



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/09652/2019**

THE IMMIGRATION ACTS

**Heard at Bradford (Hybrid Decision & Reasons Promulgated
hearing)
On the 17 August 2022 On the 05 September 2022**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

JS

(Anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Hussain instructed by Halliday Reeves Solicitors.
For the Respondent: Ms Young a Senior Home Office Presenting Officer

DECISION AND REASONS

- 1.** In a judgment dated 1 May 2020 the Upper Tribunal set aside a decision of the First-tier Tribunal so far as that decision related to the ground on which the appellant's appeal was allowed; as a result of finding the appellant would not be able to obtain a CSID and consequential risk if returned to Iraq without any acceptable form of identity.

- 2.** The core of the appellant's claim is recorded by the First-tier Tribunal as follows:
 - 9.** The appellant is a national of Iraq who was born in Jalawla. He is of Kurdish ethnicity and uneducated. He is a member of the Ghawara tribe. The appellant's mother predeceased him and he lived with his father and sister in Jalawla. He is uneducated. The appellant worked as a shepherd. The appellant attended the sheep of Major Kazim. He would usually speak with Major Kazim twice a week and also meet with him once a month to receive payment of his wages. Major Kazim was a member of the Korwi tribe which is an Arab tribe. Major Kazim's son who is called Shahab accompanied the appellant one day. Whilst the appellant was looking after the sheep Shahab decided to swim in the river but was unable to swim and consequently drowned. The appellant was not a swimmer and did not enter the water to try and save Shahab. He did however attempt to pull him to safety by holding a stick out for him. The appellant was in a state of panic and called his father for help. However his father would not help and hung the phone up on him. The appellant then telephoned his uncle and his uncle invited him to stay at his house. The appellant hid in the basement of his uncle's house. Approximately 3 or 4 days later the appellant's uncle told him that Major Karim blames the appellant for the death of his son and had threatened to kill the appellant. Given that Major Kazim was a well-known powerful influential man who worked for the Iraqi government as a major for the Iraqi forces the appellant believed that he would be killed by Major Kazim. There was no official investigation into the death of Shahab and the incident became a tribal issue. The appellant's uncle made arrangements for the appellant to leave Iraq with the assistance of an agent.
- 3.** It is not disputed that the appellant is a national of Iraq of Kurdish ethnicity, as accepted in the refusal letter of 23 September 2019.
- 4.** The First-tier Judge rejected the appellant's claim in full relating to the claimed reasons why the appellant had to leave Iraq, and specifically rejected the claim that Shahab had gone swimming and drowned, as a result as it was found the claim was not credible. The reasons for reaching that conclusion are set out in the First-tier Tribunal decision which clearly shows that the primary finding of that judge was that no aspect of the claim recorded at [9] actually occurred.
- 5.** This is where the issue of documentation arises. The appellant's evidence to the First-tier Tribunal was that he had lost contact with his uncle and had no contact with any body else from his family since he left Turkey in 2018.
- 6.** Mr Hussain on behalf of the appellant had made an application pursuant to rule 15(2A) of the Upper Tribunal Procedure to have leave to adduce an unreported determination of the Upper Tribunal, case PA/06344/2017, a case heard and decided by the Vice President of the Upper Tribunal sitting at Manchester on 27 April 2018 involving an Iraqi Kurd.
- 7.** Mr Hussain sought permission to rely upon this document as authority for the proposition there was no basis to proceed on the premise that the witness had family in Iraq who were able to assist him to re-establish himself there.

