



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM**  
**CHAMBER**

Case No: UI-2022-000048

First-tier Tribunal No: PA/51884/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 17<sup>th</sup> of November 2023**

**Before**

**UPPER TRIBUNAL JUDGE MANDALIA**

**Between**

**N Y F**  
**(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Mr A Joseph, counsel, instructed by NLS Solicitors  
For the Respondent: Mr P Lawson, Senior Home Office Presenting Officer

**Heard at Cardiff Civil Justice Centre on 9 November 2023**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.**

**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.**

**DECISION AND REASONS**

1. The appellant is a national of Iraq and or Kurdish ethnicity. He arrived in the UK on 23 August 2019 and claimed asylum. The claim was refused by the respondent for reasons set out in a decision dated 4 April 2021. The appellant's appeal against that decision was dismissed by First-tier Tribunal Judge Clemes for reasons given in a decision dated 21 November 2021. Permission to appeal to the Upper Tribunal was granted by Upper Tribunal Judge Lindsley on 21 February 2022.
2. The decision of Judge Clemes was set aside by Upper Tribunal Judge Grubb and Deputy Upper Tribunal Judge Davidge for reasons set out in an 'error of law' decision issued on 16 May 2023. The Upper Tribunal was taken through a forensic analysis of the evidence that was before the First-tier Tribunal and the findings reached by the judge. The respondent accepted, as the Upper Tribunal noted at paragraph [9] of its decision, the Judge had failed to make the necessary findings on whether the appellant had lost his CSID card in Iraq as he claimed, or if it remains with his family in Iraq.
3. Although the decision of Judge Clemes was set aside, the Upper Tribunal preserved the adverse credibility findings made against the appellant save in one respect. That was the inconsistency in the evidence of the appellant that the appellant had said on the one hand his maternal uncle died in 2014 and on the other, that he died in 2017. The Upper Tribunal accepted that adverse finding was based upon a misunderstanding of the chronology. The Upper Tribunal preserved all of the other findings made by Judge Clemes. At paragraph [13] of its decision the Upper Tribunal said:

“We adjourned the appeal for the re-making of the decision, limited to the issue of Article 3 and humanitarian protection and any risk on return to Iraq arising from (if that be the case) any absence of identity documentation and the implications for him if he does not have access to his CSID or is unable to obtain an INID from the relevant local CSA office in Kirkuk. The burden of proving a breach of Article 3 lies upon the appellant to establish to the standard of a real risk or reasonable likelihood the circumstances said to give rise to serious harm namely, by living in Iraq without an INID or CSID.”

#### The preserved findings

4. The events relied upon by the appellant in support of his claim for international protection are summarised in paragraphs [3] and [5] of the decision of Judge Clemes. At paragraph [18] of the decision Judge Clemes recorded the appellant's claim that he has had no contact with his family since leaving Turkey and that he no longer has his CSID identity documentation. At paragraphs [27] to [28] of his decision Judge Clemes considered the appellant's account that he is no longer in contact with his family. He noted that despite the appellant's claim that he has made efforts to contact his family via the Red Cross, that have not borne fruit, the appellant had provided no supporting evidence of any contact being made by the appellant or his advisers with the Red Cross or the outcome of any enquiries. At paragraph [28], Judge Clemes said:

“I am not satisfied that the appellant has lost touch with his family as he claims. He made positive assertions to his GP practice that he was in touch with them and was worried about them. I find as a fact that he remains in

touch with them. They are more likely than not to be in Iraq. This is a significant point upon which the appellant altered his account by the time of his asylum interview and I am satisfied that there is an obvious reason for this...”

5. Overall, Judge Clemes was not satisfied that the appellant is a credible witness upon whom he could rely. At paragraph [38] he said:

“I am satisfied that the appellant has not made out his claim that he is or will be at risk on return to Iraq of death or injury or indeed of any adverse interest from the groups that he has described. I do not accept that his family were targeted in 2017 after they went back to Iraq or that they were maltreated in any of the various and different ways that the appellant has claimed.”

6. As far as the health of the appellant is concerned, Judge Clemes said at paragraph [45] of his decision that he is not satisfied that the appellant has made out a claim based on his mental health that his return to Iraq would engage either Article 3 or 8.

