



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: LP/00022/2020

THE IMMIGRATION ACTS

**Heard at Bradford
On 30 May 2022**

**Decision & Reasons Promulgated
On 23 June 2022**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**DNM
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Holmes.

For the Respondent: Mr Diwnycz, Senior Presenting Officer

DECISION AND REASONS

1. By a decision promulgated on 17 June 2021, I set aside the decision of the First-tier Tribunal and directed a resumed hearing. My reasons were as follows:

1. The appellant is a citizen of Iraq who was born in 1993. He appealed to the First-tier Tribunal against a decision of the Secretary of State made on 12 September 2019 refusing his claim for international protection. The First-tier Tribunal, in a decision dated 26 March 2020, dismissed his appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. I informed the representative of both parties at the initial hearing in the Upper Tribunal that I considered that the judge had erred in law such that his decision fell to be set aside. In my opinion, the judge fell into error as follows: (i) whilst SMO, KSP and IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 400 shows that knowing one's family reference numbers in the civil registers is necessary in order to obtain replacement identity documents, that knowledge is not sufficient. The ability to re-document whilst in the United Kingdom also 'depends on the documents available' as the headnote of SMO makes clear. Further, Upper Tribunal Judge Pickup, in a finding at a previous stage of this appeal, had found that the appellant 'does not have any identity document that would enable him to apply for a CSID.' The judge has failed to consider all necessary factors concerning the appellant's ability to re-document himself prior to leaving the United Kingdom or when in Iraq and his finding that the appellant will not be at real risk is consequently unsound. In particular, despite finding that the appellant has an uncle in Kirkuk, the judge has not explained how that individual would be able to assist the appellant in obtaining a CSID or how the appellant, having been returned to Baghdad, would travel safely to his home area to make use of any CSID obtained for him by a proxy. (ii) As regards relocation to the IKR, the judge's assessment is incomplete and inadequate. The judge states that internal flight to the IKR is reasonable for the appellant but he has not engaged with the matters raised in country guidance, in particular AAH (Iraqi Kurds - internal relocation) Iraq CG [2018] UKUT 212 (IAC) at [27]. In short, it is not enough to find that the appellant could enter the IKR with a CSID; it was necessary for the judge to take account of the likely availability of accommodation, employment and basic necessities which he did not consider.

3. For the above reasons, I set aside the judge's decision. The findings regarding identity documents, risk on return and internal flight are set aside but the judge's other findings of fact are preserved. I am aware that the question of identity documents is currently before the Upper Tribunal for country guidance, SMO having been recently remitted by the Court of Appeal. The instant appeal shall remain in the Upper Tribunal where I shall remake the decision following a resumed hearing.

LISTING DIRECTIONS: list for resumed hearing; before Upper Tribunal Judge Lane; Bradford; not before 1 September 2021; both parties have permission to contact the Upper Tribunal to seek an adjournment in the event that the decision in the remitted appeal SMO, KSP and IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 400 has not been promulgated by the date of the resumed hearing; Kurdish Sorani interpreter; 2 hours.

2. At the resumed hearing on 30 May 2022, Mr Holmes for the appellant relied on a press release from the Iraqi Embassy in London which gave an account of the opening, on 17 December 2017, of a new National Card Office in Tuz Khurmato, the appellant's home town in Iraq. Mr Holmes submitted that this evidence clearly indicated that the appellant would have to attend in person to obtain new identity documentation (INID) and

could no longer obtain (by proxy or otherwise) the old-style CSID. In consequence, his appeal should be allowed.

3. Mr Diwnycz, for the respondent, accepted that the appellant's appeal should, in the light of the new evidence and the country guidance of *SMO & KSP (Civil status documentation; article 15) Iraq CG*, be allowed.
4. I agree with both representatives and remake the decision allowing the appeal for the reasons given by Mr Holmes.

Notice of Decision

I have remade the decision. The appellant's appeal against the decision of the Secretary of State dated 12 September 2019 is allowed on asylum and human rights (Article 3 ECHR) grounds.

Signed

Date 30 May 2022

Upper Tribunal Judge Lane

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

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