



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/08736/2018

THE IMMIGRATION ACTS

Heard at Manchester Civil Justice Centre
On 21 August 2019

Decision & Reasons Promulgated
On 12 September 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN

Between

MR H F
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms H Santamera, Legal Representative, IAS (Liverpool)

For the Respondent: Mr C Bates, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Iraq and ethnically Kurdish, born on 1 January 1977. He is from Kirkuk. He arrived in the United Kingdom with his wife and four children as his dependants on 20 December 2016, on which day, having been encountered having travelled and entered the UK clandestinely, he also claimed asylum.
2. The basis of his claim is that his father was a committee organiser for the Ba'ath Party. His father and two sisters were shot dead in a revenge attack on 16 March

2004. On 30 May 2004 his wife was attacked at home by two men and stabbed in the arm. The Appellant then fled to stay in Riyaz with a colleague of his fathers from the Ba'ath Party and remained there until 9 June 2014 when Mosul was occupied by ISIS. The family then moved to Tessein until 27 September 2016 when ISIS tried to take Kirkuk and the family fled on 27 of that day, 27 September 2016, to Turkey and thus unlawfully crossed Europe until they arrived in the UK.

3. The Appellant's asylum application was refused on 22 June 2018. He appealed against that decision and his appeal came before Judge of the First-tier Tribunal Siddiqi for hearing on 25 February 2019 in Manchester. In a Decision and Reasons promulgated on 25 March 2019 the judge dismissed the appeal. Having accepted that the Appellant is of Kurdish ethnicity and from Kirkuk, the judge found whilst he could not reasonably be expected to live in Baghdad he could internally relocate to the IKR. In respect of the CSID in the Appellant's possession, the judge accepted based on evidence from the Respondent that this was not genuine, but found the Appellant could utilise other identity documents which the Appellant possesses, in particular, his Iraqi national identity card, to obtain a replacement CSID.
4. The Appellant appealed against this decision in time. The grounds in support of the appeal assert that the judge erred by making a material misdirection in law in relation to the findings concerning the CSID and that the judge had failed to provide adequate reasons for finding this could be replaced within a reasonable time upon return to Baghdad. The grounds asserted that following the country guidance decision in *AAH* (Iraqi Kurds – internal relocation) Iraq CG UKUT 00212 (IAC) the judge had failed to properly implement the guidance set out therein and had failed to assess the reasonableness of internal relocation. It was further asserted that the judge had failed to make a finding of fact on a material matter and had permitted procedural unfairness in relation to the Appellant's father's membership of the Ba'ath Party and his military service book.
5. Permission to appeal was granted by Deputy Upper Tribunal Judge D E Taylor on 22 June 2019 in the following terms:

“The grounds challenge the judge's conclusion that relocation to the IKR is reasonable and may be argued. The issue of whether the Appellant would be able to obtain a replacement CSID card, given that the judge accepted that the Appellant and his family have no connections with the IKR to help with employment and accommodation, should be explored further. Since the judge accepted that the Appellant and his father were Ba'ath Party members it is arguable that this should have been taken into account. There is nothing in ground 2. The judge accepted the Appellant's father's Ba'ath Party membership and any claimed error in relation to the military service book is therefore material.”

Hearing

6. At the hearing before the Upper Tribunal, Ms Santamera on behalf of the Appellant sought to rely on the grounds of appeal. She submitted that the Appellant did

provide evidence he could not obtain a CSID card and the Respondent's evidence was that the card he did produce was not authentic. She submitted that there was no adverse credibility point taken against the Appellant. He had appointed a proxy in Iraq to obtain the card for him but this has now been classified as a document that he cannot rely upon. The Appellant had attempted to honestly obtain a CSID but had been unable to do so. The judge accepted that the Appellant has no relatives to assist him in Iraq. He is from Kirkuk and cannot reasonably be expected to return there in light of Article 15(C) of the QD and there is no-one to countersign or assist the Appellant through the procedures in order to obtain a new CSID. Consequently, it would be unduly harsh to expect him to internally relocate to the IKR as it is clear from the country guidance decision in *AAH* that without a CSID he would not be able to work, access healthcare, education etc.