### **Remaking the decision**

7. The appeal was listed for a further hearing before me to remake the decision. The relevant country guidance is now set out in SMO & KSP (Civil status documentation; article 15) Iraq CG [2022] UKUT 00110 (IAC) (“SMO & Others II”). That country guidance bears on the question whether the appellant can safely return to his home area, a village in the Kirkuk area, and/or whether he can live elsewhere in Iraq.
8. The appellant has appealed under s82(1) of the Nationality, Immigration and Asylum Act 2002 against the decision of the respondent to refuse his claim for asylum and humanitarian protection. The appellant bears the burden of establishing his claim to the lower standard.

### The evidence before me

9. In advance of the hearing before me, the appellant’s representatives filed and served a witness statement signed by the appellant and dated 19 June 2023. At the outset of the hearing, I expressed my surprise at the brevity of that witness statement which fails to engage in any meaningful way with the issues that I am required to consider. The appellant simply confirms he does not know his family book number and he claims, *“I have no family remaining in Iraq”*. He simply maintains *“I have no contact with an (sic) family. The last time I had any contact with family was in 2018, this was my parents. I last saw them in Turkey”*.
10. The appellant gave evidence with the assistance of a Kurdish Sorani interpreter. The evidence is a matter of record and I do not recite it at any length. The appellant adopted his witness statement dated 19 June 2023. Although the statement is not endorsed with any certificate of translation, the appellant confirmed that the statement had been read to him in a language that he understands before he signed it. The appellant was tendered for cross examination.
11. The appellant confirmed he did not work in Iraq. He could not remember how old he was when he left school. He explained that he had to leave

school because of the uncertainty in the area after ISIS came to the area. The appellant was unable to say who held his CSID or where it was, when the family left Iraq. He explained that when they left, the family were concerned about their lives and did not consider the documents. He could not say if his CSID had been taken when the family left home, or if it had been left at home. He accepted the CSID is an important form of ID document in Iraq, and that it is a document needed when an individual registers at school, although children are not required to carry it all the time. Asked whether his family would keep such an important document safe at home, the appellant responded that that is a matter for adults and he was too young at the time. He was asked why he had claimed in interview (*Question 152*) that his CSID had got lost. He said that he could not remember seeing the document and did not know what had happened to the document so, to him, it was lost. When pressed, he accepted that it is possible that the CSID was with his family and that as he has not seen the document, he is not sure what has happened to it.

12. The appellant confirmed that he has not spoken to his family since his arrival in the UK. He denied having told a health care professional during an assessment on 3 October 2019 (*recorded on the Swansea Health Access Team – Health Assessment dated 3/10/19*) that he has been in contact with his parents since his arrival. He claimed that he does not know whether his family returned to Iraq after fighting in the area ended. He said the area is controlled by Shia Arab militia and they would not want the appellants family to return. Asked why his family could not send his CSID to him or why he could not be met at the airport with his CSID on return, the appellant claimed that his family travelled to Turkey illegally, and he has never told a health care professional that he has been in contact with his family since his arrival in the UK.
13. I asked the appellant some questions for clarification. He confirmed that in 2018, he was with his father, mother, two sisters and his brother when they travelled to Turkey. All his siblings are younger than him. He cannot recall how long they spent together in Turkey before it was decided that the appellant should be sent elsewhere. The appellant believes he was 16 or 17 years old at the time. Although he was worried about his family, his father reassured him that it was better for at least one member of the family to go and build a life elsewhere. The family wanted the appellant to be sent to a safe place. He did not know where he was being sent. I asked the appellant when he last spoke to his family. He said that it was when he was in the jungle in France. After making a call to his parents, the “smuggler” took his mobile phone from him. The appellant initially said that he could not recall how long he had had that mobile phone, but it had been given to him so that he could tell his family that he was in a safe place. The appellant went on to say that his father had given him that phone when he was in Turkey, and it remained in his possession until he was in the jungle. When the appellant spoke to his father on that last occasion, the appellant said that his father was in the “smugglers house in Turkey”. The appellant was unable to say how long he had been separated from his family at that time. He had asked his father what they were going to do, but his father simply said, “don’t worry about us”. I asked the

appellant why he had said in interview, that he had last spoken to his family when he was in Italy. The appellant explained that he had first spoken to his family when he was in Italy and that he was in regular contact with them whilst he was in Italy.

14. I also asked the appellant about his CSID card. He could not recall ever having seen the document himself. He could not recall when the CSID was issued, why it was issued, and could not recall going to an office for the card to be issued. He could not recall having a photograph taken for the purposes of the CSID. I asked the appellant how he knew that he did have a CSID. He said that it was obvious that if you register at school, then you will have a CSID.
15. In re-examination the appellant claimed that the only contact number that he had for his family was the number that had been stored on the mobile phone given to him. The appellant said that he had not written down the number anywhere else. He claimed he did not have access to a pen. He confirmed that the mobile phone was taken off him by the agents when he was in the jungle and it was destroyed. After that, he had no means of contacting his family.

