



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

Appeal Number: PA063222016

THE IMMIGRATION ACTS

**Heard at Bradford
On 13th July 2017**

**Decision and
Promulgated
On 14th July 2017** **Reasons**

Before

DEPUTY UPPER TRIBUNAL JUDGE KELLY

Between

**A H K
(ANONYMITY DIRECTED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss S Khan, Counsel instructed by Parker Rhodes
Hickmotts Solicitors

For the Respondent: Mr M Dwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Iraq who was born on the 15th August 1987. He appeals against the decision of First-tier Tribunal Fowell, promulgated on the 5th December 2016, to dismiss his appeal against the respondent's refusal of his Protection Claim. I extend the anonymity direction that was made in the First-tier Tribunal.
2. There are four grounds of appeal. The first ground complains that the Tribunal failed to assess the feasibility of the appellant's return to Iraq. This

is argued to be a material error of law because the outcome of this assessment is critical to the relevance or otherwise of the fact that the appellant does not possess a CSID. The second ground complains that the judge failed to assess the impact that the absence of a CSID would have upon the appellant's ability to relocate internally within Iraq should it prove feasible for him to be returned to that country. Both those grounds were based upon the Tribunal's failure to follow the country guidance in **AA (Article 15(c))** [2015 UKUT 544 (IAC)]. However, since those grounds were settled, the Court of Appeal has held that it is necessary to decide whether the claimant has a CSID (or will be able to obtain one reasonably soon after arrival in Iraq) regardless of the feasibility of his return. The consequence of that decision is that ground 1 is now otiose and the appeal must in any event succeed on ground 2. The third ground argues that the Tribunal excluded from its consideration a number of other factors that were critical to the assessment of the reasonableness of internal relocation within Iraq. It is thus intimately linked to the argument in the second ground, which I have held is bound to succeed for the reasons already given. I therefore set aside the decision of the First-tier Tribunal.

3. It is clear that Judge Fowell did not make the necessary findings of fact that would have enabled me to apply the amended country guidance that was handed down by the Court of Appeal in **AA (Iraq)** [2017] EWCA Civ 944. It is therefore appropriate to remit this appeal to the First-tier Tribunal for it to make those findings and thereafter to apply that guidance. This will include consideration of the matters that are set out in paragraphs 10 and 11 as well as the factors that are listed under paragraph 15 of the amended guidance. For the avoidance of doubt, none of the findings of the First-tier Tribunal (such as they are) are to be preserved.

Notice of Decision

4. The appeal is allowed, the decision of the First-tier Tribunal is set aside, and the case is remitted to the First-tier Tribunal for the decision to be remade by any judge save Judge Fowell.
5. Any further directions will be a matter for the Acting Resident Judge at Bradford.

Direction Regarding Anonymity - rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014

Unless and until a tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date: 13th July 2017

Deputy Upper Tribunal Judge Kelly