2. I need say little about this appeal since it was common ground that the judge had erred in his application of the country guidance in AAH [2018] UKUT 00212 (IAC). As was summarised by Mrs Aboni, the judge had erred with regard to internal relocation and the issue of the CSID. He had found that the appellant could relocate to the IKR but failed to consider whether the appellant could make the journey from Baghdad. She accepted that there was a lack of adequate reasoning in that the appellant needed a CSID to continue his journey.

4. I agree with what was in effect a joint submission that the judge erred in law in this case and the matter needs reconsidering. However I can see no reason why it should not be done in the Upper Tribunal. There is forthcoming country guidance on issues of relocation to the IKR and

documentation, and it is also the case that there are a number of findings by the judge which do not need to be disturbed because they were not challenged. The issue is essentially that of the appellant's ability, in light of the finding that he is at risk on return in his home area, to relocate to the IKR and the consideration of that issue can be just as easily done in the Upper Tribunal as in the First-tier Tribunal. Accordingly, I find an error of law and direct that the matter be reconsidered at a hearing at Field House on the issue of internal relocation."

### The issues

5. The appeal was listed for hearing before us on 11th May 2021 to remake the decision. Since the decision of First-tier Tribunal Judge Chapman, and the decision of Upper Tribunal Judge Allen, the Upper Tribunal has provided further country guidance in SMO, KSP & IM (Article 15(c); identity documents) (CG) [2019] UKUT 00400 (IAC) "SMO & Others". At the outset of the hearing before us, Mr Mohzam confirmed that the appellant's home area, Tuz Khurmatu, is in the Salah-Al-Din Governorate. He acknowledges that Judge Chapman referred to the country guidance previously set out in AA (Article 15(c) Iraq CG [2015] UKUT 00544 (IAC) as considered by the Court of Appeal in AA (Iraq) SSHD [2017] EWCA Civ 944, and applying that country guidance, found that the appellant remains at risk of indiscriminate violence in his home area contrary to Article 15(c). Mr Mohzam acknowledges that we must apply the most recent country guidance set out in SMO & Others, and we will have to consider whether the appellant can now return to his home area in Tuz Khurmatu. Mr Mohzam accepts that Tuz Khurmatu is no longer a contested area. He helpfully summarised the appellant's claim at the outset of the hearing before us. The appellant did not challenge the previous findings made by Judge Chapman regarding the core of the appellant's claim but relying upon what is said in SMO & Others and the respondent's CPIN; Iraq: Internal relocation, civil documentation and returns' published in June 2020 ("the June 2020 CPIN"), the appellant claims that he will be unable to

obtain a CSID from the Iraqi Consulate in the UK, or upon return to Baghdad. He claims that he will be unable to secure a CSID within a reasonable time so that he can safely make the journey from Baghdad to Tuz Khurmatu or the IKR.

6. The appellant has appealed under s82(1) of the Nationality, Immigration and Asylum Act 2002 against the decision of the respondent to refuse his claim for asylum and humanitarian protection. The appellant claims to be a refugee whose removal from the UK would breach the United Kingdom's obligations under the 1951 Refugee Convention. Alternatively, he claims that his removal to Iraq would be contrary to Articles 3 and 8 ECHR.
7. The appellant bears the burden of proving that he falls within the definition of "refugee". In essence, the appellant has to establish that there are substantial grounds for believing, more simply expressed as a 'real risk', that he is outside of his country of nationality, because of a well-founded fear of persecution for a refugee convention reason and he is unable or unwilling, because of such fear, to avail himself of the protection of that country. Paragraph 339C of the immigration rules provides that an applicant who does not qualify as a refugee will nonetheless be granted humanitarian protection if there are substantial grounds for believing that if returned, they will face a real risk of suffering serious harm and they are unable, or, owing to such risk, unwilling to avail themselves of the protection of that country.

#### The decision of First-tier Tribunal Judge Chapman

8. As Judge Allen said in his 'error of law' decision, there are a number of findings by Judge Chapman which do not need to be disturbed and it is helpful for us to record those findings. He said:

"56. I find that the appellant is a bright, intelligent, capable young man, and I do not accept his account that he was unaware of which countries he travelled through, and why he did not claim asylum in those countries. He attempted to enter into England using false

documents, which suggests that his intention was not to openly claim asylum on arrival but to enter the country illegally and disappear underground. I find that, in leaving Iraq, the appellant's intention was not to flee from persecution from the Bayati family. It may be that the appellant was seeking to escape from the very difficult circumstances that existed in Tuz at the time, but that does not explain why he did not move to another part of Iraq, such as the IKR where he had other family members. I find that his intention was to come specifically to the United Kingdom. This suggests he came as an economic migrant and not as a refugee seeking protection.

57. For these reasons, I do not find the appellant's account to be credible. I find that I cannot rely on his evidence. It follows that I find that he has not discharged the burden upon him, even to the lower standard required in these appeals, that he is at risk as claimed from the Bayati family in his home area.

58. It follows that I am not satisfied that the appellant is at risk from the Bayati family outside his home area. Even if I am wrong about them posing a risk in Tuz, it was not suggested that they pose a risk outside of Tuz. Indeed, in his own evidence, the appellant accepted that he had explored the possibility of moving to the IKR to escape the risks he claimed to face in Tuz.

