Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/01155/2015**

THE IMMIGRATION ACTS

Heard at Bradford	**Sent to parties on:**
On 20 October 2017	**On 13 December 2017**

Before

UPPER TRIBUNAL JUDGE HEMINGWAY

Between

MR AHMAD ZRAR BAHRAM
(ANONYMITY NOT DIRECTED)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant:	Ms R Frantzis	(Counsel)
For the Respondent:	Mr M Diwnycz	(Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is the claimant's appeal to the Upper Tribunal from a decision of the First-tier Tribunal (Judge LSL Mensah) whereupon she dismissed his appeal against the Secretary of State's decision of 3 September 2015 refusing to grant him international protection.

2. After a hearing of 8 August 2017 I set aside the decision of Judge Mensah but preserved many of the findings. I expressly did not preserve the findings and reasoning relating to the claimant's assertion (which he had made unsuccessfully before Judge Mensah) that he could not

take advantage of internal relocation alternative within Iraq. I directed a hearing, in the Upper Tribunal so that the internal relocation aspect could be completely re-determined.

3. By way of brief background, the claimant is a national of Iraq. He is of Kurdish ethnicity. He is from Kirkuk. None of that is disputed. Nor is it disputed that Kirkuk was, when matters were considered by Judge Mensah, regarded as a "contested area". The claimant, however, did not simply rely upon those matters in seeking international protection. In fact, a major aspect of his claim was his assertion that in February 2015 he had been discovered by the Iraqi police "hugging and kissing" with a female Iraqi national. He says that this came to the attention of her father who threatened him. He says that his own parents, fearing he would come to harm, sent him to live with a relative in Erbil which is located in the part of Iraq under Kurdish control ("the IKR"). But he says that the female Iraqi person's family members located him there causing him to flee Iraq. Having left Iraq he travelled through various countries prior to arriving in Austria where he claimed asylum falsely stating that he was an unaccompanied minor and giving a date of birth of 1 January 1999. That differs from the date of birth he has given to the authorities in the United Kingdom. Prior to his claim being decided he left Austria and entered the UK, in a clandestine manner, before claiming asylum here on 26 May 2015. He argued, before the Judge, that in light of the above history, if he were to be returned to Iraq he would be murdered by the family of the female with whom he had had a liaison and also by members of the Jaff Tribe, the female person and her family being members of that tribe. He also suggested that the Iraqi authorities might suspect him, upon return, of having had involvement with the organisation sometimes called Islamic State or with the Kurdish Democratic Party.

4. The Judge, like the Secretary of State, did not believe the above account of events. But she did accept that given Kirkuk's then status as a contested area he could not be expected to live there. The basis for that conclusion was that Article 15(c) of the Qualification Directive applied to contested areas in Iraq. So, it became necessary for her to consider whether he might be able to safely relocate either to Baghdad or to the IKR. She decided that he would be able to relocate. Part of her reasoning was that since he could not be believed about the claimed primary reason why he was seeking asylum, he could not be believed about matters such as his assertion he would not be able to obtain a CSID (an important identity document about which I shall say more below) and could not be believed about his claim that he would not have family support if he were to attempt to relocate.

5. Put simply, I set aside Judge Mensah's decision, whilst as I say preserving a number of the findings, because whilst the written reasons were obviously very careful and thorough, the reasoning as to internal flight was inadequate. (A fuller explanation may be found at paragraph 12 of my decision of 22 August 2017).

6. In the above circumstances I directed that there should be a further hearing so that new findings and conclusions could be reached with respect to the issue of internal relocation either to Baghdad or to the IKR. There followed a hearing before the Upper Tribunal (before me) which took place on 20 October 2017 with a view to re-determining those limited and specific matters. Representation at that hearing was as indicated above and I am grateful to each representative.

