**Upper Tribunal**
**(Immigration and Asylum Chamber)** Appeal Number: PA/00287/2020 (P)

**THE IMMIGRATION ACTS**

| **Heard at Cardiff Civil Justice Centre** | **Decision & Reasons Promulgated** |
|---|---|
| **Remotely on 30 July 2020** | **On 12 August 2020** |

**Before**

**UPPER TRIBUNAL JUDGE GRUBB**

**Between**

**BMS**
**(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**
For the Appellant: Mr S Kumar of Optimus Law
For the Respondent: Mr C Howells, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) I make an anonymity order. Unless the Upper Tribunal or court directs otherwise, no report of these proceedings shall directly or indirectly identify the appellant. This direction applies to both the appellant and to the respondent and a failure to comply with this direction could lead to Contempt of Court proceedings.

© CROWN COPYRIGHT 2020

**Introduction**

2. The appellant is a citizen of Iraq who is of Kurdish ethnicity. He was born on 1 June 1991. He comes from Mosul in the north of Iraq.

3. The appellant arrived in the United Kingdom sometime in December 2016 clandestinely and, on 20 December 2016, he claimed asylum.

4. The appellant's case was initially considered to fall within the Dublin III Regulation. However, following the failure by Italy to respond to a take back request, on 21 July 2017 the appellant's case was removed from consideration under the Dublin III Regulation. On 28 August 2019, the appellant completed a Preliminary Information Questionnaire (PIQ) and a substantive asylum interview took place on 17 October 2019.

5. On 30 December 2019 the Secretary of State refused the appellant's claims for asylum, humanitarian protection and under the ECHR.

**The Appeal**

6. The appellant appealed to the First-tier Tribunal. In a decision sent on 20 February 2020, Judge Clemes dismissed the appellant's appeal on all grounds.

7. The appellant sought permission to appeal. On 26 March 2020, the First-tier Tribunal (Judge J K Swaney) granted the appellant permission to appeal.

8. Following the grant of permission, the Upper Tribunal, in the light of the Covid-19 crisis, directed that a remote hearing by Skype for Business should take place in order to determine whether the judge had erred in law in dismissing the appellant's appeal.

9. The appeal was listed for a remote hearing on 30 July 2020. The hearing took place before me based in the Cardiff Civil Justice Centre. Mr Kumar, who represented the appellant, and Mr Howells, who represented the Secretary of State, took part remotely by Skype for Business.

**The Judge's Decision**

10. The appellant's claim before Judge Clemes had a number of limbs. First, he claimed to fear capture, detention and torture by ISIS/Daesh in Iraq having previously been captured and detained by them. Secondly, he claimed to fear his father, whom he said had threatened to kill him because he would not agree to an arranged marriage to his cousin. Thirdly, he claimed to fear the family of a Yezidi woman with whom he had a relationship. Fourthly, he claimed to fear the Kurdish authorities in the IKR because his father had been a member of the Ba'ath Party when Saddam Hussein was in power in Iraq. Finally, he claimed to fear Shia militia in Iraq as he is a Sunni Muslim.

11. Judge Clemes rejected each of the limbs of the appellant's international protection claim.

12. First, he rejected the appellant's claim based upon his fear of ISIS/Daesh on the ground that he did not accept that the appellant was a member of a PSG, as a former detainee of ISIS (para 25). In any event, there was no evidence of what, if any, risk he would face in Mosul.

13. Secondly, the judge rejected the appellant's claim to fear his father following his refusal to contract an arranged marriage. The judge found, contrary to some parts of the appellant's evidence, that his father was still alive in Mosul (para 18). The judge did not accept, however, that the appellant had been placed under pressure to marry his cousin (para 21).

14. Thirdly, having concluded that the appellant was not a "witness upon whom I can rely", the judge rejected his account that he was in a relationship with a Yezidi woman and had been threatened by her family (para 20).

15. Fourthly, the judge did not accept that the appellant was at risk because of his father's claimed involvement with the Ba'ath Party. The judge did not accept that the appellant had established that his father had been involved with the Ba'ath Party, not least because, despite his claimed prominence, there was no supporting material (including from the internet) of his involvement. In addition, putting the appellant's claim at its highest, the judge concluded that he did not consider that his father's membership almost 30 years previously, and bearing in mind that the appellant had never been to the IKR, would expose him to a risk from the authorities in the IKR (para 19).