59. In summary, my findings thus far are that: (i) the appellant is at Article 15(c) risk in his home area: (ii) the appellant is not at further risk, either in his home area or elsewhere in Iraq from his claimed persecutors. In light of (i), I must consider whether or not the appellant can internally relocate.

60. Since I find that I cannot rely on the appellant's evidence generally, I also find that I cannot rely on it when he says he has no contact with his family in Iraq. He did not explain why he does not have the telephone numbers of his father or brother. He said that he had memorised his uncle's number and that he was able to use the agent's phone to contact his uncle after he left the country, but does not explain why he cannot do so now. He has made no efforts to trace his family since being in the United Kingdom, through, for example, the Red Cross. I am not satisfied, again bearing in mind the lower standard of proof, that he has lost contact with his family members. Even if he had lost contact with his family from Tuz, in interview, he said he had family in Ranya in the IKR.

61. I have considered what the appellant's individual profile would be on return to Iraq. I find that his home area is Tuz in Sala Al-Din Province. I find that he is of Kurdish ethnicity and a Sunni Muslim, but there is little to suggest that his religion has played a significant part in his life. The appellant has shown the fortitude and resilience to migrate from Iraq to the United Kingdom. I find that the appellant is a healthy, intelligent, young man who is capable of finding work and working. I find that he does have a family network of support both in Iraq and the IKR.

62. The amended country guidance provided by AA (Iraq), as supplemented by AAH (Iraqi Kurds – internal relocation) Iraq CG [2018] shows that there are risks associated with a returnee being unable to gain the necessary documentation, such as the CSID, in order to access

basic services in Iraq on return. The appellant failed to discharge the burden of showing that he would have this difficulty because I find he has family support to help him to do so within a reasonable period of his return, and to support him so that he is not at risk of becoming destitute. In AA (Iraq), it was held that he is not at risk of serious harm by reason of not having a current passport.

63. I find that, because he is a Kurd, relocation to Baghdad would be unduly harsh. However, the same risks do not present themselves for Kurds in the IKR. AAH (Iraqi Kurds – internal relocation) makes clear that relocation to the IKR may be more difficult without a valid passport and CSID. However, the appellant has failed to satisfy me that he cannot return to the IKR, even if he is returned, firstly, to Baghdad. He accepts he has previously had a valid CSID and Iraqi national identification card, which should assist in replacing them and in travelling to the IKR. Paragraph 6 of the headnote in AAH makes clear that, as a Kurd, he would be allowed to enter the IKR without impediment and that there is no sponsorship requirement for entry.

64. Even if there were such requirements, the appellant has stated that he has family in Ranya. Paragraph 8 of the headnote in AAH shows that cultural norms will require his family there to accommodate the appellant, and that he would have sufficient support from the family so as to lead a “relatively normal life” which would not be unduly harsh.”

9. We can consider and make our own assessment of facts that have occurred since the decision of Judge Chapman. At the resumed hearing before us, we heard oral evidence from the appellant with the assistance of an interpreter.

#### The evidence before the Upper Tribunal

10. At the outset of the hearing the parties agreed that that the evidence before us is set out in the following bundles:
  - i) The respondent’s bundle
  - ii) The appellant’s bundle comprising of 159 pages sent to the FtT under cover of a letter from the appellant’s representatives dated 4<sup>th</sup> July 2018.
  - iii) The appellant’s Rule 15(2A) application and supplementary bundle comprising 105 pages.

11. A full account of the evidence and the submissions made before us is set out in our record of proceedings. At the end of the hearing before us, we reserved our decision. We informed the parties that our decision will follow in writing, and this we now do. In reaching our decision we have fully considered all the evidence that was before the Tribunal, whether it is expressly referred to in this decision or not.

#### The appellant's evidence

12. The appellant gave evidence with the assistance of an interpreter using the Kurdish Sorani language. Both the appellant and interpreter confirmed that they understood each other without any difficulty. The appellant adopted his witness statement dated 27<sup>th</sup> June 2018 (*pages 1 to 5 of the appellant's first bundle*), and his supplementary witness statement dated 23<sup>rd</sup> November 2020 (*page 1 to 4 of the appellant's supplementary bundle*). He confirmed that the content of each of those statements has been read to him in a language that he understands, and the contents are true and correct.
13. The appellant's statement dated 27<sup>th</sup> June 2018 was before First-tier Tribunal Judge Chapman and there is nothing to be gained by setting out the content of that statement in this decision. The focus of the statement is the appellant's claim that he is at risk upon return to Iraq because of a land dispute, and as a potential victim of an honour killing. The appellant's account of events was previously considered by Judge Chapman and rejected. The findings made by Judge Chapman have not been appealed.
14. In his supplementary witness statement dated 23<sup>rd</sup> November 2020, the appellant confirms that after his appeal was dismissed by the First-tier Tribunal, on 17<sup>th</sup> February 2020, he went to the Iraqi Embassy in Manchester with a friend. He waited in the queue and when his turn came, he explained that he needs new documents as he has lost all his documents. He was asked if he has any documents from Iraq and he

replied, no, but confirmed that he is from Iraq. He was told that they could not help him if he did not have any documents.