#### Decision

16. I have had the opportunity of hearing the appellant give evidence, and seeing that evidence tested in cross-examination. Matters of credibility are never easy to determine, particularly, as here, where the evidence is received through an interpreter. I acknowledge that there may be a danger of misinterpretation, but I was satisfied that the appellant understood the questions asked, and the interpreter had a proper opportunity to translate the answers provided by him. In reaching my decision I have been careful not to find any part of the account relied upon, to be inherently incredible, because of my own views on what is or is not plausible. I have considered the claims made the appellant and the story as a whole, against the available country evidence and other familiar factors, such as consistency with what has been said before, and the documents relied upon.
17. As I reiterated during the course of Mr Joseph's submission, if a court or Tribunal concludes that a witness has lied about one matter, it does not follow that he has lied about everything. It does not follow from the adverse findings previously made about the core of the appellant's account that his account of his CSID document in particular, is incredible too. A witness may lie for many reasons, for example, out of shame, humiliation, misplaced loyalty, panic, fear, distress, confusion, and emotional pressure. That is because a person's motives may be different as respects different questions. I have borne that in mind in reaching my decision.
18. Judge Clemes previously rejected the claim that the appellant has no contact with his family in Iraq, and found that it is likely that they are in Iraq. In his witness statement and his evidence before me, the appellant has maintained that he has no family remaining in Iraq and that he does not have any contact with his family. There is nothing in the evidence

before me that undermines what was said by Judge Clemes and the conclusions he reached upon the appellant's evidence in this respect.

19. Like Judge Clemes, I do not find the appellant to be a credible witness. Despite the appellant's youth at the time he left Iraq, and his vulnerability by reason of his mental health, I find, as Judge Clemes did previously that the appellant is a fundamentally disingenuous witness, and as Mr Lawson submits "is a stranger to the truth". It became increasingly clear to me as I heard the evidence of the appellant that he is quite prepared to change his account, to suit his needs.
20. I reject the appellant's claim that he has no contact with his family. His account is littered with inconsistencies.
  - a. In his asylum interview on 17 November 2020, the appellant claimed the family left Iraq and stayed in Istanbul. He remained with his family for 5 or 6 months before his father decided to send the appellant away; (Q.88). He claimed he left them there and that he has not spoke to them since; (Q. 89 and 90). He then claimed he spent 3 of 4 days in Italy and that he had contacted his family to let them know he was alive, using a small mobile phone (Q.94 to 97). The appellant claimed that while he was in the 'Jungle', the agents took his mobile phone and destroyed it. (Q. 160). He made no mention of any contact with his family when he was living in the jungle.
  - b. In the appellant's skeleton argument relied upon at the hearing before First-tier Tribunal Judge Clemes, the appellant's claim was advanced on the basis that the appellant has had no contact with his family since leaving Turkey; (paragraph 13). In his witness statement dated 7 September 2021 that he relied upon before Judge Clemes previously, the appellant said he has had no contact with his family since he left them in Turkey; (paragraph 7).
  - c. A health assessment disclosed with the appellant's medical records that were before the FtT previously establishes that during a 'Health Assessment' completed by 'Swansea Health Access Team' on 3 October 2019, the appellant claimed that he has been in contact with his family since his arrival in the UK.
  - d. The appellant's oral evidence before me was that he had maintained regular contact with his family when he was in Italy and that he last spoke to his father when he was in the jungle in France.
21. I reject the appellant's claim that the mobile phone in which his family's contact details are stored, was destroyed by the agents as he claims. I equally do not accept that the appellant has no record of, and does not know the contact details for his family. In paragraph [392] of SMO, KSP & IM (Article 15(c); identity documents)(CG) [2019] UKUT 00400 (IAC) "SMO & Others I", the Tribunal noted that Iraq is a collectivist society in which the family is all important. It is also a country with a high prevalence of mobile telephone usage amongst the adult population. Given the background material, it is contrary to common sense and experience of human behaviour that the appellant's father would have been anxious for

the appellant to have some means of contacting the family so that they can ensure he is safe, and, that the appellant would have been expected to rely upon nothing more than a mobile phone number stored on a device given to him during the journey. According to what the appellant claimed during interview, his father had spent a substantial sum of money to ensure the appellant is safe. He would have had no assurance that the appellant was safe when he was living in the Judge in France and during a time when arrangements were still being made for the appellant to travel to the UK. On the account advanced by the appellant, the appellant's contact with his father during the journey was important and there would have been no reason for the agent to have destroyed the appellant's mobile phone for the reasons advanced by the appellant. The appellant's family will have been concerned about the appellant and the appellant and will have been concerned about them. Even to the lower standard, I do not accept the appellant would not have maintained contact with his family, particularly when there is a high prevalence of mobile telephone usage amongst the adult population in Iraq.