16. Fifthly, the judge rejected the appellant's claim to be at risk from Shia militia. He rejected the appellant's claim, based upon his Sunni identity. He said that the appellant was unlikely to be regarded as a supporter of ISIS given that he had been detained and, therefore, it had not been established that he was at real risk of serious harm from the Shia militia (para 24).

17. In addition, the judge, having set out passages from the most recent country guidance decision in SMO and Others (Article 15(c); identity documents) Iraq CG [2019] UKUT 400 (IAC), found that the appellant either had left his CSID at home in Mosul and could obtain it or he could obtain a new one prior to return to Iraq. The judge found that it was likely that the appellant and his family would know the page number in the relevant Family Book held at the registry and also the required details of his nationality (para 23). At para 29, the judge was satisfied that it was reasonable to expect the appellant to engage with the Iraqi Embassy in the UK and obtain a passport. At para 31, the judge went on to find that the appellant could successfully on return be in possession of a CSID given "the likely existence of his CSID in Iraq, or the support of his father and family" (para 31).

**The Grounds of Appeal**

18. The appellant's grounds of appeal contain six grounds upon which Mr Kumar addressed me.

19. Ground 1 challenges a number of the judge's factual findings across the range of the limbs of the appellant's international protection claim.

20. Ground 2 contends that the judge wrongly took into account the absence of supporting evidence in reaching adverse findings.

21. Ground 3 contends that the judge failed properly to consider the country guidance decision in SMO and Others when finding that the appellant's CSID was left at home in Mosul and could be contained given the impact that the fighting had had on the infrastructure in Mosul.

22. Ground 4 contends that the judge failed to consider the evidence holistically in reaching adverse credibility findings.

23. Ground 5 contends that the judge, in finding that the appellant would not be at risk from ISIS on return, failed properly to take into account that it was accepted that the appellant had been detained and tortured by ISIS and that, in applying Art 4(4) of the Qualification Directive and para 339K of the Immigration Rules (HC 395), that past persecution was a "serious indicator" that the appellant would be at risk in the future unless there were good reasons to consider that that persecution or serious ill-treatment would not continue.

24. Ground 6, again relies upon the country guidance decision of SMO and Others and contends that the judge wrongly reached the finding that the appellant would be able to obtain a CSID as he would not have the required documents or information either to obtain it in the UK or, through the help of his family, in Iraq.

25. In his oral submissions, Mr Kumar focused particularly upon the grounds which relied upon SMO and Others. At my invitation, he sought to deal with the remaining grounds but, even then, made no specific reference to grounds 2 and 4.

**Discussion**

26. I will take each of the grounds in turn.

Ground 1

27. Mr Kumar relied upon a number of passages in the judge's reasons which, he submitted, were unsustainable and wrongly led the judge to reach adverse findings.

28. First, he contended that the judge had been wrong in para 18 of his decision to rely upon, what he saw as, an inconsistency in the appellant's account as to whether or not his family (in particular his father) had been killed in Mosul. He submitted that there was no inconsistency in the appellant's account. On the basis of the grounds,

he contended that the appellant had differing knowledge at different times, he had first heard from others that his house had been destroyed and his family killed, then later his uncle had told him that his father had in fact survived.

29. Mr Howells submitted that this was not the case. The point made by the judge in para 18 was that in both his PIQ and in his asylum interview, the appellant had said that his family (including his father) were dead. However, in his evidence before the judge he said that his father was still alive and that his uncle had told him that was the case in 2017. Mr Howells pointed out that both the PIQ and asylum interview postdated 2017, namely 28 August 2019 and 17 October 2019 respectively.