15. The appellant states that he has also been in contact with the British Red Cross, and during a telephone appointment on 27<sup>th</sup> August 2020, he explained that he was trying to find his family. At a subsequent appointment in September 2020, he provided photographs and personal details about himself and his family. The appellant was informed that the Red Cross will do what they can to assist, and his photographs will be posted on websites around the world. The appellant has provided a copy of a letter from the British Red Cross dated 21<sup>st</sup> October 2020 confirming the appellant has consented for his information to be entered onto the 'Trace the Face Database'. He has not heard from the Red Cross since.
16. The appellant maintains that his life will be in danger and that he will be killed by the Turkman family. He states that it is possible to live in the IKR temporarily, but individuals are not allowed to live there permanently. He claims that a surety would be required, and he has no one to provide that surety, and no one will become a surety for someone from a formerly contested area like Tuz Khurmatu. He claims that he has no ID card, and he will not be able to return to his home area and cannot internally relocate, as he does not have his CSID or any other documents to prove his identity. He claims that he would also have no one to support him.
17. In cross-examination the appellant confirmed he had a mobile phone in Iraq. He confirmed that his parents also had a mobile phone and although he could remember the number previously, he has been unable to remember the number since his arrival in the UK. The appellant claimed that he had his mobile phone until he reached Greece, but in Greece the agents took everything from him. When asked what family he has in the IKR, he claimed that he does not know them because they are not immediate family or close relatives. He was unable to say how they are related. He confirmed that he had his CSID when he left Iraq, but just



before his arrival in Greece, he was advised by the agent to throw it away. He confirmed that he has contacted the Red Cross and provided them with the details they requested to help locate his family.

18. In answer to questions put by us for clarification, the appellant said that he could not remember when he last spoke to his brothers. It was whilst he was still in Iraq. He said that he remained in touch with his maternal uncle after he left Iraq, because it was his maternal uncle that had arranged his journey. He remained in touch with his uncle whilst he was detained in Greece, and when he spoke to his uncle he was provided with information about his family. He was therefore able to keep in touch with his family indirectly. He last spoke to his maternal uncle on 16<sup>th</sup> October 2017, and at the time, his parents were still living in the family home in Tuz, and his brothers were also living in Tuz. When we asked what he had done to establish contact with his family since October 2017, the appellant claimed that he had no one to help him, and that he had been advised by his GP to seek the assistance of the Red Cross. He could not remember when he first made contact with the Red Cross, but said it was about two months before he had received the letter from the Red Cross dated October 2020. We referred the appellant to the exchange recorded at questions [54] to [57] of the asylum interview record conducted on 15<sup>th</sup> May 2018. He was told that the Red Cross is an international aid organisation that can help people find their families. He said that although he had been told about the Red Cross during that interview, he had forgotten about it because he had spent about four hours at the interview. He said that he had asked many people if they could help, but all that he was told was that all the Kurdish people had left his home area and there was no good news. The information he received was general information about the area, and nothing specific about his family. The appellant confirmed that the CSID held by him had his name, date of birth and details about his parents. As far as he can remember, the CSID card also had a number but he cannot recall the number.

The parties submissions

19. We heard submissions from both parties, which are recorded in the record of proceedings and which we have carefully considered in reaching our decision. It serves no purpose to burden this decision with a lengthy recital of those submissions.
  
20. Broadly put, Mr Bates adopts the reasons for refusal letter and submits that there is nothing in the evidence received by us that undermines the findings previously made by Judge Chapman and in particular, the conclusion that the appellant cannot be relied upon when he says he has no contact with his family in Iraq. The appellant had been directed to the Red Cross during his asylum interview in May 2018, but he did nothing to approach the Red Cross until after the hearing of the appeal before the FtT. Mr Bates submits the delay in contacting the Red Cross is indicative of an individual who does not require their assistance, because he remains in contact with his family and in any event, a belated referral to the Red Cross is not evidence that the appellant has no contact with his family. Mr Bates submits that in SMO & Others, the Upper Tribunal referred to the importance of family life in Iraq and to the extensive use of mobile phones. The appellant had a mobile phone, as did his parents and brothers. Mr Bates submits it is incredible that by the time of his arrival in the UK the appellant had simply forgotten the contact details. Mr Bates invites us to find the appellant remains in contact with his family and that he has male members of his family that can assist him obtain a CSID. He can be met by his family in Baghdad with his CSID and could safely travel from there to Tuz Khurmatu or the IKR. Tuz Khurmatu is no longer a contested area. At paragraphs [262] to [267] of SMO & Others, the Upper Tribunal referred to the difficulties experienced by Kurds in the area, and also noted that “..vast numbers returned to the area..”. The appellant’s family were comfortable, and are better placed to bounce back and return, even if they did leave the area. There is therefore no reason to believe the appellant cannot return to Tuz Khurmatu. Mr Bates submits that in any event, the

appellant has family in Ranya. He now claims that they are distant relatives and seeks to distance himself from them. As a Kurd, the appellant would not need sponsorship in the IKR, and he would be well placed to internally relocate. As to documentation, Mr Bates referred to Annex I of the June 2020 CPIN, which describes the process for obtaining a CSID for a failed asylum seeker.

