



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/07253/2017

THE IMMIGRATION ACTS

Heard at Liverpool
On 16 August 2018

Decision & Reasons Promulgated
On 24 October 2018

Before

UPPER TRIBUNAL JUDGE HANSON

Between

AKO [N]
(anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Schwenk instructed by Citizens Advice Bolton.

For the Respondent: Mr McVeety Senior Home Office Presenting Officer.

DECISION AND REASONS

1. Following a hearing at Manchester on 27 March 2018, the Upper Tribunal set aside the decision of the First-tier Tribunal which dismissed the appellant's appeal on protection and human rights grounds. The matter comes before the Upper Tribunal today for the purposes of it substituting a decision to either allow or dismiss the appeal.

Background

2. The appellant is a citizen of Iraq born on 14 July 1982 of Kurdish ethnicity. An application for international protection was refused by the respondent on 19 July 2017.
3. The core of the appellant's account is that he originates from the village of Arabok in Mosul province. He worked as a shepherd and prior to leaving Iraq lived with his mother and sister. In 2013 a Shia militia group came to the village requesting young people in the village spy on the Iraqi army and pass information gained to them. The Iraqi army also visited the village regularly and asked for information on the militia and ISIS. The appellant claims on 14 August 2014 his village was destroyed by ISIS as a consequence of which he was forced to travel to another location, about one hour from his village by car, where he stayed for 28 months before leaving Iraq on 1 December 2016, arriving in the United Kingdom and claiming asylum on 30 January 2017.

Discussion

4. Following consideration of the appellant's bundle no factual dispute was indicated to the Upper Tribunal by Mr McVeety. It was accepted that the issue was the availability of the appellant's CSID and the possibility of his being able to obtain one either before or on return to Iraq. It was accepted by Mr McVeety that if the appellant could not obtain such a document his appeal must succeed in light of the current country guidance case law.
5. The issue is that of internal relocation to the IKR in relation to which possession of a CSID and/or the feasibility of obtaining one is a key issue.
6. The two main country guidance cases are *AA (Article 15(c)) Iraq CG [2015] UKUT 544 (IAC)* (unchanged by the Court of Appeal) in which it was held that (i) the Respondent will only return an Iraqi national (P) to the IKR if P originates from the IKR and P's identity has been "pre-cleared" with the IKR authorities. The authorities in the IKR do not require P to have an expired or current passport, or laissez passer; (ii) the IKR is virtually violence free. There is no Article 15(c) risk to an ordinary civilian in the IKR; (iii) A Kurd (K) who does not originate from the IKR can obtain entry for 10 days as a visitor and then renew this entry permission for a further 10 days. If K finds employment, K can remain for longer, although K will need to register with the authorities and provide details of the employer. There is no evidence that the IKR authorities pro-actively remove Kurds from the IKR whose permits have come to an end; (iv) whether K, if returned to Baghdad, can reasonably be expected to avoid any potential undue harshness in that city by travelling to the IKR, will be fact sensitive; and is likely to involve an assessment of (a) the practicality of travel from Baghdad to the IKR (such as to Irbil by air - there is not a real risk of an ordinary civilian travelling from Baghdad airport to the southern governorates, suffering serious harm en route to such governorates so as engage Article 15(c).); (b) the likelihood of K's securing employment in the IKR; and (c) the availability of assistance

from family and friends in the IKR; (v) As a general matter, a non-Kurd who is at real risk in a home area in Iraq is unlikely to be able to relocate to the IKR, and *AAH (Iraqi Kurds – internal relocation) Iraq CG [2018] UKUT 212* in which it was found there was general agreement that for Arab Iraqis there was in general terms no reasonable internal relocation to the IKR. All returns to Iraq were via Baghdad but for a returnee of Kurdish origin in possession of a valid passport or CSID the journey whether by land or air was affordable and practical and can be made without real risk neither are there unduly harsh difficulties on the journey. Without a passport or CSID a flight could not be boarded; as there are checkpoints if the journey is made by road there is a real risk of the returnee being detained at a checkpoint if he cannot verify his identity. The verification would normally require attendance of a male family member with the returnee's identity documents but connections higher up the chain of command could also be called upon. It would not be reasonable to require the returnee to travel unless he could verify his identity. There is no sponsorship requirement for Kurds, so they would normally be permitted to enter after security screening and registering their presence with the mukhtar. Whether a returnee was at risk during the screening process was fact sensitive but coming from a family associated with ISIS, from ISIS territory and being a single male of fighting age may increase the risk, but the returnee is likely to be able to show that he arrived from the UK and therefore not immediately from ISIS territory. Family members living in the IKR would in general be required by cultural norms to accommodate him so that he would in general have sufficient assistance from the family not to render his life unduly harsh, but this would have to be determined on a case by case basis. Without the assistance of family accommodation options are limited – it costs \$300 - \$400 to rent an apartment in a modern block; whilst critical shelter arrangements are available (living in an unfinished structure, a school, a mosque, a tent etc) it would be unduly harsh for a returnee to live there without basic necessities such as food clean water and clothing. To consider whether basic necessities could be accessed account must be taken of the fact the returnee could apply for a grant under the voluntary returns scheme giving access to £1500 – financial support from other sources such as work, remittances from relatives abroad or accessing PDS rations should be considered. So far as securing employment is concerned, lone women are unlikely to secure employment, the unemployment rate for IDPs is 70%, the returnee needs a CSID in order to work, unskilled workers are at a disadvantage, patronage and nepotism are important in gaining employment so that someone with contacts is in a better position, being in a location with an association with ISIS can deter prospective employers.