- 8.** Although permission was given to admit this evidence, to enable the matters to be properly considered, this is not and has never been a reported decision. It was clearly the view of the Vice Presidents that based upon the specific evidence received in that case it was appropriate to find as he did and to allow the appeal. The case is not reported with the aim of providing guidance to decision-makers on how they should assess any claim that a person was unable to contact family members to assist them in re-establishing, including Iraq. Whether such a situation exists is fact specific depending upon the findings of fact made in each case including the question of the appellant's credibility and whether what is being claimed in relation to family members is true. In PA/06344/2017 The Vice President records there were no adverse credibility finding made against the appellant by the First-tier Tribunal [12]. That is a materially different situation to that appertaining in the current appeal.
- 9.** The appellant has provided witness statements, the most up-to-date being 14 July 2020. The relevant parts of that statement relating to the issue of documentation can be summarised in the following terms:
- That the appellant's parents were residing in Sharazour until around 1993 or 1994 before he was born.
 - That Sharazour belongs to the Sulaymaniyah Governorate.
 - The appellant's father had association with the Baath party and was called Jash (spy) and as a result was forced to leave and moved to Jalawla.
 - The appellant's parent's documents were registered and issued in Sharazour and when they fled they could not attend the same register office for any documents for the appellant as his father would have been in danger by returning to Sharazour as he was called Jash so he would have been risking his life, so they were left without documents.
 - The appellant claims his father disowned him, he will not return now, and he will not risk his life.
 - The appellant claims he also has no contact with his family and does not know even if they are alive or dead.
 - The appellant claims he cannot apply for a replacement ID documents anywhere whether in the UK or in Iraq as he has never had documents to ask for in the first place.
 - The appellant claims if he is returned to Iraqi he will have no documents and will be destitute as he will not have any rights to any organisation such as health facilities, job or education without ID, will not be able to travel within Iraq freely, will not be allowed entry to the IKR so could be to danger.
- 10.** There have been a number of changes since the original hearing in that the only country guidance case for Iraq is now SMO & KSP [2022] UKUT 00110 and enforced returns can be to any airport within Iraq

including the IKR. It was not made out that the appellant would not be able to obtain a laissez passer in the UK with which he could be returned to either Erbil or Sulaymaniyah and be able to pass through the airport without experiencing any difficulties. What the parties are agreed upon is what would happen if the appellant left the airport without the necessary identity documents. In the respondents updated CPIN: internal relocation, civil documentation and returns, Iraq, July 2022 it is recorded at paragraph 2.4.4:

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.

11. The appellant's claim regarding lack of documentation, which led the First-tier Tribunal Judge to allow the appeal, was considered by the Upper Tribunal at the error of law hearing on the 30 April 2020. It was found the First-tier Tribunal Judge had erred in law such that this matter needs to be reconsidered. At [25 - 30] of the Upper Tribunal decision it is written:

25. The appellant in reply to question 24 also claims his father was a spy for the Iraqi government making it unlikely he would not have been able to access services in Jalawla if the appellant's claim his father and the family went there is actually true.
26. A child born in Iraq will have been able to obtain an ID cards on the basis of the production of the birth certificate and their parents ID card which can be issued to a child so young as one year of age. The appellant claims he did not have a CSID or identity card and claims not to have received any education as a result but whether this is a credible claim is not adequately considered by the Judge.
27. The appellant also claims in his reply to questions put to him that he worked as a labourer. In reply to a question asked in the Preliminary Information Questionnaire in which the appellant was asked to give details of places where he had worked in the last 5 years and what his role was he replied "labourer". This changed later to a claim he was a shepherd when the incident he claims entitled him to a grant of international protection occurred, which does not appear to have been commented upon by the Judge.
28. If the question of whether the appellant's claim his father had to flee and move to Jalawla was not raised the Judge cannot be criticised for not making findings upon the same. If such claim is, however, not credible then the appellant must have been born in the IKR.
29. The Judge fails to make any or adequate findings upon the credibility of the appellant's claim never to have received a CSID or ID card in Iraq and his consequential claim that as a result there will be no details in the family record, prohibit him from being issued with a document at this stage. The appellant's claim to this effect was not accepted by the Secretary of State.
30. I find the above respondent has established on the basis of the available material that the Judge materially erred in law for the reason stated in relation to allowing the appeal on humanitarian protection and article 3 ECHR grounds. This aspect of the appeal will have to be considered afresh. The rejection of the protection claim is sustainable and a preserved finding.