21. On behalf of the appellant, Mr Mohzam submits that when he last spoke to his uncle in October 2017, the appellant was told that his family remained in Tuz Khurmatu. In SMO & Others, the Upper Tribunal referred to events in the Salah al-Din Governorate, and at paragraph [79], the Upper Tribunal noted that on 16<sup>th</sup> October 2017, an estimated 35,000 people fled Tuz Khurmatu in the face of violence and intimidation from Turkmen armed groups. In paragraph [263] of its decision, the Upper Tribunal noted that violence in the area continued into 2018 and the area is now ruled by a powerful Shia militia. Mr Mohzam submits the background material suggests the circumstances in Tuz Khurmatu are likely to have changed significantly since the appellant last had contact with his family, and we should now find his claim that he has lost contact with his family to be credible. He submits the appellant has been to the Red Cross and we should accept his explanation as to how and why he contacted the Red Cross.
22. Mr Mohzam refers to the June 2020 CPIN, in which the respondent acknowledges that since SMO & Others was promulgated in December 2019, further information regarding the issuance of CSID's in the UK has been obtained by the Home Office. At paragraph [2.6.16] it is said:

“Based on the above information, it is highly unlikely that an individual would be able to obtain a CSID from the Iraqi Embassy while in the UK. Instead a person would need to apply for a Registration Document (1957) and would then apply for an INID upon return to their local CSID office in Iraq.”
23. Mr Mohzam submits the appellant cannot therefore obtain a CSID from the Iraqi Embassy in the UK and he would not be able to get a CSID card within

a reasonable time of arriving in Baghdad. He submits that if the appellant cannot obtain a CSID, he cannot safely travel from Baghdad to Tuz Khurmatu or the IKR, and as it is necessary for an individual to have a CSID or INID in order to live and travel within Iraq, the absence of such a document will leave the appellant encountering treatment or conditions which are contrary to Article 3 ECHR.

### Findings and conclusions

24. In reaching our decision we have had the opportunity of hearing the appellant and seeing his evidence tested in cross-examination. Matters of credibility are never easy to determine, particularly, as here, where the appellant's evidence is received through an interpreter. We acknowledge that there may be a danger of misinterpretation, but we were careful to explain to the appellant, that questions and answers must be broken down into short sentences so as to ensure that he understood the question, and the interpreter had a proper opportunity to translate the answer provided. We have also borne in mind the fact that events that may have occurred some time ago, can impact on an individual's ability to recall exact circumstances. We recognise that there may be a tendency by a witness to embellish evidence because although the core of the claim may be true, he/she believes that by embellishing their evidence, the claim becomes stronger. In reaching our decision we have also been careful not to find any part of the account relied upon, to be inherently incredible, because of our own views on what is or is not plausible. We have considered the appellant's claims and the story as a whole, against the available country evidence and other familiar factors, such as consistency with what the appellant has said before.
25. It is uncontroversial that the appellant is an Iraqi national, of Kurdish ethnicity. Judge Chapman did not find the appellant's account of a land dispute and his claim that he was coerced by his father and brothers into starting a relationship with a daughter of the Bayati family, to be credible.

He also rejected the appellant's claim that he had been kidnapped by armed men who he recognised as being from the Bayati family. The appellant did not challenge the findings made by Judge Chapman and when the appellant was asked in cross-examination before us, whether there are any other reasons why he left Iraq, he confirmed that there are no other reasons. There is nothing in the evidence before us that undermines the finding made by Judge Chapman that even to the lower standard, the appellant has failed to establish that he is at risk as claimed from the Bayati family in his home area of Tuz Khurmatu.

26. Judge Chapman also rejected the appellant's claim that he has lost contact with his family and found that in any event, the appellant has family in Ranya in the IKR, and that he has a family network of support both in Iraq and the IKR.
27. We have considered the appellant's claim that he does not have any contact with his family and that he has taken steps, through the Red Cross to trace his family. The appellant maintains that he is not in contact with his parents, brothers and his maternal uncle. He maintains that he had some limited telephone contact with his maternal uncle whilst he was detained in Greece, using the agent's mobile telephone. He claims that since his arrival in the UK, he has been unable to remember the telephone numbers to establish contact with his family.
28. We have no hesitation in finding, even to the lower standard, that the appellant is not a credible witness. He was vague in the evidence that he gave before us, and his evidence lacked any detail and clarity. We reject his claim that he has simply been unable to recall the telephone numbers for his family and has been unable to establish contact with them. It is quite simply incredible that having left Iraq, the appellant would have maintained contact with his maternal uncle, but not with his parents and brothers. As Judge Chapman found previously, the appellant is unable to

explain why he does not have the telephone numbers of his father and brothers.

29. In paragraph [392] of SMO & Others the Tribunal noted that as is clear from AAH(Iraq), Iraq is a collectivist society in which the family is all important. It is also a country with a high prevalence of mobile telephone usage amongst the adult population. Given the background material, it is contrary to common sense and experience of human behaviour that the appellant would simply have had no contact with his immediate family after he left Iraq. The appellant's family will have been concerned about the appellant and the appellant will have been concerned about them. Even to the lower standard, we do not accept the appellant would have maintained contact with his maternal uncle and relied upon him to provide the appellant with information about his parents and brother, when there is a high prevalence of mobile telephone usage amongst the adult population in Iraq. The appellant was able to recall the telephone number for his maternal uncle, and he offers no credible explanation why he could not recall the telephone numbers of other close family members. His claim that he forgot the phone numbers after his arrival in the UK is incredible and we do not accept his evidence.
30. We also reject the appellant's claim that he does not know his family in the IKR because they are not immediate family or close relatives. In his asylum interview, the appellant was asked whether he has any family or friends in the IKR. He replied (Q.157); "Relatives yes, but not friends". He confirmed (Q.158) that his relatives live in Kirkuk and Ranya. He confirmed (Q.159) that Ranya is in Sulaymaniah. When questioned about his family in the IKR before us, we found the appellant to be very evasive and it was apparent to us that the appellant was not prepared to explain how he is related to those that he previously described as "family" that were living in Ranya in the IKR. He himself drew a distinction between "friends" and "family" and we do not accept that he would have referred to having "family" in Ranya if the position was, as he now claims, that they

are not immediate family or close relatives. He quite simply failed to explain how he is related to those that he previously described as 'family' living in Ranya, in what we find is a cynical attempt by him to distance himself from having family in the IKR to whom he can turn.

