



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/09548/2019 (V)

**THE IMMIGRATION ACTS**

Heard at Field House  
On 8 February 2021

Decision & Reasons Promulgated  
On 3 March 2021

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

HAHG  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation**

For the Appellant: Mr Islam of Fountain Solicitors

For the Respondent: Mr Lindsay, Senior Home Office Presenting Officer

This has been a remote hearing to which both parties have consented. The form of remote hearing was video by Skype (V). A face to face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. I did not experience any difficulties, and neither party expressed any concern, with the process.

**DECISION AND REASONS**

1. The appellant is a citizen of Iraq, born in January 1983, who entered the UK and claimed asylum in November 2016. He claims to (a) be at risk of persecution in

Iraq because he converted to Zoroastrianism; and (b) face a real risk on return to Iraq that he will encounter treatment or conditions which are contrary to Article 3 ECHR because he does not have a civil status identity document (“CSID”).

2. The appellant is appealing against a decision of Judge of the First-tier Tribunal Thapar (“the judge”) promulgated on 29 January 2020 dismissing his appeal against the respondent’s refusal of his protection claim on 18 September 2019.
3. This is the second asylum appeal by the appellant. In a previous decision (promulgated in June 2017, by Judge of the First-tier Tribunal Garbett) the appellant’s account was found to be inconsistent and lack credibility. Amongst other things, Judge Garbett found that the appellant had deliberately tried to dispose of his passport down a toilet in order to withhold or damage information or to mislead an immigration officer.
4. In the decision now being appealed, the judge found the appellant’s account lacked credibility and did not accept that he had converted to Zoroastrianism or that his family disowned him as a consequence.
5. With respect to the appellant’s claim to lack a CSID, the judge found that the appellant could obtain a replacement in the UK, with information obtained from family in Iraq. The judge found that the appellant has support, and can receive assistance from, family in Iraq (which includes his parents and three brothers).
6. The grounds of appeal make two arguments. The first is that the judge erred by making unclear findings, and failing to give adequate reasons, in respect of his conclusion about the appellant not being at risk due to his conversion to Zoroastrianism. The second argument in the grounds of appeal is that the judge failed to assess consistently with *SMO, KSP & IM (Article 15(c); identity documents) CG Iraq* [2019] UKUT 400 (IAC) the risk the appellant would face due to lacking a CSID and the difficulties he would encounter obtaining a replacement.
7. Permission to appeal was granted by the Upper Tribunal solely in respect of the ground of appeal concerning lack of a CSID.
8. Mr Islam submitted that I should consider the first ground of appeal notwithstanding the absence of permission. He supported this contention with arguments about the merits of the ground.
9. The court of appeal has made clear that this Tribunal should, generally, not permit grounds to be advanced if permission has not been granted to raise them. See, for example, *Talpada, R (On the Application of) v The Secretary of State for the Home Department* [2018] EWCA Civ 841. Mr Islam was unable to point to any basis (other than to reiterate and elaborate upon the substance of the ground) as to why argument should be heard on the ground where permission was not

granted. I will therefore limit this appeal to the single ground in respect of which permission was granted.

10. With respect to that ground, Mr Islam noted that *SMO* was published during the period between the hearing and the promulgation of the decision. He argued that the judge erred by not giving the parties an opportunity to make submissions in the light of *SMO*.
11. He also submitted that the judge failed to adequately consider, and make clear findings on, practical difficulties the appellant would face in obtaining a CSID, in particular because his family in Iraq have disowned him. He criticised the judge's assessment of the CSID issue for being extremely brief and lacking clear findings.
12. Mr Lindsay submitted in response that the appellant has had an adequate opportunity to make submissions about *SMO* in these proceedings and nothing raised in the grounds (or in Mr Islam's submissions) undermines the judge's assessment. He argued that the assessment of whether the appellant could obtain a replacement CSID must be considered in the context of the judge's unchallenged finding that the appellant would have support from his family (and friend who is a policeman: see paragraph 22 of the decision) in Iraq and that the appellant lacked credibility and intentionally tried to destroy his passport. Mr Lindsay argued that the findings in paragraph 27 of the decision, considered in this context, clearly establish that the appellant could obtain a replacement CSID.
13. *SMO*, read together with *AAH (Iraqi Kurds – internal relocation) Iraq CG UKUT 00212 (IAC)* and *AA (Article 15(c)) Iraq CG [2015] UKUT 544 (IAC)* explains the circumstances in which an Iraqi in the UK will be able to obtain a replacement CSID in the UK.
14. Paragraph 11 of the headnote to *SMO* states:

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.

15. Paragraph 383 of *SMO* states:

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.