30. The judge's reasoning at para 18 was as follows:

> "The initial problem with the appellant's claim, founded as it is to a large extent in fear of his father, is his varying account of whether he knows if his father is alive or dead. He has altered this account during the claim itself and given mutually incompatible accounts. At his asylum interview and in the PIQ which preceded it, he made statements that he believed that his father was dead. Yet he now says that he had been told in 2017 by his uncle, via the Messenger service, that his father was alive. The conclusion that he had either lied in the PIQ and interview or in the evidence to me is irresistible, I am satisfied. His PIQ presents as a document which is inconsistent at its heart: it says *'I have no home or family to turn to. My family are dead ... my family were killed during the ISIS attack, I have no home or family in Iraq. I had mentioned that my father had threatened to kill me if I did not marry my cousin however that was one of the reasons for leaving as my father wanted me to marry my cousin and the other was that I feared the ISIS who had kidnapped me. My mother paid the ransom for me to be released by ISIS'*. By the time of the hearing, the appellant had clarified that he now knew his father to be alive and he still feared him, although he had not been able to check with the source of that information (as he had lost touch with his uncle). As this is such a central part of the appellant's claim, his choice to put forward different accounts at different times (although close together as the asylum interview was only in October 2019) very much undermines his credibility, in my judgment. I am satisfied that he has always known his father to be still alive as his uncle told him so in 2017, on one of his accounts. He has set out quite a sophisticated account of his father's demise in the asylum interview yet he must have known that it was false at its heart. I am satisfied the appellant has deliberately set out to represent that his father was dead as he considered it would probably be seen as harder for others to check claims about him. In fact, it directly led the respondent to question why the appellant feared someone who was dead. That led, I am satisfied, to his change of story to one that he knew was true all along – as his uncle told him, his father was alive despite the dreadful events in Mosul. I find as a fact that his father is alive".

31. I accept Mr Howells' submissions n this point. The judge was clearly entitled to take into account that the appellant said in 2017 that he had been told by his uncle that his father was alive and yet in two accounts – in his PIQ and asylum interview – he subsequently said the opposite. The judge was fully entitled to consider that the appellant's evidence was inconsistent and, indeed, he had deliberately sought to mislead in saying initially that his father was dead. The appellant's current evidence was that his father was alive and the judge was fully entitled to accept this evidence and to conclude, as he did, that the appellant's father is alive.

32. Secondly, Mr Kumar criticised the judge as going beyond the evidence when he characterised the appellant's father as being a person who was "fierce, tribal and

religiously dogmatic" in para 21 of his decision and in reaching his conclusion that he did not accept that the appellant's father had threatened the appellant because he would not enter an arranged marriage with a cousin. Mr Kumar submitted that the appellant's evidence in cross-examination was that his father was "religiously strict".

33. At para 21 the judge said this:

> "The same approach applies to his account that his father was placing him under duress to marry his cousin. He maintains that both sides of the family were pressurising him to marry her but nevertheless he managed to avoid doing so for about 3 years. After his family had paid a bribe to secure his release from the ISIS detention. In fact, he has given two accounts of who paid for his release: his father paid dollars for it he told me in evidence but at the time of his asylum PIQ he said that it was his mother. These are significant facts – being kidnapped and tortured by ISIS would have been an unforgettable experience for the appellant – and I am satisfied that matters such as who secured his release would be important and memorable. He has given a false account of pressure to marry and his inability to recall surrounding details arises, I find, illustrates that his account is fabricated. It is hard to marry up the picture of a fierce, tribal and religiously dogmatic father (with similar parents for his cousin) allowing him for so long to evade the question of marriage, with the evidence that he managed to remain living at home and single, having had his release from ISIS paid for by his father. I reject this part of his claim".

34. Mr Howells, in his submissions, commented that the judge had possibly gone beyond the evidence but any error was not material. He submitted that the real reason for disbelieving the appellant on this issue was the differing accounts in who had paid for his release – his father or his mother. That latter issue was also raised by the appellant in ground 1 where it is contended that any discrepancy, about who paid for the appellant's release, was a minor point.

35. The judge's reasons in para 21 must be seen, and read, as part of the judge's determination as a whole. In addition, the judge found in para 18 that the appellant had, in effect, lied in his asylum interview and PIQ about whether his father was alive or dead. That was also a matter which the judge was entitled to take into account in assessing the appellant's truthfulness always bearing in mind that a person may be untruthful about one matter while not necessarily being untruthful about another. There may be many reasons why a person has lied about one matter but nevertheless told the truth about another. That is the well-known 'Lucas' direction (see, R v Lucas [1981] QB 720 at p.723C) which is equally applicable in appeals before the FtT IAC (see Uddin v SSHD [2020] EWCA Civ 338 at [11]).

36. The judge plainly had well in mind the appellant's explanations (see, in particular para 8 of his determination). The appellant's own evidence, recorded by the judge at para 8, was that both his family and his cousins were "tribal and religious". It was within the range of reasonable inferences for the judge to find that, given that, it was implausible that his father would allow him to continue to evade the issue of marriage despite continuing to live with him for a significant period (three years) after he was released from detention. In my judgment, the judge was rationally and reasonably entitled to have regard to the appellant's previous false account and the

inconsistency in his evidence concerning who paid the bribe to secure his release from ISIS.