31. True it is that the appellant has now contacted the Red Cross, but that was not until 2020, some two years after the appellant had arrived in the UK, and after his attention was drawn to the assistance that the Red Cross may be able to offer, during the asylum interview. Even applying the lower standard, we do not accept the appellant's evidence that he has no contact with his family. We find he has throughout remained in contact with them. The referral to the Red Cross and the absence of a response from the Red Cross or a successful trace of the appellant's family is not sufficient for us to conclude that the appellant has lost contact with his family as he claims. We have no evidence before us of the information the appellant has provided to the Red Cross about his family.
32. Overall, the appellant's evidence that he does not know the whereabouts of his family and the attempts that he has made to maintain or establish contact with them is vague. There is in our judgment no evidence before us of the appellant making any meaningful attempt to establish contact with his immediate family. He does not need to if, as we find, he has remained in contact with them throughout. We have considered the referral made to the Red Cross in the round, with all the other evidence before us. Even to the lower standard, we are not satisfied that the appellant has lost contact with his parents, brothers and his maternal uncle as he claims. Like Judge Chapman previously, we cannot rely on the evidence given by the appellant regarding the appellant's lack of contact with his family.
33. We have also considered the evidence before us of the appellant's attempts to re-document himself. It is accepted by the appellant that he

previously held a CSID. He claims that it was thrown away on his journey to Greece on the advice of the agents.

34. The appellant claims that he attended the Iraqi Consulate in Manchester on 17<sup>th</sup> February 2020 and his claim is supported by a short letter that purports to be written by Mr Rawan Karim. Mr Karim did not attend to give evidence. We are however prepared to accept the appellant did attend the Iraqi Consulate as he claims. We have considered the appellant's account of events at the Iraqi Consulate but even taking his evidence at its highest, there is scant information regarding the steps taken by the appellant to make a genuine attempt to redocument himself. There is no evidence of the appellant having completed any forms to begin the process of obtaining replacement documents, even if that were the 'Registration Document (1957)' that is referred to in the June 2020 CPIN. The evidence before us does not, even to the lower standard, establish a careful, genuine and determined attempt by the appellant to redocument himself but has the appearance of a superficial attempt to demonstrate that the appellant has taken the most basic of steps in an attempt to bolster his claim. It is in our judgment unsurprising that the appellant was told during his visit to the Iraqi Embassy that they were unable to assist him based on the very vague and limited information he was prepared to provide.
35. The appellant's case is to be considered in light of the latest country guidance set out in SMO & Others. The appellant originates from Tuz Khurmato in the Salah Al-Din Governorate. Judge Chapman previously found the appellant is not at risk in his home area or elsewhere in Iraq from his claimed persecutors but would be at Article 15(c) risk in his home area, based upon the country guidance then in force. Mr Mohzam quite properly accepts that matters have now moved on and we must assess the risk upon return by reference to the country guidance set out in SMO & Others. The Upper Tribunal held:

**A. INDISCRIMINATE VIOLENCE IN IRAQ: ARTICLE 15(C) OF THE**



**QUALIFICATION DIRECTIVE**

1. *There continues to be an internal armed conflict in certain parts of Iraq, involving government forces, various militia and the remnants of ISIL. Following the military defeat of ISIL at the end of 2017 and the resulting reduction in levels of direct and indirect violence, however, the intensity of that conflict is not such that, as a general matter, there are substantial grounds for believing that any civilian returned to Iraq, solely on account of his presence there, faces a real risk of being subjected to indiscriminate violence amounting to serious harm within the scope of Article 15(c) QD.*
2. *The only exception to the general conclusion above is in respect of the small mountainous area north of Baiji in Salah al-Din, which is marked on the map at Annex D. ISIL continues to exercise doctrinal control over that area and the risk of indiscriminate violence there is such as to engage Article 15(c) as a general matter.*
3. *The situation in the Formerly Contested Areas (the governorates of Anbar, Diyala, Kirkuk, Ninewah and Salah Al-Din) is complex, encompassing ethnic, political and humanitarian issues which differ by region. Whether the return of an individual to such an area would be contrary to Article 15(c) requires a fact-sensitive, "sliding scale" assessment to which the following matters are relevant.*
4. *Those with an actual or perceived association with ISIL are likely to be at enhanced risk throughout Iraq. In those areas in which ISIL retains an active presence, those who have a current personal association with local or national government or the security apparatus are likely to be at enhanced risk.*
5. *The impact of any of the personal characteristics listed immediately below must be carefully assessed against the situation in the area to which return is contemplated, with particular reference to the extent of ongoing ISIL activity and the behaviour of the security actors in control of that area. Within the framework of such an analysis, the other personal characteristics which are capable of being relevant, individually and cumulatively, to the sliding scale analysis required by Article 15(c) are as follows:*
  - *Opposition to or criticism of the GOI, the KRG or local security actors;*
  - *Membership of a national, ethnic or religious group which is either in the minority in the area in question, or not in de facto control of that area;*
  - *LGBTI individuals, those not conforming to Islamic mores and wealthy or Westernised individuals;*
  - *Humanitarian or medical staff and those associated with Western organisations or security forces;*