Discussion

- 12.** It was directed by the Upper Tribunal that the appellants written evidence shall stand as his evidence in chief. The appellant was cross-examined by Ms Young and there was no re-examination by Mr Hussain.
- 13.** The appellant maintained his account that his father had to leave their original home area in the IKR and move but fails to explain why, even if his family had to move from their original home to Jalawla, the only office recording the family details would remain that in the province of Sulaymaniyah to which the appellants birth would have to be registered, and that as a result of his father's problems they did not take the appellant there to get it registered.
- 14.** It is accepted that an entry is made at the location where the family reside in the relevant family book, most Iraqi families and tribes having a settled area, but also that individuals within Iraq can move, for example on marriage, or for other reasons. Insufficient evidence was provided to show that the family registration system in Iraq is so inflexible that it did not have the capacity to enable an individual to move and to record their details in a family book in their new area. Indeed it is likely that where an individual did move new records will be created in their new local CSA office with the original records having a notation on them that this had occurred.
- 15.** The appellant's claim that his father was a spy and related risk was part his package of evidence found to lack credibility by the First-tier Tribunal.
- 16.** As noted in the error of law hearing a CSID, before the introduction of the INID in 2016, is of critical importance of enabling a person to access services and effectively to live a normal life in Iraq.
- 17.** In an Immigration and Refugee Board of Canada document dated 25 November 2013 it is written:
 1. Purpose and Use of the Civil Status Identification Card

Sources indicate that the Iraqi Civil Status Identification Card [also known as al-Bitaqat al-Shikhsiya (MECS 9 Sept. 2012), the Civil Status Identification Document (IDMC 10 Oct. 2011, 35), or the National Identity Card (US 20 May 2013, 5)] is one of the main identity documents in Iraq (MECS 9 Sept. 2012; IDMC 10 Oct. 2011, 35; IOM 23 Nov. 2013). Middle East Consultancy Services (MECS), a London-based company that provides, among other services, authentication of documents from the Middle East (MECS n.d.), describes the Civil Status ID as "perhaps the most important official document in Iraq" and notes that it is "treated like a birth certificate" (9 Sept. 2012). Similarly, in correspondence with the Research Directorate, a representative of the International Organization for Migration (IOM) Iraq Mission, which has over 300 field staff in Iraq working to implement humanitarian and migration initiatives for vulnerable populations affected by displacement (IOM n.d.), said that it is the "basic" ID and "main card" for identification in Iraq and that it should be possessed by all citizens (23 Nov. 2013).

According to the Internal Displacement Monitoring Centre (IDMC), an international NGO affiliated with the Norwegian Refugee Council that monitors internal displacement worldwide (IDMC n.d.), the Civil Status ID and the Nationality Certificate are needed to access public services, including food assistance through the Public Distribution System (PDS), healthcare, employment, education and housing, as well as to obtain a passport (IDMC 10 Oct. 2011, 35). According to the UN High Commissioner for Refugees (UNHCR), employers require employees to have a Civil Status ID in order to obtain work (UN 31 May 2012, 54). The US Department of State's International Religious Freedom Report for 2012 indicates that the Civil Status ID is required to register children in school and to obtain passports (US 20 May 2013, 5).

Information about the appearance of the Civil Status ID was scarce among the sources consulted by the Research Directorate within the time constraints of this Response. MECS indicates that the Civil Status ID contains a photo of the bearer (9 Sept. 2012). Sources indicate that the Civil Status ID contains the religion (US 20 May 2013, 5; US 28 Apr. 2011) and ethnicity of the bearer (ibid.). According to the International Religious Freedom Report for 2012, the Civil Status ID does not specify if someone is Sunni or Shia Muslim (US 20 May 2013, 5).

According to the IOM Iraq Mission representative, there is no date indicating the duration of validity of the Civil Status ID (23 Nov. 2013). Further information about the validity period for the Civil Status ID could not be found among the sources consulted by the Research Directorate.

- 18.** It has not been shown there is any merit in an argument, even if the appellant's claim his father was a spy is true and they had to flee the Kurdish region as a result, that registration of the family including the appellant on his birth would remain within Sulaymaniyah governorate, within the IKR.
- 19.** If the appellants father had been forced to flee to the government controlled area, it is implausible to suggest he would have been able to obtain at home, work, obtain medical treatment, and to live the life they did without the necessary identity documents. It is accepted there was a spy network within Iraq under the government of Saddam Hussein and it was not made that if the appellant's father was a spy who had to flee to a government-controlled area for his safety that he would not have been 'looked after' by those he was working for. The appellant's father fled prior to the appellant and his sister's birth prior to 1996 and was able to raise a family within their new area for which he must have had work and a source of income to buy the basic necessities they needed.
- 20.** It is also noted the appellant claimed his uncle arranged for an agent to take him from Iraq to the UK which would have been at considerable cost. The family therefore must have had access to resources to fund such a journey.
- 21.** If the appellants claim of the events in Iraq is true, I find it implausible that the appellant's birth would not have been registered or that his father would not have obtained a CSID for him at their local CSA office.