7. In remaking the decision I have taken full account of the claimant's oral evidence which I received at the hearing of 20 October 2017. I have taken full account of the submissions of each representative. I shall, below, refer to what was said at the hearing where necessary or otherwise helpful. I had the documentation which had been before Judge Mensah and the further documentation which had been sent to the Upper Tribunal by the parties. That included, amongst

other things, a new bundle of documents filed on behalf of the claimant under covering letter of 6 October 2017 and a skeleton argument prepared by Ms Frantzis. I confirm that I have given careful consideration to the documentation before me. I have also had regard, in considering internal flight, to what was said by the Upper Tribunal in AA (Article 15(c)) Iraq CG(2015) UKUT 00544 (IAC) and, with respect to Baghdad, BA (returns to Bagdad) Iraq CG(2017) UKUT 00018 (IAC).

8. The correct approach to the issue of internal flight is set out in Januzi v Secretary of State for the Home Department (2006) UKHL5 [2006] 2 AC 426. Essentially, as part of the assessment of entitlement to international protection a decision maker may determine that a claimant is not in need of such protection if in a part of the country of origin there is no well-founded fear of persecution or no real risk of serious harm and the claimant can reasonably be expected to stay in that part of the country. That will involve an assessment of the general circumstances prevailing in that part of the country and to the personal circumstances of a claimant. The key question will be whether a claimant can reasonably be expected to relocate or whether it would be unduly harsh to expect him/her to do so. Also of potential relevance is an ability on the part of a claimant to be able to safely travel from any point of return to any place of suggested internal relocation. Of course, if there is for example an Article 3 or an Article 15(c) risk in the place of return or in the place of suggested relocation then a claimant will in any event succeed.

9. I have found it necessary, in the circumstances of this case, to address the general question of the claimant's credibility. That is because I have taken the view that such an assessment might assist me in deciding whether or not particular assertions he makes which are relevant to internal fight can or cannot be accepted.

10. As to credibility, of course, the claimant was disbelieved regarding the risk he claimed stemming from the claimed liaison he had had in his home area of Kirkuk in Iraq. I preserved Judge Mensah's comprehensive and cogent reasons for disbelieving him. The claimant, in a witness statement prepared for the hearing of 20 October 2017, asserted that he had nevertheless "told the truth about what happened to me in Iraq". However, it has authoritatively been decided that he deliberately misled the Secretary of State and Judge Mensah in maintaining the claims he did and I conclude that his continued assertion as to this simply represents further dishonesty on his part.

11. The claimant, he acknowledged in his witness statement of 5 October 2017, has an aunt in Erbil. Erbil is in the IKR which is an area of suggested relocation. He asserted, as part of his false claim for asylum, that members of the family of the woman with whom he had had a liaison had been able to trace him there. So, he is stuck with the acknowledgement that he does have a family member in that part of the country. That, of course, might have potential relevance as to the viability or otherwise of relocation though I appreciate there are other issues to consider as well.

12. Unsurprisingly, the claimant was asked about his aunt in Erbil in cross-examination before me. In his written statement he had said, when addressing the question of whether family members might assist him in obtaining a CSID, "I don't have contact with my aunt so cannot contact her to vouch for me". But in cross-examination he said that some six or seven months ago he had contacted his aunt, as I understand it, by means of a "messaging APP" known as "Chat". But he said that he had then lost contact because he had lost his mobile telephone which had the relevant contact details saved on it. He also explained that he had had some contact with her via facebook but was unable to contact her via facebook again because he had had "lost her details" and because

another person had set up his facebook account for him and "I can't recall my account number or my password". Mr Diwnycz suggested that all of that represented "incredulous explanations".

13. I do not believe the claimant's contention that he has lost touch with his aunt in Erbil. He was reticent about this recent contact with her in his witness statement of 5 October 2017. He made no mention of having contacted her through an APP or through facebook. I consider he has, in this context, been economical with the truth.

14. Further, I do not accept the claimant's explanations as to how he came to lose touch with his aunt in Erbil. He had also claimed to have lost touch with his close family in Kirkuk. If that were right then I think he would have been most anxious to maintain contact with his aunt as the sole relative he was in touch with and because she might, at some stage, discover the fate of his close family and pass on any news. In these circumstances I believe he would have kept a separate record such that losing his mobile phone and forgetfulness regarding his facebook account would not cause him to lose contact as he claims.