37. Thirdly, Mr Kumar submitted that the judge had been wrong in para 19, to find that the appellant's father was not, as he claimed in the Ba'ath Party, so as to give rise to any risk to the appellant on return, because there was no information available on him, including from the internet. Mr Kumar submitted that the judge was wrong to characterise the appellant's father as a "prominent" person. In fact, in his interview, the appellant described his father as "well-known" and "famous" (see answer to question 57). The appellant also says that his father was a "*mustashar*" which, Mr Kumar accepted, meant adviser or counsellor. In my judgment, given what was being said by the appellant about his father's position within the Ba'ath Party as a "well-known" and "famous" person who was a "mukhtar", it was not unreasonable for the judge to take into account that there was no supporting evidence identifying the appellant's father in that capacity.

38. But, in any event, as Mr Howells submitted, at the end of para 19 the judge concluded that the appellant could not succeed even putting his case on this issue at its "highest". The judge said this:

> "He struggles to show how there would be any nexus between his father's membership almost 30 years ago and hostility by the Kurdish authorities, bearing in mind that he has nothing to do with the KRG and its Peshmerga. I am satisfied that the appellant has not made this part of his claim out".

39. In my judgment, that reasoning sustains the judge's adverse finding in any event. It is difficult to see why the appellant would be at risk on return to Mosul given that his father continues to live there and there is no suggestion that he fears for his life on the very basis which the appellant vicariously claims to be at risk. Likewise, if as the appellant claims, his father was not so significant that his identity can be gleaned from news reports including on the internet, it is difficult to see why the appellant, if he were to relocate to the IKR, would be identified as a person linked to his father.

40. Fourthly, Mr Kumar criticised the judge for identifying a discrepancy in the appellant's evidence as to whether he had left his CSID card at home before leaving Iraq or that he had "possibly lost" it coming to the UK. Mr Kumar submitted that the appellant had never said that he had brought the CSID with him and that he had lost it. Rather, he had been responding to a hypothetical about what might have happened to it if he had indeed brought it with him.

41. At para 22, the judge said this:

> "The appellant was asked about his CSID when being cross-examined. The reference to 'ID documents' in his evidence-in-chief amounted to a reference in paragraph 11 that was 'unable to obtain them', suggesting he had made some sort of attempt to do so. In his asylum interview, the appellant said that he had left his identity documents behind at home. In evidence he conceded that [he] would have needed a CSID to study at university. He went on to say that he did not know the number and that it would be difficult to do so. He told me that he had left his CSID at home as he did not need it – he was not going to be flying. He then changed his story to 'I might have lost it on the way.

> It was a difficult and precarious road and not easy to keep everything'. I am satisfied that the appellant – who is university-educated – realised that his initial account of leaving his CSID at home was unlikely to suit the parts of his claim that he would find it hard to get about internally if he was returned to Iraq and changed it from 'it is at home' (where it might be recovered from) to 'it is possibly lost' (where it becomes irrecoverable). I find as a fact that the appellant left his CSID at home when he left Iraq. I am satisfied that he fled from under his father's gaze but that his departure was an orderly one organised by his family, including his father".

42. At the hearing, neither Mr Kumar nor Mr Howells were able to assist me as to what the appellant's actual evidence was at the hearing. When I consulted the judge's Record of Proceedings, it appeared reasonably clear that the point he relied upon arose at the end of the appellant's evidence in respect of a question asked by the judge himself. The judge asked him "What happened to it?", meaning the CSID. The appellant responded:

> "At home, I left it there I didn't fly so did not go through checkpoints. I never planned to leave Iraq, it was only after arrested by Daesh and tortured. Chose to leave illegally. I might have lost it and the difficult and precarious road – not easy to keep anything".

43. As I have said, neither representative was able to assist further on what the evidence given by the appellant. It does not appear, however, that the appellant was seeking to answer a hypothetical question, 'what would have happened to the CSID if you had brought it with you?'

44. Of course, in any event, the judge accepted the appellant's evidence that he had left his CSID at home. It is the central finding in para 22 which is consistent with, as I understand it, his case. The point made by the judge in para 22 was not a central part of the judge's reasoning that led him to doubt parts of the appellant's account or credibility. It was, in fact, a paragraph in which the judge accepted what the appellant says happened, namely that his CSID was left at home. Whatever, therefore, the ambiguity in the evidence may have been, that ambiguity has not led the judge into error in para 22 of his determination.