22. Furthermore, and in any event, even to the lower standard, I do not accept the appellant's claim that he did not tell a health professional when the health assessment was completed on 3 October 2019 that he has been in contact with his family since his arrival in the UK. It is clear that during that assessment the appellant claimed he was feeling low in mood due to his circumstances and because he is missing his family. It is unsurprising in that context, that the assessor would enquire about the appellant's contact with his family. There is no reason why the assessor would record that the appellant has been in contact with his family since his arrival in the UK, if that is not what the appellant had said. It is likely that, in the context of a medical assessment during which the appellant may not have appreciated that anything he said may be scrutinised as relevant to his immigration claims, he will have been more open and honest about his contact with his family. I find the appellant has throughout, and even now, remained in contact with his family.
23. I find, as Judge Clemes did before, that to the lower standard the appellant is not being honest as to the whereabouts of his family. If they had left in 2017, I find they have since returned to their home in Iraq. They did so, after previously leaving the family home in 2014 and they will have done so, if they had in fact ever left in 2017, following their stay in Turkey. In his asylum interview on 17 November 2020, the appellant claimed his family in Iraq are all dead (Q. 14). He later accepted that he left them in Turkey and he does not know what has happened to them. (Q.161). In the end, the appellant was bound to accept before me that he was not sure what happened to his family after he left them in Turkey. His evidence before me was that when he spoke to his father when the appellant was in France, the family were "in a smugglers house in Turkey". I do not accept that as a truthful account. The appellant is well aware of where his family are and his claim that he does not know where they are is entirely undermined by my finding that he remains in contact with them.

24. Judge Clemes noted in his decision that there was no supporting evidence before him of any contact being made by the appellant or his advisers with the Red Cross or the outcome of any enquiries being made by them. Despite the passage of time, even now, there is no evidence of the appellant making any meaningful attempt to find or establish contact with his family. He does not need to if, as I find, he has remained in contact with them throughout.
25. In any event, a simple referral to the Red Cross and the absence of a successful trace of the appellant's family is not sufficient for me to conclude that the appellant has lost contact with his family as he claims.
26. Finally, as far as the appellant's CSID is concerned, in his asylum interview on 17 November 2020, the appellant claimed he had a CSID but it was 'lost' and he does not know where it is. (Q.152 to 153). The appellant accepts, and I find that he had a CSID when he was in Iraq. Although I am prepared to accept the appellant's explanation that he said the CSID was 'lost' because he had not been in possession of it, I do not accept that it was a document that he cannot recall seeing. It is an important document in Iraq and notwithstanding his relative youth, I find that the appellant will have been aware of his CSID and where it was kept. I find that the appellant has been deliberately vague as to the whereabouts of his CSID to bolster the claim he now relies upon. To the lower standard I find that the appellant's CSID will have been kept safely by his parents in Iraq, given the importance attached to that document. I find it remains in the possession of the appellant's parents, as it was in the past, and that they have access to the document.
27. The appellant's case is to be considered in light of the latest country guidance set out in SMO & Others II. As far as is relevant, the headnote states:

**A. INDISCRIMINATE VIOLENCE IN IRAQ: ARTICLE 15(C) OF THE QUALIFICATION DIRECTIVE**

1. *There continues to be an internal armed conflict in certain parts of Iraq, involving government forces, various militia and the remnants of ISIL. Following the military defeat of ISIL at the end of 2017 and the resulting reduction in levels of direct and indirect violence, however, the intensity of that conflict is not such that, as a general matter, there are substantial grounds for believing that any civilian returned to Iraq, solely on account of his presence there, faces a real risk of being subjected to indiscriminate violence amounting to serious harm within the scope of Article 15(c) QD.*
2. *The only exception to the general conclusion above is in respect of the small mountainous area north of Baiji in Salah al-Din, which is marked on the map at Annex D. ISIL continues to exercise doctrinal control over that area and the risk of indiscriminate violence there is such as to engage Article 15(c) as a general matter.*
3. *The situation in the Formerly Contested Areas (the governorates of Anbar, Diyala, Kirkuk, Ninewah and Salah Al-Din) is complex, encompassing ethnic, political and humanitarian issues which differ by region. Whether the return of an individual to such an area would be*

contrary to Article 15(c) requires a fact-sensitive, “sliding scale” assessment to which the following matters are relevant.