The father was clearly aware of the procedure as the appellant's evidence confirmed that his father had a CSID.

- 22.** The appellant also has a younger sister and his claim that she would not have had a CSID has not been shown to be credible in light of the country information stressing the importance of this document.
- 23.** The appellant was asked by Ms Young in light of the background evidence showing how important a CSID is, how the appellant was able to live and work in Iraq without the same. He claimed he was a shepherd, and the shepherds did not need a CSID and that he had never worked for a government office and therefore never needed a CSID, but that claim also lacks credibility. I was not referred to any country information showing that this form of identity was only required if a person sought employment within government offices, as it covers a whole range of services as noted in the country material.
- 24.** When the appellant was asked what he would do if he needed one he claimed that he did not have one. That did not answer the question.
- 25.** The appellant's father worked in Iraq although when asked what he did the appellant's evidence on the same was not precise and was lacking in detail.
- 26.** I am also aware that education in Iraq is compulsory and that there is six years of mandatory primary education starting from the age of six, followed by three years of intermediate schools and three years of secondary education. The appellant lived in a government-controlled area. I find his birth would have been registered, and that he will be required to attend some form of education. I do not find his claim to be uneducated to the extent he has had no education to be true.
- 27.** I am aware of country material by way of a report referring to a large number of displaced children in Iraq not receiving the required education as a result of the actions of ISIS, but the appellant was born on 19 June 1996 and would have been six years of age in 2002 prior to the involvement of ISIS in his alleged home area as noted below. That period of Iraqi history was relatively stable with a presidential referendum occurring on 16 October 2002 to support a further seven year term of the president Saddam Hussein.
- 28.** The appellant also claims he was working for a Major in the Iraqi army and it is reasonable to expect that such a person may well require a potential employer to produce evidence of his identity.
- 29.** In regard to the appellant's employment there is also the issue referred to in the area of law finding that in his initial evidence, when asked about employment, the appellant claimed he was a labourer which he changed by the time of his asylum interview to a claim that he worked as a shepherd. While a person could work as both a labourer and then as a shepherd that is not how the appellant's initial evidence reads.
- 30.** The appellant confirmed he had made contact with his maternal uncle since leaving Iraq, but when asked how, he claimed he was in contact with the agent that he contacted his uncle through the agent. The appellant claimed not to know anything about whether payment had been made to get him to the UK and that he was not in contact with

his uncle now as he claimed he had no documents to show who was and that he only knew the agent's name. He claims to have no contact with his father who he claims to have disowned him but if the reason he makes such a claim is as a result of the alleged events involving the Major's son when there was clearly the willingness of the appellant to telephone his father, who he claims refused to help him, those events have been found to lack credibility and not to have occurred, which undermines the appellant's claim that the relationship with his father broke down for that reason.

- 31.** The appellant does not sufficiently deal with the concerns raised at the error of law finding regarding the reality of the CSID and I find the appellant has not been truthful in relation to his claim to have no contact with his family, not to have been registered for a CSID, or not to have been in possession of such document or any form of appropriate identification.
- 32.** A submission was made on behalf of the appellant that he is credible and that he was not aware of what his father had done and that he was only expressing what he had understood from the family circumstances. It was submitted the appellant does not have the means of redocumentation and that if it was found the appellant did not have a CSID in his possession and no family contact, as he claims, he must succeed. It was also argued that even if he had a CSID in the past he could not contact his family and could not be returned as per the July 2022 CIPU.
- 33.** Mr Hussain also argued the appellant could not get to Jalawla as he would be unable to travel through checkpoints without the appropriate form of documentation.
- 34.** As with many of these cases, the key issue is that of credibility. The appellant has been found to have lied in relation to his protection claim. I find the appellant has not told the truth in relation to his CSID when assessing the claim on both an objective and subjective basis. The appellant lived in Iraq for a long time prior to the date he left to come to the United Kingdom and I find it implausible that he would have been able to live a normal life in the country, which the evidence indicates he was able to, including employment, receiving payment of wages, etc, without the necessary form of identification. The appellant's claim his father did not have a CSID lacks credibility when one looks at the evidence concerning the family situation.
- 35.** I accept the fact the appellant has been found to have lied in relation to key aspects of the claim may not mean that everything he is now saying is not true, but it does mean there is a need to carefully assess the evidence to ensure that even to the applicable lower standard weight can be placed upon what the appellant is claiming.
- 36.** The appellant claimed he had been disowned by his father but that appears to be in connection with the reasons behind the claimed need for international protection which have been found to lack credibility.
- 37.** The appellant clearly had a line of contact to his uncle and it is not known why, if his uncle helped him flee Iraq, he would not have provided a means of direct contact rather than having to go through a