45. Fifthly, Mr Kumar submitted that the judge had been wrong in para 25 to find that the appellant was not at risk from ISIS as a member of a particular social group, namely as a former detainee. Mr Kumar submitted that the respondent had accepted that the appellant was detained and tortured as he claimed.

46. In my judgment, it is not material to the judge's decision that he did not accept that the appellant was a member of a particular social group because, unlike the respondent, he did not accept that he had been detained or tortured by ISIS. The reason is that the appellant's claim to fear ISIS in his home area as a member of a PSG would have required the appellant to establish, on the background evidence, that there was a real risk from ISIS in his home area, namely Mosul. As Mr Howells submitted, the appellant did not put forward any evidence that he was at risk from ISIS in Mosul. Indeed, SMO and Others establishes that ISIS is no longer in control of Mosul having lost the battle for Mosul in 2016. The judge made the point that there was no background evidence to establish any risk to the appellant in Mosul at para

27. In those circumstances, even if the judge had accepted that the appellant was a member of a PSG, he would inevitably have dismissed his appeal on this limb of his international protection claim on the basis that he had not established a real risk from ISIS on return to Mosul.

Grounds 2 and 4

47. I will take Grounds 2 and 4 together as Mr Kumar did not press them before me and both involve contentions that the judge was wrong to reach adverse credibility findings, first on the basis that there was "no supporting evidence" in relation to a number of matters and also that he failed holistically to assess the appellant's credibility. Neither ground is, in my judgment, properly made out.

48. As regards Ground 2, the judge in paras 19 and 20 referred to the absence of supporting evidence that related (in para 19) to evidence of his father's involvement in the Ba'ath Party and (in para 20) to evidence concerning the appellant's relationship with a Yezidi woman. Providing a judge does not seek, in a formal way, corroborative evidence, it is perfectly proper for a judge to take into account the absence of any supporting evidence in determining whether the burden of proof has been discharged by an appellant where that evidence might reasonably be expected (see TK (Burundi) v SSHD [2009] EWCA Civ 40 at [21]).

49. Given what I have already said about the absence of supporting evidence concerning his father, it is clear that the judge was properly entitled to take into account its absence on the basis of the position which the appellant said that his father held within the Ba'ath Party.

50. In any event, in finding against the appellant on that limb of his claim, as I have already indicated the appellant could not succeed even if his case was taken at its "highest".

51. In relation to the absence of any evidence supporting his claimed relationship with a Yezidi woman, the judge also took into account that the appellant had sought to, in effect, deliberately give an untrue account about the death of his father. That was a matter which the judge was entitled to take into account and, taking the judge's reasons as a whole, justified his conclusion in para 20 in relation to the limb of the appellant's claim based upon his relationship with a Yezidi woman bearing in mind that the judge also gave reasons at para 21 why he did not accept that his father had pressurised him into such a marriage and had not pursued that for the three years after the appellant was released but the appellant lived with him.

52. Ground 4, which did not feature in Mr Kumar's oral submissions, is in my judgment hopeless. It seeks to suggest that the judge failed to consider all the evidence before making an adverse credibility finding essentially on the basis that as he progressed to the evidence and aspects of the appellant's claim he made findings, largely negative findings, on the evidence. That is not to fail to consider all the evidence holistically but rather the process by which a judge deals with individual factual issues and makes findings on the evidence progressively through a decision. Providing the

judge takes all matters into account overall, and there is nothing in the judge's decision to suggest that he did not do so, the approach of the judge in this appeal was both logical and lawful.

Grounds 3 and 6

53. Mr Kumar principally relied upon Grounds 3 and 6. He submitted that the judge had failed properly to consider the decision in SMO and Others in two principal respects. First, in finding that the appellant could obtain his CSID which he had left at home, the judge failed to take into account what was said at [24] of SMO and Others that the battle for Mosul had resulted in much of the city being destroyed including 54,000 homes and 64,000 families being displaced. He submitted that given the evidence of the level of destruction in Mosul, the judge erred in law in finding that the appellant would be able to obtain his CSID from his home.

54. Secondly, Mr Kumar submitted that the judge had been wrong to find that the appellant could obtain a replacement CSID as he did not have the relevant documentation or information. He did not know the page and volume in the Family Book which was an essential piece of information. Mr Kumar also told me that the appellant had made a number of unsuccessful attempts to obtain documentation from the embassy in the UK. However, he accepted that this evidence postdated the judge's decision and could not assist him to establish that the judge had erred in law in his approach.