- *Women and children without genuine family support; and*
  - *Individuals with disabilities.*
6. *The living conditions in Iraq as a whole, including the Formerly Contested Areas, are unlikely to give rise to a breach of Article 3 ECHR or (therefore) to necessitate subsidiary protection under Article 15(b) QD. Where it is asserted that return to a particular part of Iraq would give rise to such a breach, however, it is to be recalled that the minimum level of severity required is relative, according to the personal circumstances of the individual concerned. Any such circumstances require individualised assessment in the context of the conditions of the area in question.*

**B. DOCUMENTATION AND FEASIBILITY OF RETURN (EXCLUDING IKR)**

7. *Return of former residents of the Iraqi Kurdish Region (IKR) will be to the IKR and all other Iraqis will be to Baghdad. The Iraqi authorities will allow an Iraqi national (P) in the United Kingdom to enter Iraq only if P is in possession of a current or expired Iraqi passport relating to P, or a Laissez Passer.*
8. *No Iraqi national will be returnable to Baghdad if not in possession of one of these documents.*
9. *In the light of the Court of Appeal's judgment in *HF (Iraq) and Others v Secretary of State for the Home Department* [2013] EWCA Civ 1276, an international protection claim made by P cannot succeed by reference to any alleged risk of harm arising from an absence of a current or expired Iraqi passport or a Laissez passer, if the Tribunal finds that P's return is not currently feasible on account of a lack of any of those documents.*
10. *Where P is returned to Iraq on a Laissez Passer or expired passport, P will be at no risk of serious harm at the point of return by reason of not having a current passport.*

**C. CIVIL STATUS IDENTITY DOCUMENTATION**

11. *The CSID is being replaced with a new biometric Iraqi National Identity Card - the INID. As a general matter, it is necessary for an individual to have one of these two documents in order to live and travel within Iraq without encountering treatment or conditions which are contrary to Article 3 ECHR. Many of the checkpoints in the country are manned by Shia militia who are not controlled by the GOI and are unlikely to permit an individual without a CSID or an INID to pass. A valid Iraqi passport is not recognised as acceptable proof of identity for internal travel.*
12. *A Laissez Passer will be of no assistance in the absence of a CSID or an INID; it is confiscated upon arrival and is not, in any event, a recognised identity document. There is insufficient evidence to show that returnees are issued with a 'certification letter' at Baghdad Airport, or to show that any such document would be*

*recognised internally as acceptable proof of identity.*

13. *Notwithstanding the phased transition to the INID within Iraq, replacement CSIDs remain available through Iraqi Consular facilities. Whether an individual will be able to obtain a replacement CSID whilst in the UK depends on the documents available and, critically, the availability of the volume and page reference of the entry in the Family Book in Iraq, which system continues to underpin the Civil Status Identity process. Given the importance of that information, most Iraqi citizens will recall it. That information may also be obtained from family members, although it is necessary to consider whether such relatives are on the father's or the mother's side because the registration system is patrilineal.*
14. *Once in Iraq, it remains the case that an individual is expected to attend their local CSA office in order to obtain a replacement document. All CSA offices have now re-opened, although the extent to which records have been destroyed by the conflict with ISIL is unclear, and is likely to vary significantly depending on the extent and intensity of the conflict in the area in question.*
15. *An individual returnee who is not from Baghdad is not likely to be able to obtain a replacement document there, and certainly not within a reasonable time. Neither the Central Archive nor the assistance facilities for IDPs are likely to render documentation assistance to an undocumented returnee.*
16. *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. The reducing number of CSA offices in which INID terminals have not been installed will continue to issue CSIDs to individuals and their proxies upon production of the necessary information.*

Application of the Country Guidance and Background Material to the facts found

36. To summarise, we find the appellant's parents, brothers and their families and his maternal uncle remain in Iraq and the appellant has family in Ranya, Sulaymaniyah. We find the appellant remains in contact with his parents, brothers, and maternal uncle and is able to contact them.