15. There is then the question of whether or not he still has contact with his close family members in Kirkuk. In answer to question 8 of his substantive asylum interview he said that his parents and a brother were living in Kirkuk but that he had no contact with them though he also said that there had been a degree of contact via a paternal uncle in Germany. However, in my view he has shown a willingness to mislead, before me, regarding the claimed lack of contact with his aunt. If he is prepared to mislead about that it is but a small step, against a background of other dishonesty addressed above, to conclude that he is misleading about his claimed lack of contact with his close family as well. In all the circumstances I do not accept that he has lost touch with his close family in Kirkuk.

16. So, to be clear, I find that the claimant has an aunt in Erbil with whom he is in contact and that he has his parents and a brother in Kirkuk with whom he is in contact.

17. As to internal flight to the IKR, as was noted in AA, Iraqi Kurds not from the IKR are able to gain temporary entry into the IKR and formal permission to remain can be obtained if, after a short period, employment is secured. It is also the case that there is no evidence that the authorities in the IKR proactively remove Kurds whose short-term permits have come to an end. There is nothing about this particular claimant which would suggest that he would be disadvantaged in the labour market. For example, he has not indicated in any of his witness statements that there would be any health impediment to his obtaining some employment. Additionally and in any event, there is no reason why, on the material before me, his aunt would not be capable of assisting him by providing him with food and accommodation. Although mention is made in the skeleton argument of Ms Frantzis regarding unrest in the IKR "exacerbated by the recent independent referendum held on 25 September 2017" the material to which she refers does not indicate that that means Kurds from outside of the IKR will not be admitted or will be subjected to any ill-treatment. Rather, the point she is making, is that such gives rise to travel difficulties from outside the IKR to inside the IKR.

18. As to travel, I would accept Ms Frantzis' contention that the only viable means would be via Baghdad which is where this claimant, his not being from the IKR, will be being returned. She suggests cost of travelling by air from Baghdad to the IKR is a likely difficulty but the claimant had family assistance with the cost of leaving Iraq and, given my findings that he does have close family in Kirkuk and an aunt in Erbil, I see no reason why family assistance cannot be provided in the context of the cost of a flight from Baghdad to the IKR. If there is a need for a "sponsor" in the

IKR as Ms Frantzis suggests then the claimant has his aunt. Although it is contended in the skeleton argument that if the claimant is undocumented (and of course it is said that he is) he will not be accepted on a flight from Baghdad to the IKR I am not taken to any background country material or other evidence to confirm that. In any event he acknowledges that he did have an Iraq ID card albeit that he claims to have lost it (see question 14 of the substantive asylum interview). I do not accept that he has lost his ID card because he has been dishonest generally and because it is an important document which I believe, notwithstanding that he has embarked upon much travel since leaving Iraq, he would have taken steps to keep safe. I also note that he has not, at any point, sought to explain in any detail the circumstances in which its loss came about. So, I do not accept that he would be unable to board a plane.

19. In light of all of the above I reach the conclusion that the claimant will be able to travel from Baghdad to the IKR and will be able to take advantage of an internal flight alternative. I conclude that it would not be unduly harsh to expect him to do so. Having reached these conclusions then it follows that I dismiss his appeal from the respondent's decision refusing to grant him international protection. It is not then necessary for me to consider the alternative possibility which is relocation within Baghdad.

Decision

The decision of the First-tier Tribunal is set aside. In remaking the decision I dismiss the claimant's appeal against the Secretary of State's decision of 3 September 2015 refusing to grant him international protection.

I make no anonymity direction. None has been made previously and none was sought before me.

Signed: Date: 12 December 2017
Upper Tribunal Judge Hemingway

TO THE RESPONDENT
FEE AWARD

I make no fee award.

Signed: Date: 12 December 2017
Upper Tribunal Judge Hemingway