55. Mr Howells submitted that the judge had made alternative findings. First, he had found that the appellant would be able to obtain his existing CSID from his family in Mosul, given that his father was alive. Secondly, he had found that the appellant did know the relevant page and volume of the Family Book. Mr Howells relied upon on [392] of SMO and Others that it will be "very much the exception that an individual would be unaware of a matter so fundamental to their own identity and that of their family". Mr Howells submitted that the judge was entitled to find the appellant was likely to know the number and page of the Family Book (see para 23 of the determination). Further, the judge had found that the appellant would be able to seek the assistance of his family in Mosul to obtain a CSID. Finally, the judge had been entitled to find that the appellant could obtain the relevant documentation with the information that he had or could obtain from his family from the Iraqi Embassy in the UK.

56. It is plain from the CG decision in SMO and Others, and from its predecessors, that possession of a CSID is vital for travel within Iraq and in order to live.

57. As regards obtaining a replacement CSID in the UK, the Tribunal in SMO and Others at [383] accepted the approach in the earlier country guidance cases of AA (Article 15(c)) Iraq CG [2015] UKUT 444 (IAC) (and on appeal, AA (Iraq) v SSHD [2017] EWCA Civ 944) at [173]–[177] and AAH (Iraqi Kurds – internal relocation) Iraq CG [2018] UKUT 212 (IAC) at [26].

58. In AA at [173]–[177] the Upper Tribunal said this based on the expert evidence of Dr Fatah:

> "*Obtaining a CSID whilst in the UK*
>
> 173. As regards those who have an expired or current Iraqi passport but no CSID - Dr Fatah identifies in his first report that a CSID may be obtained through the "*Consular section of the Iraqi Embassy in London*", which will send a request for a replacement or renewed CSID to the General Directorate for Travel and Nationality - Directorate of Civil Status. A request for a replacement CSID must be accompanied, *inter alia*, by "*any form of official document in support of the applicant's identity*" and the application form must be signed by "*the head of the family, or the legal guardian or representative to verify the truth of its contents.*" He also added that an applicant must also authorise a person in Iraq to act as his representative in order for that person to "*follow up on the progress of the application.*
>
> 174. However, Dr Fatah continued by explaining that if an individual has lost his CSID and does not know the relevant page and book number for it, then the Iraq Embassy in London will not be able to obtain one on his behalf. Instead, he or she will have to attend the appropriate local office of family registration in Iraq or give a relative, friend or lawyer power of attorney to obtain his or her CSID. The process of a giving power of attorney to a lawyer in Iraq to act "*as a proxy*" is commonplace and Dr Fatah had done this himself. He also explained that the power of attorney could be obtained through the Iraq Embassy.
>
> 175. Dr Fatah gave further evidence to the effect that having a marriage certificate may be useful as it would contain data found in the family records. It is, however, not possible to use a "health card" in order to obtain a CSID because there is no primary health care or GP system in Iraq, but instead patients attended hospital when they needed to do so and no central records are held.
>
> 176. There is a consensus between Dr Fatah's evidence and the following more general evidence provided by UNHCR-Iraq in April 2015 on the issue of obtaining CSID's from abroad.
>
> > "In principle, a failed asylum seeker, or indeed any Iraqi citizen abroad, can acquire Iraqi documents through Iraqi embassies and consulates. There is a special authorization granted to these bodies to provide documents for Iraqi abroad on the condition that the beneficiaries should have any available documents in order to prove their nationality."
>
> 177. In summary, *we conclude that it is possible for an Iraqi national living in the UK to obtain a CSID through the consular section of the Iraqi Embassy in London, if such a person is able to produce a current or expired passport and/or the book and page number for their family registration details.* For persons without such a passport, or who are unable to produce the relevant family registration details, a power of attorney can be provided to someone in Iraq who can thereafter undertake the process of obtaining the CSID for such person from the Civil Status Affairs Office in their home governorate. For reasons identified in the section that follows below, at the present time the process of obtaining a CSID from Iraq is likely to be severely hampered if the person wishing to obtain the CSID is from an area where Article 15(c) serious harm is occurring." (emphasis added)

59. In AAH at [26], the Upper Tribunal added this:

> "If applying through a consulate abroad the requirements are different. Having contacted the consulate in London, and checked on the website of the Iraqi embassy in Sweden, Dr Fatah states that the authorities will require the applicant to first make a statement explaining why he needs a CSID and attach this to his application form, which must countersigned by the head of the applicant's family and stamped by the consulate or embassy; he must then produce his Iraqi passport and proof of status in the country where he is applying, the name of a representative (proxy) in Iraq, an additional form completed by the head of the applicant's family verifying that the contents of his application form were true, four colour copies of his INC, and 10 colour photographs. Crucially the applicant must be able to produce something which can establish the location of his family's details in the civil register. This should be a CSID, an INC or birth certificate. If none of these are available to the applicant he must supply the identity documents of his parents. This evidence again accords with that of Landinfo (December 2017) who conclude that it can be difficult to obtain replacement ID documents from an embassy abroad for the individual who is unable to verify his or her identity."