third party. I find this aspect of the claim implausible. I accept it is normal practice for agents to contact those responsible for making the balance of the payment of the costs of taking a person to the UK once they have safely arrived, but to suggest the appellant's uncle and other family effectively abandoned him without providing a means of direct communication without giving him the ability to contact them if an emergency situation arose or for any other reason, I find implausible.

- 38.** I note the appellant refers to Jalawla as a village in one part of his evidence whereas country material describes it as a town or city and although the appellant refers to a problems being encountered with the Major forcing him to have to leave the area in October 2018 there is insufficient reference in his evidence to experiencing any adverse experiences previously despite Jalawla having been overrun by Isis who attacked the area in 2014 displacing nearly all of the 80,000 ethnic diverse population resulting in the town changing hands several times before a final offensive in November 2014 before the Kurdish Peshmerga and Shia militia men (the Peshmerga have been fighting Isis for six months prior to this) regained control of the area.
- 39.** A further issue that undermines the appellant's claim is that he was fingerprinted in Greece on 20 July 2018 yet denied this in his asylum interview claiming the only country he had been fingerprinted in was the United Kingdom and that he was not stopped or arrested because he was in his lorry, when the evidence available to the respondent clearly shows otherwise. This is a further example of the appellant being willing to lie to try and enhance his asylum claim even in the face of clear evidence that he had been stopped and fingerprinted in Greece. The significance of the fingerprinting event also shows the appellant has not been truthful in relation to his immigration history. The appellant claimed he left Iraq in October 2018 and travel to Turkey but he was in Greece in July 2018.
- 40.** The appellant's claim to have worked for the Major three months prior to the incident that caused him to flee which places that period of employment in or around June/July to October 2018, and then to have hidden in his uncle's basement for 15 days, which cannot be true if he was in Greece in July and must have left Iraq some time previous to this. The relevant section of the asylum interview in relation to this matter reads:
131. Question (required)
- I have evidence stating you are fingerprinted in Ostestiada in Greece on 20 July 2018. Everyone has a unique fingerprint and this is showing you are fingerprinted in Greece. Can you please explain?
132. Response (required)
- I was not stopped, arrested I was in the lorry.
- 41.** There is reference this event at [16] of the Reasons for Refusal letter which is an event that further exposes the lack of truth in the appellant's claims.

- 42.** Having considered all the evidence holistically, I find the appellant has failed to discharge the burden of proof upon him to the required standard to show that his claimed lack of possession of or access to a CSID and lack of access to family members or ongoing contact with family members in Iraq is true.
- 43.** The lack of credibility in the appellant’s claim means a specific finding cannot be made as to the whereabouts of his CSID which must either be with him or at home with his family.
- 44.** I find there is no evidence the appellant destroyed his CSID, his claim being that he never had one, although I do not find that is credible.
- 45.** I therefore conclude that the appellant has failed to discharge the burden upon him to the required standard to show that he does not have access to the required identity documents enabling him to return to Iraq safely and to be able to travel within Iraq and access services as required.
- 46.** The lack of credibility in relation to the appellant’s claim means the appellant has failed to establish he will not have family support on return to Iraq or that it will be unreasonable in all the circumstances for him to relocate within the IKR if required. He has not produced sufficient evidence to support a finding in the alternative.

Decision

47. I dismiss the appeal.

Anonymity.

48. 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 22 August 2022