4. Those with an actual or perceived association with ISIL are likely to be at enhanced risk throughout Iraq. In those areas in which ISIL retains an active presence, those who have a current personal association with local or national government or the security apparatus are likely to be at enhanced risk.
5. The impact of any of the personal characteristics listed immediately below must be carefully assessed against the situation in the area to which return is contemplated, with particular reference to the extent of ongoing ISIL activity and the behaviour of the security actors in control of that area. Within the framework of such an analysis, the other personal characteristics which are capable of being relevant, individually and cumulatively, to the sliding scale analysis required by Article 15(c) are as follows:
  - (i) Opposition to or criticism of the GOI, the KRG or local security actors;
  - (ii) Membership of a national, ethnic or religious group which is either in the minority in the area in question, or not in de facto control of that area;
  - (iii) LGBTI individuals, those not conforming to Islamic mores and wealthy or Westernised individuals;
  - (iv) Humanitarian or medical staff and those associated with Western organisations or security forces;
  - (v) Women and children without genuine family support; and
  - (vi) Individuals with disabilities.
6. The living conditions in Iraq as a whole, including the Formerly Contested Areas, are unlikely to give rise to a breach of Article 3 ECHR or (therefore) to necessitate subsidiary protection under Article 15(b) QD. Where it is asserted that return to a particular part of Iraq would give rise to such a breach, however, it is to be recalled that the minimum level of severity required is relative, according to the personal circumstances of the individual concerned. Any such circumstances require individualised assessment in the context of the conditions of the area in question.

#### **B. DOCUMENTATION AND FEASIBILITY OF RETURN (EXCLUDING IKR)**

7. Return of former residents of the Iraqi Kurdish Region (IKR) will be to the IKR and all other Iraqis will be to Baghdad. The Iraqi authorities will allow an Iraqi national (P) in the United Kingdom to enter Iraq only if P is in possession of a current or expired Iraqi passport relating to P, or a *Laissez Passer*.
8. No Iraqi national will be returnable to Baghdad if not in possession of one of these documents.
9. In the light of the Court of Appeal's judgment in *HF (Iraq) and Others v Secretary of State for the Home Department* [2013] EWCA Civ 1276, an international protection claim made by P cannot succeed by reference to any alleged risk of harm arising from an absence of a current or expired Iraqi passport or a *Laissez passer*, if the Tribunal finds that P's

*return is not currently feasible on account of a lack of any of those documents.*

10. *Where P is returned to Iraq on a Laissez Passer or expired passport, P will be at no risk of serious harm at the point of return by reason of not having a current passport.*

### **C. CIVIL STATUS IDENTITY DOCUMENTATION**

11. *The CSID is being replaced with a new biometric Iraqi 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. Many of the checkpoints in the country are manned by Shia militia who are not controlled by the GOI and are unlikely to permit an individual without a CSID or an INID to pass.*
12. *In order to obtain an INID, an individual must personally attend the Civil Status Affairs (“CSA”) office at which they are registered to enrol their biometrics, including fingerprints and iris scans. The CSA offices in which INID terminals have been installed are unlikely – as a result of the phased replacement of the CSID system – to issue a CSID, whether to an individual in person or to a proxy. The reducing number of CSA offices in which INID terminals have not been installed will continue to issue CSIDs to individuals and their proxies upon production of the necessary information.*
13. *Notwithstanding the phased transition to the INID within Iraq, replacement CSIDs remain available through Iraqi Consular facilities but only for those Iraqi nationals who are registered at a CSA office which has not transferred to the digital INID system. Where an appellant is able to provide the Secretary of State with the details of the specific CSA office at which he is registered, the Secretary of State is prepared to make enquiries with the Iraqi authorities in order to ascertain whether the CSA office in question has transferred to the INID system.*
14. *Whether an individual will be able to obtain a replacement CSID whilst in the UK also 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, some Iraqi citizens are likely to recall it. Others are not. Whether an individual is likely to recall that information is a question of fact, to be considered against the factual matrix of the individual case and taking account of the background evidence. The Family Book details 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. *Once in Iraq, it remains the case that an individual is expected to attend their local CSA office in order to obtain a replacement document. All CSA offices have now re-opened, although the extent to which records have been destroyed by the conflict with ISIL is unclear, and is likely to vary significantly depending on the extent and intensity of the conflict in the area in question.*
16. *An individual returnee who is not from Baghdad is not likely to be able to obtain a replacement document there, and certainly not within a*

