



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: PA/11916/2019**

**THE IMMIGRATION ACTS**

**Heard at Birmingham  
On 3 August 2021**

**Decision & Reasons  
Promulgated  
On 12 August 2021**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**HAA  
(Anonymity direction made)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Miss Rutherford instructed by Halliday Reeves.  
For the Respondent: Mrs Aboni a Senior Home Office Presenting Officer.

**DECISION AND REASONS**

- 1.** On 1 October 2020 First-tier Tribunal Judge Chohan ('the Judge') dismissed the appellant's appeal on protection and human rights grounds.
- 2.** The Judge records the appellant's representative confirming that the Conventional reason was Membership of a Particular Social Group (MPG), as the appellant feared being the victim of an honour crime, and that article 8 ECHR was not being argued.

**3.** Having had the benefit of considering not only the documentary evidence but also seeing and hearing oral evidence being given by the appellant and his wife the Judge sets out his core findings regarding the credibility of the claim between [7] and [13] of the decision under challenge in the following terms:

7. Despite the appellant's fear of his wife's family, he remained in Iraq between 2009 and 2016, which is a period of seven years. Mr Aigbokie submitted that although the appellant claimed that his wife's family were powerful and influential and yet, they were unable to locate him in the seven year period. Miss Rutherford pointed out that the appellant and his wife had been able to live in remote parts of Iraq. In her skeleton argument, Miss Rutherford makes the point that the appellant and his family had the protection of a Mukhtar where he lived. However, when one considers the appellant's witness statement, dated 27 March 2020, at paragraph 1, the Appellant simply states that the Mukhtar advised him and his wife to keep a low profile. It is not clear what protections the Mukhtar provided.
8. It is the appellant's claim that between 2009 and 2014, he was with his uncle. Between 2014 and 2016, the appellant claims that he was in a camp for refugees. The appellant goes on to claim that his wife's family had been seen in certain parts of Iraq by his relatives between 2010 and 2013. It is striking to note after 2013 it seems they were not seen and nothing happened to the appellant and his wife. Indeed, nothing happened to the appellant and his wife between 2009 in 2016.
9. During his oral evidence, the appellant stated that he left Iraq because of his fear of his wife's family, and of ISIS. However, in his witness statement, the appellant states that he only feared the ongoing war with ISIS and the general security situation. He makes no mention of any fear of his wife's family as a reason for leaving Iraq.
10. The appellant relies on a document from the PUK dated 16 October 2014. The said document emphasises that the appellant must not return to Iraq. However, in 2014, the appellant was still in Iraq and, as such, it is not clear why this document states as such. This certainly undermines the appellant's credibility and I can place no reliance on this document. There is then a letter from an alderman, dated 18 January 2020, which states that the appellant left the neighbourhood and had not returned. This letter, per se, does not advance the appellant's case in any material sense, particularly in light of my adverse findings above. In any event, the letter lacks detail and no dates have been given as to when the appellant left.
11. Mr Aigbokie questioned the appellant on how he had financed his travel to the United Kingdom. The appellant gave evidence to the effect that he had a house next to his father's home, which he had sold. However, according to his wife's oral testimony, the appellant did not own any property in Iraq and that the journey to the United Kingdom had been paid for by her father-in-law.
12. I find it quite incredible that for a period of seven years the appellant managed to remain in Iraq and even start a family. Three children were born in Iraq and one in the United Kingdom. The appellant's wife is now expecting 1/5 child. According to the appellant's and his wife's evidence, the children born in Iraq were registered and, as such, I find it incredible that if the appellant's claim had substance then why his wife's family were not able to trace them over a period of seven years. That is an important point because during his oral evidence. The appellant stated that his wife's family as powerful and could easily locate them; which they failed to do when they were in Iraq.
13. Considering the facts and evidence as a whole and my findings above, I can only conclude that the appellant's account has no substance and is not credible. I do find

that no family or any individual has had any adverse interest in the appellant and his wife, when they were in Iraq. Irrespective of my adverse credibility findings, I must consider risk on return to Iraq.

**4.** The Judge refers to the applicable country guidance case of SMO before writing at [15]:

15. It is the appellant's case that he and his wife do not have a CSID: identity documents were left behind in Iraq. There is no evidence to suggest that the appellant ever approached the Iraqi consulate in the United Kingdom. Nevertheless, I see no reason why the appellant could not be returned to the Kurdish region, where he has family to support him. Indeed, during his oral evidence the appellant stated that he last spoke to his father 20 days prior to this hearing. I must agree with Mr Aigbokie that as the appellant managed to obtain documents from Iraq in support of this appeal, I see no reason why identity documents could not be arranged for him and his wife by his family in Iraq. In short, the appellant has nothing to fear on return to Iraq.

**5.** The appellant applied for permission to appeal, which was initially refused by Upper Tribunal Judge Martin, sitting as a judge of the First-tier Tribunal, but which was granted on a renewed application by another judge of the Upper Tribunal on the grounds it was said to be arguable that the assessment of redocumentation is inadequate and, that although there was less merit in the other grounds, permission was granted on all grounds.

### **Error of law**

**6.** The appellant asserts the Judge in stating it was not clear what support the local Mukhtar had given to the appellant other than telling him to keep a low profile is incorrect as the appellant in his witness statement of 27<sup>th</sup> March 2020 claims that the Mukhtar allowed them to live in the area without disclosing their information, without officially registering their presence, making the act of locating them much harder.

**7.** It is also argued that the Judge's finding the appellant made no mention of leaving Iraq because of his wife's problems in his witness statement was not correct as it was clear in his statement that he was relying on a fear of his wife's family.

**8.** The Grounds also assert the finding by the Judge that the letter from the alderman is lacking in detail is wrong as the letter gives adequate detail.