7. It is not disputed on the respondent's behalf that without a CSID the appellant will be unable to access housing, benefits, or employment. Mr McVeety submits that the appellant has had his CSID with him all the time and therefore would have access to the same or will be a person who could obtain the same, but the uncontested evidence in is bundle is that the appellant does not have such a document.

8. If the appellant was in possession of his CSID or a valid passport he could travel to the IKR. Head note 3 of AA stating: *"for an Iraqi national returnee (P) of Kurdish origin in the possession of a valid CSID or Iraqi passport, the journey from Baghdad to the IKR, whether by air or land, is affordable and practical and can be made without a real risk of P suffering persecution, serious harm, Article 3 ill-treatment nor with any difficulties on the journey make relocation unduly harsh"*.
9. It was accepted on the respondent's behalf that if the appellant had a CSID and/or Iraqi passport he will be able to board a flight to the IKR even after a short stay in Baghdad. It was not suggested this is a case in which the appellant could be reasonably expected to relocate to Baghdad and to settle in that city.
10. The country guidance confirms there is no need for sponsorship for a person of Kurdish ethnicity to enter the IKR. It is said the appellant has family in Iraq, but this will only be his mother and sister.
11. It was submitted on the respondent's behalf that the appellant has some resources and could access the employment market although it is also accepted that the unemployment rate in the IKR is high.
12. There was no evidence the appellant is in possession of a valid CSID. The First-Tier Tribunal Judge records the appellant confirming he was issued with such a document which he stated in his evidence he had left in his home area. The appellant will be returned on a temporary travel document but will need to apply for a CSID.
13. It was argued by Mr Schwenk the respondent needed to indicate on what document the appellant will be returned but it is not suggested, for example, that the appellant will be returned using a valid passport. It is likely on the facts to be an emergency travel document.
14. The appellant's home area was or still is a contested area making it difficult for the appellant to obtain a CSID in person. The country guidance case confirms the appellant will be able to get one through family, but a male relative is required which it was submitted is problematic. At page 16 of the appellant's witness statement, which is not challenged, the appellant states he has no male relatives in Iraq.
15. Whether the appellant is able to obtain his CSID or successfully internally relocate depends upon his individual circumstances, but in light of the fact that he does not possess a valid passport or identity card on which he could be returned, with no male family members in Iraq, it has to be found the appellant has discharged the burden of proof to the lower standard to establish he would not be able to obtain a CSID at this time, or a valid passport, without which he could not board a plane to the IKR; forcing him to have to remain in Baghdad which has been accepted will result in circumstances that are unduly harsh in light of his circumstances and the country guidance position.
16. There also appears to be no evidence of family able to provide accommodation or care for the appellant on return and the respondent accepts it is not appropriate to return a person solely for them to enter one of the camps for Internally Displaced Persons in light of the overcrowding and problems experienced and recorded in the country information. Even if the appellant is returned with some funds it has not been established he could obtain

accommodation on a long-term basis as he will need to obtain employment. The appellant is of limited skills with no connection to the IKR and will struggle to obtain meaningful remunerative employment.

17. I find on the basis of the specific facts of this appeal the appellant has discharged the burden of proof upon him to the required standard to show that in light of his circumstances and the prevailing country guidance information he cannot be returned to Iraq. The consequence of not obtaining a CSID and/or having to remain in Baghdad is accepted by the respondent as entitling him to a right to remain in the United Kingdom.

Decision

18. **I remake the decision as follows. This appeal is allowed.**

Anonymity.

19. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make no such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....
Upper Tribunal Judge Hanson

Dated the 17 October 2018