37. We note from the decision of the Upper Tribunal in SMO & Others that although there continues to be an internal armed conflict in certain parts of Iraq involving government forces, various militia and the remnants of ISIL, the intensity of that conflict is not such that, as a general matter, there are substantial grounds for believing that any civilian returned to Iraq, solely on account of his presence there, faces a real risk of being subjected to indiscriminate violence amounting to serious harm within the scope of Article 15(c) QD. The only exception to that general conclusion is in respect of the small mountainous area north of Baiji in Salah al-Din, which is marked on the map at Annex D of the decision. Tuz Khurmatu is the main city of the Duz District in Salah al-Din and is not in the small mountainous area north of Baiji in Salah al-Din. We acknowledge that the situation in the formerly contested areas, including the Salah Al-Din Governorate, is complex and whether the return of the appellant to Tuz Khurmatu would be contrary to Article 15(c) requires a fact-sensitive, “sliding scale” assessment.
38. In paragraphs [77] to [96] of SMO & Others, the Tribunal refers to the evidence before the Tribunal regarding the position in the Salah Al-Din Governorate. At paragraph [266], the Upper Tribunal said:
- “The metrics for the governorate are not indicative of a level of threat which engages Article 15(c) in general. The IBC figures recorded 152 civilian deaths out of a population of more than 1.5 million in 2018. The intensity of the violence was considerably lower than in Ninewa, for example, standing at 10.05 per 100,000 in 2018, marking a reduction from 28.05 in 100,000 in 2017. Vast numbers have returned to the governorate and it is clear that the authorities are taking regular action in the area to continue the pressure on ISIL. We also take account of indirect forms of violence, particularly the assassination of local authority figures; the coercion exerted by ISIL on sections of the rural population in particular; and the sectarian tensions which persist across the governorate (in Tuz Khurmato in particular). We do not consider, however, that an ordinary civilian faces such a high level of indiscriminate violence there that substantial grounds exist for believing that he would, solely by being present there, face a real risk which threatens his life or person..”
39. The appellant is a healthy young male who lived previously with his family in Tuz Khurmato. The core of his account relating to the events that he

claimed lead to his departure from Iraq have been rejected. He confirmed in his evidence before us that there are no other reasons for claiming international protection. The appellant has not been involved in activities of voiced opposition to, or criticism of the GOI, the KRG or local security actors and does not have the personal characteristics identified in headnote 5 of SMO. The appellant has a general fear of the security situation in Iraq and Tuz Khurmato, but we were not directed to any evidence which indicates that the situation in the Salah Al-Din governorate is, per se, sufficient to expose an individual such as the appellant to a real risk of harm. The most recent country guidance indicates that the security situation in the area is no longer so serious as to attract Article 15(c) protection. We find the appellant has family in Tuz Khurmato and he is not at risk upon return to his home area.

40. In any event, we find that the appellant has family in Ranya in the IKR and that internal relocation to the IKR would not be unduly harsh. As noted in SMO & others, subject to security screening, and registering presence with the local mukhtar, the appellant would be permitted to enter and reside in the IKR with no further legal impediments or requirements. There are no sponsorship requirements for entry or residence in any of the three IKR Governorates for Kurds. The appellant has shown the fortitude and resilience to migrate from Iraq to the United Kingdom. There is nothing in the evidence before us to establish that he is anything other than a healthy, intelligent, young man who is capable of finding work and working. We find that he has a network of family support both in Iraq and in the IKR. In SMO & Others, the Upper Tribunal noted that cultural norms would require family to accommodate the appellant and we are satisfied that the appellant would have sufficient assistance from his family in the IKR such that he could lead a 'relatively normal life', which would not be unduly harsh.
41. We accept that upon the appellant's return to Iraq, travel from Baghdad by land is only viable with valid proof of identity. We have carefully

considered whether the appellant could obtain a new CSID at all, or within a reasonable timeframe. The appellant's evidence is that the original of the CSID card was thrown away by him, on the advice of the agents, during his journey to Greece. We have found that the appellant's parents and brothers remain in Iraq and, in our judgment, there is no reason why the CSID reference or any information required by the appellant to confirm his Iraqi nationality cannot be provided to him by his family in Iraq.

42. We have had regard to what is said at headnote [16] of SMO & Others and acknowledge that 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. There is no evidence before us that the registry office in the appellant's home area is not operational or is an office in which INID terminals have been installed and thus is an office that does not continue to issue CSID cards. With the appellant's father and brothers in particular, available to vouch for him, there is no reason why a replacement CSID cannot be obtained from the Civil Status Affairs Office in his home Governorate, using a proxy and the assistance of a lawyer. There is no reason why the appellant cannot take immediate steps, with the assistance of his family to secure a CSID. Once obtained, there is no reason why the appellant's CSID could not be sent to the appellant here in the UK or why the appellant could not be met by his family or relatives, in Baghdad, with the CSID, within a reasonable time of the appellant's arrival to facilitate safe travel between Baghdad and Tuz Khurmatu or the IKR.
43. The focus of Mr Mohzam's submissions before us was that the appellant cannot now obtain a CSID from within the UK. At paragraph [383] of SMO & Others, the Upper Tribunal said:

"We have not been asked to revisit the extant country guidance on the way in which an individual might obtain a replacement CSID from within the UK, for which see [173]-[177] of AA (Iraq) and [26] of AAH (Iraq). We add only this: whilst the INID is clearly replacing the CSID in Iraq, consulates do not have the electronic terminals necessary to issue the INID and continue to issue the CSID instead, as confirmed in a

Canadian Immigration and Refugee Board report which is quoted at 5.6.9 of the respondent's CPIN entitled Internal Relocation, civil documentation and returns, dated February 2019. An Iraqi national in the UK would be able to apply for a CSID in the way explained in AA (Iraq) and, if one was successfully obtained, we find that it would be acceptable evidence of the individual's identity throughout Iraq. Notwithstanding the plan to replace the old CSID system with the INID by the end of 2019, we accept what was said by EASO (in February 2019) and the Danish Immigration Service and Landinfo (in November 2018), that implementation was delayed and that the CSID was still being used in Iraq, and that it continues to be issued in those parts of the country in which the INID terminals have not been rolled out. Given this evidence, and the fact that the CSID has been a feature of Iraqi society for so long, we do not accept that there will come a time at the end of this year when the CSID suddenly ceases to be acceptable as proof of identity."