7. In his submissions, Mr Bates sought to clarify that the judge's finding at paragraph [43](d) was that the Appellant had no family in the IKR. However, there was no finding as to whether or not he had family elsewhere in Iraq. At [43](a) the judge accepted that the CSID is not a genuine document. However, the Appellant's Iraqi nationality certificate was genuine and in light of the first headnote in *AAH* this constitutes another form of documentation which would be of substantial assistance in obtaining a replacement CSID and also quite straightforward. Mr Bates submitted that the fact the Appellant has produced a non-genuine CSID cannot be read back to show that the Appellant could not, going forward, attain a genuine one. It does not follow he would be unable to instruct a reliable proxy and obtain a genuine CSID.
8. Mr Bates submitted the judge clearly followed the guidance set out in *AAH*, as is apparent from [43] of the Decision and Reasons. The judge finds the Appellant cannot remain in Baghdad but could go to the IKR and found at [43](e) that the Appellant would be entitled to financial support from the Voluntary Return Scheme. Mr Bates sought to rely on the facts of *AAH* and that on the facts the appeal was dismissed because that Appellant had a CSID card and semi-skilled experience, which put him in a stronger position with regard to employment. He submitted this is precisely the finding that the judge made in this Appellant's case, see [43](f), and it was reasonable and sustainable for the judge to find he could internally relocate even without family support in the IKR. Mr Bates submitted the judge was entitled to find that the Appellant would no longer be at risk due to Ba'ath Party membership and that there was no material error of law in the judge's Decision and Reasons.
9. In reply, Ms Santamera accepted that the judge had had partial regard to the country guidance decision in *AAH*, see (i) of the headnote. However, there was still substantial violence in Kirkuk and it would not be possible for the Appellant to obtain a replacement CSID card from that municipality. It was also material that there were no family members to assist the Appellant in obtaining such a CSID card in the IKR. It is clear from the evidence of Dr Fatah recorded in *AAH* that the Appellant would require the assistance of a male family member to assist in procuring a CSID and that is not available to this Appellant. Thus, he would not be in a position to return to Iraq with a CSID card.

10. Ms Santamera also sought to rely on the fact that the Ba'ath Party membership may still be an issue due to the fact that there are connections between the party and ISIS and that matters were very nepotistic in that area of Iraq. She submitted it would be very difficult for the Appellant to find employment and it was clear from the evidence that there were very high unemployment rates in the IKR and the Appellant was only lowly skilled. She concluded by submitting that the judge had not explained how in light of the CG decision in *AAH* at (ii) and (iii) the Appellant would in practice be able to obtain a CSID card.
11. I reserved my decision, which I now give with my reasons.
12. I find that there are material errors of law in the decision of First tier Tribunal Judge Siddiqi, in the following material respects:
- 12.1. Whilst the Appellant has a CSID, obtained on his behalf by a proxy in Iraq, the Respondent's position, which was accepted by the Judge, is that it is not genuine [28](a). At [43](a) the Judge held that the Appellant would be able to travel to the IKR either by flying to Erbil or by travelling overland from Baghdad. However, it is clear from *AAH* that returns are to Baghdad only. Whilst the Respondent takes the position that returns can be made to Erbil this is contrary to country guidance and the Judge has not provided any reasons for departing from *AAH*.
- 12.2. In respect of return to Baghdad, *AAH* provides as follows at headnotes [4] and [5]:
- “4. *P is unable to board a domestic flight between Baghdad and the IKR without either a CSID or a valid passport.*
5. *P will face considerable difficulty in making the journey between Baghdad and the IKR by land without a CSID or valid passport.*”

Thus it is apparent that, in order to travel from Baghdad to the IKR, the Appellant and his family members would need to obtain CSIDs in Baghdad. I find that the Judge has not provided sufficient reasons or analysis as to how the Appellant might do this, in light of headnote (1)(iii) and the absence of any male family members to attend the civil registration office in Baghdad with the Appellant. Whilst the Appellant has an INC and the false CSID, the Judge appears to have assumed that this would be sufficient to obtain a genuine CSID, however, I do not consider in light of *AAH* that this is necessarily the case.

- 12.3. It follows that the Judge's findings at [43](b)-(h) and [44] as to internal relocation to the IKR are unsustainable because they are predicated on the basis that the Appellant and his family members would be returning to the IKR in possession of CSIDs.

Notice of Decision

I find material errors of law in the decision of First tier Tribunal Judge Siddiqi as to internal relocation to the IKR. I set aside her findings at [42]-[44] and remit the appeal for a hearing confined to the issue of reasonable internal relocation to the IKR. The Judge's finding up to and including [41] are preserved.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

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 his 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 *Rebecca Chapman*

Date 10 September 2019

Deputy Upper Tribunal Judge Chapman