**9.** The Judge's finding that the children were registered in Iraq is also said to be incorrect as the appellant's evidence in his written statement was that they were not registered due to their ages at the time.

**10.** The Judge was clearly aware of the appellant's claim which is set out in summary form at [2] of the decision under challenge in the following terms:

2. The appellant's claim can be summarised as follows. The appellant met his current wife, ZS, in January 2009. On four occasions the appellant and his family requested her hand in marriage. However, the appellant's wife's family refused. Nevertheless, the appellant went on to marry his wife in a religious

ceremony in September 2009. The appellant's wife became pregnant and he was advised not to return home because of the risk posed by the wife's family. The appellant then went to his uncle's home. The appellant claims that his wife's father and brothers had been looking for him and his wife. It is claimed that women who leave their family home are killed. The appellant stayed in Iraq between 2009 and 2016. The appellant and his wife were encountered in the United Kingdom on 23 December 2016 and on the same day the appellant claimed asylum. The appellant now fears returning to Iraq because he believes he and his wife would be killed by her family, and in particular her father and brothers.

- 11.** It is important the decision is read as a whole. Although the grounds challenge some of the findings made by the Judge it is not made out the Judge's overall conclusion that the appellant had not established that the account had any substance or credibility is a finding outside the range of those available to the Judge. Whilst the appellant may have made certain claims in the witness statement relied upon in support of the claimed error of law, the Judge found that no weight could be placed upon the appellant's claim and that they lack credibility. The Judges assessment of the written material and weight that could be placed upon that material was a matter for the Judge.
- 12.** The Grounds fail to establish material legal error in the Judge's conclusion that this was a fabricated claim of no substance which is not credible. This Judge's finding that no family or any other individual had any adverse interest in the appellant or his wife in Iraq is a finding within the range of those available to the Judge on the evidence.
- 13.** In relation to ability to return the Grounds of challenge state:

At [15] the judge finds that the A family can arrange replacement identity documents for them. However, this is contrary to the country guidance in SMO, which states that an applicant must attend their local CSA office in person now in order to obtain a new INID card. This cannot be done by proxy or a family member. In addition, the Country Policy and Information Note Iraq: International relocation, civil documentation and returns June 2020 [2.6.16] confirms that replacement CSID can no longer be issued at an Iraqi consulate. Therefore, in the absence of a CSID on return the A is likely to face treatment contrary to Article 3 ECHR whilst travelling as SMO found "11. The CSID is being replaced with a new biometric Iraq 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". In addition, the findings that the A could return safely to his family also have to be reviewed again in light of the grounds raised above which are now arguably unsafe.

- 14.** The appellant's home area is in Ranya within the Sulamaniyah Governorate of the IKR. The Secretary of State's position on returns is that there are international flights to Erbil International Airport (EBL) and Sulamaniyah International Airport (ISU) and that although all enforced returns are to Baghdad those willing to return voluntarily can travel directly to the IKR.
- 15.** When this was put to Ms Rutherford, she indicated her client would not agree to return voluntarily, but that does not mean that he could not reasonably do so, as the reasons he claims he does not want to return are those the Judge found to lack credibility in the decision. There is

no credible reason made out for why the appellant could not return voluntarily and therefore could travel directly to the IKR.

- 16.** The Judge specifically finds that the appellant had not made out there was any reason why he could not return to the IKR which is a sustainable finding. If the appellants have no documents with them at the moment it was not made out they would not be issued with a Laissez Passers, which would enable them to be returned.
- 17.** The Judge finds that the appellant has family to support him in the IKR and noted that he had spoken to his father 20 days prior to the hearing. The Judge's conclusion that the appellant had managed to obtain documents from Iraq in support of the appeal and that there was nothing made out by the appellant to establish that such sources could not assist in re-documenting him and his wife has only been shown to be flawed so far as it relates to obtaining a replacement CSID or a new INID.
- 18.** It was the appellant's case that he had left his identity documents behind in Iraq and there was nothing to suggest in the evidence that the documents were not still available and could not be sent to him by family members. The passport can be used to re-enter Iraq and if his family sent him and his wife their CSIDs they would also be able to travel internally to the IKR if returned to Baghdad.
- 19.** The Judge's findings regarding the availability of family support shows the family will not be destitute or unable to properly relocate. Once in Iraq, they will be able to obtain any further documents that require in-person attendance, including attending to the registration of their children if this has not already occurred.
- 20.** The Country Policy and Information Note, Iraq: Internal relocation, civil documentation and returns, Version 11.0, June 2020, confirms the inability of the appellant to be able to obtain a replacement CSID in the UK but at Annex I states:

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.

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 also would need to complete a British power of attorney validated 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.

The HO cannot apply for documentation other than Laissez Passers on someone's behalf but the embassy is willing to check to see if the individual already holds documents and provide copies if necessary

- 21. The evidence before the Judge did not establish that the appellant's family could not act as a nominated representative in Iraq, especially as the male head of the household, his father, is a person with whom he has been in contact, to enable him to acquire a registration document (1957), which is not the same as a laissez passer, which is a single use document, but rather a formal identity document recognised by the authorities in Iraq.
- 22. The Judge's finding that the appellant could therefore redocument himself, such as to enable him to return to Iraq and be able to reintegrate and function within the society of Iraq, as clearly implied by the Judge, has not been shown to be a finding outside the range of those reasonably available to Judge on the evidence.
- 23. It has not been made out the Judges overall decision to dismiss the appeal is outside the range of findings reasonably open to the Judge on the evidence and, accordingly, in accordance with the guidance of the Court of Appeal it is not appropriate for the Upper Tribunal to interfere any further in this matter.

**Decision**

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

Anonymity.

- 25. 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.

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Signed.....  
Upper Tribunal Judge Hanson

Dated 10 August 2021