60. In SMO and Others, the Upper Tribunal at [383] noted the changes occurring in Iraq from issuing CSIDs to the new INID but that this did not apply in an application to the Iraqi Embassy in the UK:

> "An Iraqi national in the UK would be able to apply for a CSID in the way explained in AA (Iraq) and, if one was successfully obtained, we find that it would be acceptable evidence of the individual's identity throughout Iraq. Notwithstanding the plan to replace the old CSID system with the INID by the end of 2019, we accept what was said by EASO (in February 2019) and the Danish Immigration Service and Landinfo (in November 2018), that implementation was delayed and that the CSID was still being used in Iraq, and that it continues to be issued in those parts of the country in which the INID terminals have not been rolled out. Given this evidence, and the fact that the CSID has been a feature of Iraqi society for so long, we do not accept that there will come a time at the end of this year when the CSID suddenly ceases to be acceptable as proof of identity".

61. On the basis of this evidence, an Iraqi national living in the UK may be able to obtain his CSID from the Iraqi Embassy if he is able to produce a current or expired passport "and/or" the book and page number for their family registration details. That is made clear in [177] of AA, and in AAH the Upper Tribunal adopted the same approach as in AA (Iraq) (confirming AA in the UT on this). Having referred to the relevant paragraphs in AA, the UT in AAH stated at [103] that Dr Fatah had confirmed in evidence before them that this guidance remained accurate. He added two caveats but those related to the position when seeking a CSID in Iraq.

62. Consequently, in obtaining a CSID, knowledge of the details in the Family Book, namely the book and page number, is crucial. As the case law recognises, other documentation might assist but it does not appear to be essential.

63. That said, at para 29 Judge Clemes made the following finding:

> "I am satisfied it is reasonable to expect the appellant to engage with the Iraqi Embassy to obtain a passport, for which he would need (and I am satisfied, be able to supply) his correct name, place of birth, mother's name, ID card number – see my findings above, page number of the Family Registry (see my findings above), Iraqi national certificate number and date of issue".

64. The reference to his findings above are t opara 23 where he said this:

> "Applying my findings about the links between the appellant and his family and his placing of his CSID at home, I am satisfied he will be likely to know the number and that his evidence was untrue and evasive. If he cannot recall it 'off the top of his head' then he can contact his family and ask them for it. The same applies to the necessary details contained in his Family Book, i.e. the page number in the Family Registry and the required details from the Iraqi national certificate".

65. The judge sustainably found, as I have already concluded, that his father was alive in Mosul and there was no dispute between them. The judge also referred to the passage in SMO and Others at [391] that apart from the exceptional case, individuals are likely to know the volume and page reference to their Family Book. In SMO and others, the UT said this:

> "We consider the number of individuals who do not know and could not ascertain their volume and page reference would be quite small, however. It is impossible to overstate the importance of an individual's volume and page reference in the civil register. These details appear on numerous official documents, including an Iraqi passport, wedding certificate and birth certificate, as well as the CSID. It was suggested in a report from the British Embassy in Baghdad, quoted at 6.1.9 of the Internal Relocation CPIN of February 2019, that '[a]ll Iraqi nationals will know or be able to easily obtain this information'. We find the former assertion entirely unsurprising. The volume and page reference in the civil register is a piece of information which is of significance to the individual and their family from the moment of their birth. It is entered on various documents and is ever present in that person's life. We do not lose sight of the fact that there remain a significant number of people in Iraq who are undocumented. We do not consider that problem to be attributable to a difficulty with recalling the relevant information. It is instead attributable to the closure – until comparatively recently – of the local CSA offices at which people were required to obtain replacement documents and to their reluctance to return to those areas from a place of relocation".