*reasonable time. Neither the Central Archive nor the assistance facilities for IDPs are likely to render documentation assistance to an undocumented returnee.*

- 17. A valid Iraqi passport is not recognised as acceptable proof of identity for internal travel by land.*
- 18. Laissez Passers are confiscated on arrival and will not, for that reason, assist a returnee who seeks to travel from Baghdad to the IKR by air without a passport, INID or CSID. The Laissez Passer is not a recognised identity document for the purpose of internal travel by land.*
- 19. There is insufficient evidence to demonstrate the existence or utility of the 'certification letter' or 'supporting letter' which is said to be issued to undocumented returnees by the authorities at Baghdad International Airport.*
- 20. The 1957 Registration Document has been in use in Iraq for many years. It contains a copy of the details found in the Family Books. It is available in either an individual or family version, containing respectively the details of the requesting individual or the family record as a whole. Where an otherwise undocumented asylum seeker is in contact with their family in Iraq, they may be able to obtain the family version of the 1957 Registration Document via those family members. An otherwise undocumented asylum seeker who cannot call on the assistance of family in Iraq is unlikely to be able to obtain the individual version of the 1957 Registration Document by the use of a proxy.*
- 21. The 1957 Registration Document is not a recognised identity document for the purposes of air or land travel within Iraq. Given the information recorded on the 1957 Registration Document, the fact that an individual is likely to be able to obtain one is potentially relevant to that individual's ability to obtain an INID, CSID or a passport. Whether possession of a 1957 Registration Document is likely to be of any assistance in that regard is to be considered in light of the remaining facts of the case, including their place of registration. The likelihood of an individual obtaining a 1957 Registration Document prior to their return to Iraq is not, without more, a basis for finding that the return of an otherwise undocumented individual would not be contrary to Article 3 ECHR.*
- 22. The evidence in respect of the Electronic Personal Registry Record (or Electronic Registration Document) is presently unclear. It is not clear how that document is applied for or how the data it contains is gathered or provided. On the state of the evidence as it presently stands, the existence of this document and the records upon which it is based is not a material consideration in the evaluation of an Iraqi protection claim."*

#### Application of the Country Guidance and Background Material to the facts found

28. To summarise, the appellant is from Kirkuk, a formerly contested area. The appellant's family remain in Kirkuk, Iraq, and the appellant has maintained contact with them since his arrival in the UK and is able to contact them. The appellant had a CSID when he left the family home and it was there when the appellant left Iraq.

29. I note from the decision of the Upper Tribunal in SMO & Others II that although there continues to be an internal armed conflict in certain parts of Iraq involving government forces, various militia and the remnants of ISIL, the intensity of that conflict is not such that, as a general matter, there are substantial grounds for believing that any civilian returned to Iraq, solely on account of his presence there, faces a real risk of being subjected to indiscriminate violence amounting to serious harm within the scope of Article 15(c) QD.
30. The situation in the formerly contested areas, including Kirkuk is complex and whether the appellant can return to that areas requires a fact sensitive 'sliding-scale' assessment. The core of the appellant's account has been rejected. He has no actual or perceived association with ISIL and he does not have any of the characteristics that are identified in paragraph [5] of the Headnote in SMO and Others II.
31. The appellant has a CSID in Iraq and there is no evidence to suggest that his CSID is not available to the appellant from his family who remain in Kirkuk, and with whom I find, the appellant maintains contact. The question of obtaining a replacement does not therefore arise. There is no reason why the appellant cannot take immediate steps, with the assistance of his family to have his CSID sent to him here in the UK or why the appellant could not be met by his family or relatives, in Baghdad, with the CSID, within a reasonable time of the appellant's arrival to facilitate safe travel between Baghdad and Kirkuk. On the findings made, I reject the claim that the appellant will be at risk in making the journey from Baghdad to his home area and I find there will not be a breach of Article 3.
32. It follows that I dismiss the appeal on Asylum, humanitarian protection and Article 3 grounds.

**Notice of Decision**

33. The appellant's appeal is dismissed on asylum, Article 3 and Humanitarian protection grounds.

**V. Mandalia**  
**Upper Tribunal Judge Mandalia**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber  
**10 November 2023**