



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

Appeal Number: PA/11152/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 19 April 2018**

**Decision & Reasons
Promulgated
On 24 April 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

**IAM
(ANONYMITY ORDER MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Spurling of Counsel

For the Respondent: Miss Z Ahmed a Home Office Presenting Officer

DECISION AND REASONS

1. The brevity of this decision is due to the commendable focus of the Representatives and narrowness of the issue.
2. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify

IAM. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to Contempt of Court proceedings. I do so in order to preserve the anonymity of IAM as this is a protection claim.

Background

3. The Respondent refused the Appellant's application for asylum or ancillary protection on 17 October 2017. His appeal against this was dismissed by First-tier Tribunal Judge Abebrese ("the Judge") following a hearing on 29 November 2017.
4. It is not necessary to go into the detail of the case. It concerned an Iraqi Kurd from Makhour which is in Mosul. That is a disputed part of Iraq currently under the control of the Iraqi Kurdish Region (IKR). The issue related to the feasibility of him being safely returned to Iraq as an individual who had not established it was reasonably likely he was at real risk in his home area from ISIL or had been personally targeted, or that he had an "unapproved relationship" with a girl.

The grant of permission

5. Judge Ford granted permission to appeal (6 February 2018) as it is arguable that the consideration given by the Judge to the viability of internal relocation from two proposed points of return (Baghdad and Erbil) for this Appellant is inadequate.

Appellant's position

6. IAM's home is within a contested area. The Judge did not focus on the general problems there or focus specifically on where IAM could go for support in obtaining his Civil Status Identity Document. The finding that the Judge made at [38] is inadequate as IAM can only get a passport if he can go home and there has been no assessment of the mechanism of his return there.

Respondent's position

7. No rule 24 notice was filed.
8. Miss Ahmed submitted that the ability of IAM to internally relocate is dealt with in the refusal letter at [56/57]. He said in his screening interview that his passport is in Iraq. The Judge was entitled to accept the Respondent's evidence of the ability to return him. It is accepted that the reasoning in the decision at [38] is very brief. He would be returning as a failed asylum seeker, with no profile, who has family, and can get a passport, and all this was detailed in the refusal letter at [39-54].

Guidance case law

9. [AA \(Article 15\(c\)\) Iraq CG \[2017\] EWCA Civ 944](#) replaced all existing country guidance on Iraq. The headnote is detailed. The relevant parts for the purpose of this appeal are to be found particularly in [9, 10, 11, 15, and 20]. I will not set them out here as it is unnecessary. The guidance in [BA \(Returns to Baghdad\) Iraq CG \[2017\] UKUT 00018 \(IAC\)](#) does not alter the position.

Discussion

10. Contrary to that which was asserted by Miss Ahmed, the refusal letter does not address the issue of his ability to relocate to Baghdad at [56] other than to quote extracts from the headnote in [AA](#). There is no assessment of IAM's personal circumstances. In those circumstances, a bland reliance on that by the Judge would be wholly inadequate. And yet that is what the Judge did as all he says is at [38]

"I am of the view on the basis of the objective material that the appellant may be (sic - "able to") return to Baghdad."

The Judge does not conduct any assessment of the objective evidence to support that assertion. He does not identify the relevant parts of [AA](#) he considered as being applicable to IAM having summarised it at [8-10] regarding returning to and moving in and from Baghdad. That is a material error of law.

11. In relation to his ability to obtain the relevant CSID or laissez faire, the Judge is equally dismissive as all he says at [38] is

"I also accept the evidence of the respondent that the appellant will be able to obtain a passport and that he will be able to obtain a laissez faire document".

The Judge does not analyse IAM's evidence regarding the difficulty of getting help in obtaining the relevant evidence or getting to where he needs to go to get it, and he does not address the factors identified in [AA](#). That is a material error of law.

12. I am satisfied having heard from the representatives that it is appropriate to remit the matter for a new hearing on the issue of the feasibility of him being safely returned to Iraq as an individual who had not established it was reasonably likely he was at real risk in his home area from ISIL or had been personally targeted, or that he had an "unapproved relationship" with a girl, as the errors, go beyond those contained within the Presidential Guidance for retention in the Upper Tribunal.

Decision:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision.

I remit the matter to the First-tier Tribunal for a new hearing with only those findings regarding his lack of specific risk from ISIL and of having had an “unapproved relationship” being preserved. The hearing shall not be before Judge Abebrese.

Deputy Upper Tribunal Judge Saffar
23 April 2018

A handwritten signature in black ink, appearing to read 'Saffar', written over a large, light-colored scribble or mark.