66. The UT then went on in para [392] to add this:

> "There will of course be those who can plausibly claim not to know these details. Those who left Iraq at a particularly young age, those who are mentally unwell and those who have issues with literacy or numeracy may all be able to make such a claim plausibly but we consider that it will be very much the exception that an individual would be unaware of a matter so fundamental to their own identity and that of their family. The letter from the Embassy also suggested that most Iraqis would be able to obtain this information easily. Again, that assertion is unsurprising when viewed in its proper context. As is clear from AAH (Iraq), Iraq is a collectivist society in which the family is all important. It is also a country with a high prevalence of mobile phone usage among the adult population. Even when we bear in mind the years of conflict and displacement in Iraq, we would expect there to be only a small number of cases in which an individual could plausibly claim to have no means of contacting a family member from whom the relevant volume and page reference could be obtained or traced back".

67. In this appeal, the judge was entitled to find that either the appellant would know the relevant details of the Family Book or he could contact his family (in particular his father) and obtain those details from him. These details would allow the appellant to obtain the relevant documentation, including a passport from the Iraqi Embassy in the UK.

68. The judge was entitled not to consider this one of the "exceptional" cases where an individual might not be expected to know the important information about his Family Book. The judge dealt with the appellant's mental health in para 34 of his determination when considering Art 8. He said this:

> "Regarding his mental health, I am satisfied that amounts to a moderate and treatable condition with the most recent prescription being for 25mg of Citalopram, a dosage that he has been on for some years. I find as a fact that this is a low or starter dose for treatment of anxiety and depression and the most recent entries suggest that the condition is improving. He has complained to his GP about sleeping problems and some social stresses (house-sharers and loneliness). He has claimed that he has had memory problems but I am satisfied that this is not supported by the GP records. He has never been referred for secondary care and his GP manages the condition with him".

69. In any event, that would not affect whether his father, whom the judge found was alive and was entitled to conclude the appellant could contact, could provide that information to him.

70. Although it is not entirely clear, it may well be that the judge also found when he said that he could obtain a CSID, inter alia, with "the support of his father and family" that he was concluding that it could be obtained from the relevant CSA office in Mosul. Despite the evidence concerning the impact of the battle for Mosul on the infrastructure of Mosul, the UT in SMO concluded on the extensive evidence before it that all CSA offices had now reopened. They noted, however, that the extent to which the records had been destroyed by the conflict with ISIS was unclear and was likely to vary significantly depending on the extent and intensity of the conflict in that area (see [394]). The UT, of course, was aware of the evidence which is referred to in the grounds and set out at [24]. Given that it is accepted that the CSA office has reopened, on this evidence alone, the judge was reasonably entitled to conclude that the appellant's family would have access to the office and the relevant records there in order to obtain a replacement CSID for the appellant.

71. However, even if that could not be done, the judge's finding that the appellant would be able to obtain the document in the UK was reasonably open to him. As Mr Kumar accepted, the fact that he had indicated to me in his submissions that the appellant had unsuccessfully approached the Iraqi Embassy in the UK is not a matter relevant to the judge's assessment of the evidence at the date of the hearing and available to him.

Ground 5

72. This ground contends, in effect, that in finding that the appellant had not established a risk from ISIS on return the judge had given insufficient weight to the fact that the appellant had been detained and tortured. Reliance is placed upon Art 4(4) of the Qualification Directive and para 339K of the Immigration Rules. These provisions recognise that where an individual has been subject to past persecution or serious harm that is a "serious indication" that he is at risk of persecution or serious harm on return "unless there are good reasons to consider that such persecution or serious harm will not be repeated".

73. The simple answer to the appellant's reliance upon these provisions in this appeal is that the judge found that there was no background evidence as to the risk that the appellant would be exposed to in Mosul from ISIS. That finding can be put in another way, given that the judge was considering SMO and Others. The evidence based upon SMO and Others was that ISIS was no longer functioning in Mosul and therefore, that evidence was a sound basis for considering that there were "good reasons" to consider that the past persecution or serious harm to the appellant from ISIS would not be repeated on his return to Mosul.

74. For all these reasons, I reject each of the appellant's grounds of appeal. The judge's decision to dismiss the appellant's international protection claim (and indeed the humanitarian protection claim) did not involve the making of an error of law. Consequently, his decision stands.

**Decision**

75. For the above reasons, the decision of the First-tier Tribunal to dismiss the appellant's appeal on all grounds did not involve the making of an error of law. That decision stands.

76. Accordingly, the appellant's appeal to the Upper Tribunal is dismissed.

Signed

*Andrew Grubb*

A Grubb
Judge of the Upper Tribunal

7 August 2020