



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/03224/2019**

THE IMMIGRATION ACTS

**Heard at Birmingham CJC
On the 14 July 2022**

**Decision & Reasons Promulgated
On the 15 August 2022**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

YAJ

(Anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Bedford instructed by Freedom Solicitors.

For the Respondent: Mr Williams, a Senior Home Office Presenting Officer.

DECISION AND REASONS

- 1.** In a decision promulgated on 19 February 2020 Upper Tribunal Judge King TD set aside a decision of the First-tier Tribunal having found an error of law material to that decision.
- 2.** The case comes back before me today, following the making of a judicial transfer order, to enable the Upper Tribunal to substitute a decision to either allow or dismiss the appeal.
- 3.** The appellant is a citizen of Iraq born on the 4 July 1990.

- 4.** The appellant's home area is Tuz Khurmatu, which is not disputed by the Secretary of State. His account of his house having been burned down with his identity documents including CSID having been lost in the fire, is also not disputed.
- 5.** The current country guidance relating to Iraq is SMO & KSP [2022] UKUT 00110 (IAC).
- 6.** A further change that has occurred is that the Secretary of State now makes enforced returns to any airport within Iraq, including the IKR, meaning there is no need for the appellant to return to Baghdad.
- 7.** It is also not disputed before me that the appellant's local CSA office is no longer issuing CSID card and only issues the biometric INID.
- 8.** I also take note of paragraph 2.4.4 of the respondents CIPU, Internal relocation, civil documentation and returns, Iraq, 27 May 2022, in which it is written:

2.4.4 Decision makers must therefore first determine whether a person would face any harm on return stemming from a lack of CSID/INID before considering whether their return is feasible. In cases where a person would be at risk on return due to a lack of documentation (i.e. facing destitution or possible ill treatment due to the requirement to travel internally within Iraq to obtain a CSID/INID) a grant of HP would be appropriate.
- 9.** It is not disputed the appellant can be returned to the IKR, for as an Iraqi Kurd he will be able to obtain a laissez passer from the Iraqi authorities in the United Kingdom. There is no evidence that he will experience any difficulties in arriving at either international airport in the IKR or being unable to leave.
- 10.** The problem for the appellant in this appeal arises as a result the fact he will need to travel from the IKR to his home area to obtain a biometric INID.
- 11.** The country guidance case makes it clear that in circumstances where a local CSA is no longer issuing CSID there is no realistic prospect of obtaining documentation from within the United Kingdom. In any event, in this appeal, it was not disputed before me that the appellant's CSID has been destroyed.
- 12.** The appellant will therefore be returning as an undocumented Iraqi national. It will be necessary for him to travel to his home area which will require him to pass through checkpoints some of which are manned by Peshmerga some by militia groups.
- 13.** It is clear from the country guidance case that lack of documentation for the appellant means that remaining within the IKR could lead to destitution as he will not have the basic means to enable him to obtain employment, secure accommodation, etc, and that if he tried to travel to his home area he will face a real risk of harm as he could not prove his true identity in an acceptable form, in accordance with the decision in SMO.
- 14.** On this basis I find the appellant has made out that he is entitled to succeed with this appeal as a person facing harm on return stemming from a lack of a CSID and inability to obtain a biometric INID without having to travel to his home area.

Decision

15. I allow the appeal.

Anonymity.

16. 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. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

Signed.....
Upper Tribunal Judge Hanson

Dated: 14 July 2022