44. Mr Mohzam refers to the June 2020 CPIN, at paragraph 2.6.16, and submits the most recent material available establishes that *"It is highly unlikely that an individual would be able to obtain a CSID from the Iraqi embassy while in the UK"*. We have carefully considered what is said at paragraphs 2.6.15 to 2.6.19 of the June 2020 CPIN and Annex I thereto, which sets out the process of obtaining a CSID for a failed asylum seeker from the Iraqi Embassy. The June 2020 CPIN states that the Iraqi Embassy in London is advising Iraqi nationals in the UK to apply for a 'Registration Document (1957)' which they can use to apply for the documents such as passports or an INID card once they have returned to Iraq. Annex I describes the process:

"The registration document (1957) must be applied for on the applicant's behalf by a nominated representative in Iraq. In order to start the application, the individual requiring documentation would normally provide at least one copy of a national identity document (see above list Q1, FAS) and complete a power of attorney (to nominate a representative in Iraq) at the Iraqi embassy along with the embassy issued application forms. If they have no copies of identity documents they would also need to complete a British power of attorney invalidated by the FCO and provide parents names, place and date of birth to their nominated representative in Iraq.

Once issued the nominated representative will send the registration document (1957) to the applicant in the UK. The process takes 1 - 2 months."

45. Despite having attended the Iraqi Consulate, the appellant has not provided any evidence that the Iraqi Consulate is no longer able or

prepared to issue a CSID to Iraqi nationals. Although we accept the June 2020 CPIN states that it is highly unlikely that an individual would be able to obtain a CSID from the Iraqi embassy while in the UK, that does not assist the appellant. The June 2020 CPIN states that Iraqi nationals in the UK are being advised instead to apply for a 'Registration Documents (1957)' and there is no reason why the appellant should not take immediate steps to do so. It appears the process takes no longer than 1 to 2 months. Once he has that document, it appears the appellant will be able to obtain other documents such as a CSID or INID card once he has returned to Iraq. The 'Registration Documents (1957)' appears to contain the information relevant to an individual's identity. It is a document that is recommended by the Iraqi Embassy and there is nothing before us to establish that the document would not be satisfactory evidence of the appellant's identity to pass through checkpoints. Mr Mohzam was unable to draw our attention to any background material that establishes that the appellant would be unable to safely make the journey from Baghdad to Tuz Khurmatu or the IKR using the 'Registration Documents (1957)' as acceptable proof of identity. In any event, here, we have found that there is no reason why the appellant's CSID could not be sent to the appellant here in the UK or why the appellant could not be met by his family or relatives, in Baghdad, with the CSID, within a reasonable time of the appellant's arrival to facilitate safe travel between Baghdad and Tuz Khurmatu or the IKR.

46. It follows that we dismiss the appeal under the Refugee Convention and on humanitarian protection grounds. The Country Guidance in SMO points to the Article 3 risk that may be encountered by somebody making their way from Baghdad to another place in Iraq to obtain a CSID or INID. On the findings made, we reject the claim that the appellant will be at risk in making the journey from Baghdad to his home area or the IKR and we find there will not be a breach of Article 3.

## Article 8



47. As to the Article 8 claim, Judge Chapman recorded at paragraph [67] of his decision that the Human Rights grounds were not being pursued. A separate Article 8 claim was not advanced by the appellant or by Mr Mohzam in his submissions before us.
48. For the avoidance of any doubt, we find that the appellant has failed to establish that there are very significant obstacles to the appellant's integration into Iraq. Carrying out a broad evaluative assessment we note that the appellant spent the formative years of his life living with his family in Iraq. We find that although he has been absent from Iraq since July 2017, he is a healthy young male, who speaks Kurdish Sorani and has been able, on his own account, to look after himself for a number of years. His parents and siblings remain in Iraq, and he also has family in the IKR. He will be able to turn to them for support. The appellant previously worked in Iraq, and we find that it would be open to him to secure gainful employment upon return.
49. There is no evidence before us regarding the private life established by the appellant in the UK. Even if he has established a private life, and the decision to remove the appellant may have consequences of such gravity as to engage the operation of Article 8, we accept that the interference is in accordance with the law. We have considered whether the interference is proportionate to the legitimate public end sought to be achieved.
50. In reaching our decision we have had regard to the factors set out in s117B of the Nationality, Immigration and Asylum Act 2002, and note that the maintenance of effective immigration controls is in the public interest. Although the appellant may prefer to remain in the UK, that does not equate to a right to do so in law. On the evidence before us, there are no exceptional circumstances capable of establishing that the removal of the appellant to Iraq amounts to a disproportionate interference with the appellant's right to enjoyment of his private life. Accordingly, we dismiss the appeal on Article 8 grounds.

**NOTICE OF DECISION**

51. The appeal is dismissed on Asylum and humanitarian protection grounds.

52. The appeal on Article 3 and Article 8 ECHR grounds is dismissed

Signed **V. Mandalia**

Date 19<sup>th</sup> May 2021

Upper Tribunal Judge Mandalia