16. Paragraphs 173 - 177 of AA state:

Obtaining a CSID whilst in the UK

173. As regards those who have an expired or current Iraqi passport but no CSID - Dr Fatah identifies in his first report that a CSID may be obtained through the "Consular section of the Iraqi Embassy in London", which will send a request for a replacement or renewed CSID to the General Directorate for Travel and Nationality - Directorate of Civil Status. A request for a replacement CSID must be accompanied, inter alia, by "any form of official document in support of the applicant's identity" and the application form must be signed by "the head of the family, or the legal guardian or representative to verify the truth of its contents." He also added that an applicant must also authorise a person in Iraq to act as his representative in order for that person to "follow up on the progress of the application.

174. However, Dr Fatah continued by explaining that if an individual has lost his CSID and does not know the relevant page and book number for it, then the Iraq Embassy in London will not be able to obtain one on his behalf. Instead, he or she will have to attend the appropriate local office of family registration in Iraq or give a relative, friend or lawyer power of attorney to obtain his or her CSID. The process of a giving power of attorney to a lawyer in Iraq to act "as a proxy" is commonplace and Dr Fatah had done this himself. He also explained that the power of attorney could be obtained through the Iraq Embassy.

175. Dr Fatah gave further evidence to the effect that having a marriage certificate may be useful as it would contain data found in the family records. It is, however, not possible to use a "health card" in order to obtain a CSID because there is no primary health care or GP system in Iraq, but instead patients attended hospital when they needed to do so and no central records are held.

176. There is a consensus between Dr Fatah's evidence and the following more general evidence provided by UNHCR-Iraq in April 2015 on the issue of obtaining CSID's from abroad.

"In principle, a failed asylum seeker, or indeed any Iraqi citizen abroad, can acquire Iraqi documents through Iraqi embassies and consulates. There is a special authorization granted to these bodies to provide documents for Iraqi

abroad on the condition that the beneficiaries should have any available documents in order to prove their nationality.”

177. In summary, we conclude that it is possible for an Iraqi national living in the UK to obtain a CSID through the consular section of the Iraqi Embassy in London, if such a person is able to produce a current or expired passport and/or the book and page number for their family registration details. For persons without such a passport, or who are unable to produce the relevant family registration details, a power of attorney can be provided to someone in Iraq who can thereafter undertake the process of obtaining the CSID for such person from the Civil Status Affairs Office in their home governorate. For reasons identified in the section that follows below, at the present time the process of obtaining a CSID from Iraq is likely to be severely hampered if the person wishing to obtain the CSID is from an area where Article 15(c) serious harm is occurring.

17. 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.

18. In paragraph 26 of the decision the judge referred to *SMO* and at paragraph 27 the judge stated that the appellant would be able to obtain “relevant information from his family in Iraq.” Although the judge’s reasoning is very brief, it is plain from the reference to “relevant information” that the judge had in mind the volume and page reference of the entry in the Family Book in Iraq.

19. It was entirely consistent with *SMO* (and the analysis in *AA* and *AAH* referred to therein) to find that the appellant would be able to provide the Iraqi embassy in the UK with the information needed to obtain a replacement CSID for the following two reasons:

- (a) Firstly, if the appellant does not remember the relevant volume and page reference of the entry in the Family Book in Iraq he can obtain that information from his family in Iraq. The evidence before the judge showed, and the unchallenged finding of the judge was, that the appellant has contact with, and can receive support from, family in Iraq including his father and brothers. It follows, therefore, that the appellant could obtain the necessary information regarding his entry in the Family Book.
- (b) Secondly, the appellant is plainly in a position to provide further information to identify himself to the Iraqi embassy in the UK. If he no longer has his passport (which he used to enter the UK, as noted in paragraph 27 of the decision) he could obtain identification from his parents to confirm his identity, as explained in paragraph 26 of *AAH*.

20. The judge also did not fall into error by not giving the appellant an opportunity to make submissions in respect of *SMO* for the simple reason that *SMO* did not depart from *AAH* and *AA* on the issue of obtaining a replacement CSID from within the UK. Therefore, any submissions made by the appellant in the light of *SMO* would have had to cover the same ground, and deal with the same issues, as submissions made in the light of *AAH* and *AA*. In any event, on any legitimate view, the country guidance in *SMO*, *AAH* and *AA* does not support the appellant's claim to be unable to obtain a replacement CSID from within the UK.

### **Notice of decision**

21. The grounds of appeal do not identify an error of law.

22. The decision of the First-tier Tribunal stands.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

*D. Sheridan*

Upper Tribunal Judge Sheridan

Dated: 12 February 2021

