



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

Appeal Number: UI-2022-002477
(PA/55026/2021); LP/00076/2022

THE IMMIGRATION ACTS

**On the papers
On 26 September 2022**

**Decision & Reasons Promulgated
On 21 October 2022**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

MAHDI ALI KAMAL
(Anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

- 1.** In a determination promulgated on 8 April 2022 First-tier Tribunal Judge Garrett dismissed the appellant's appeal. Permission to appeal to the Upper Tribunal was granted by another judge of the First-tier Tribunal on the basis it was said to be arguable that the findings made by Judge Garrett at [65] are contrary to the current country guidance provided in SMO [2022] UKUT 00110.
- 2.** When considering listing directions to progress the appeal it was thought appropriate to issue a further case management directions, the relevant part of which is in the following terms:
 - 3.** There is no challenge by the Secretary of State to the Judge's finding regarding the appellant has no identity documents to facilitate his return.

4. The appellant's home area is Kirkuk. Whilst the appellant can be returned directly to the IKR he will need to travel from that area to his home city to obtain replacement identity documents. Information provided by the Secretary of State shows that Kirkuk no longer issues a CSID and that the appellant will be required to attend in person to provide his biometrics to obtain a new INID.

5. The appellant will be required to pass through checkpoints between the airport at the point of return in the IKR and Kirkuk.

6. The respondent's recent updated CPIN, Iraq: Internal relocation, civil documentation returns, version 13.0, July 2022 at 2.4.4 reads:

2.4.4 Decision makers must therefore first determine whether a person would face any harm on return stemming from a lack of CSID/INID before considering whether their return is feasible. In cases where a person would be at risk on return due to a lack of documentation (i.e. facing destitution or possible ill treatment due to the requirement to travel internally within Iraq to obtain a CSID/INID) a grant of HP would be appropriate.

7. The Secretary of State's representative shall, no later than 14 days from the date of the sending of these directions confirm whether in light of the finding the applicant is without documentation and subsequent develops, that indicate family members will not be able to obtain the required documents for the appellant by proxy in Iraq, Judge Garrett should be found to have erred in law in dismissing the appeal and the decision remade by the Upper Tribunal without a hearing, allowing the appeal.

3. A response has been received dated 23 September 2022 in the following terms:

Good morning,

RE: Directions - PA/55026/2021

The SSHD writes further to the directions dated 05th September 2022.

In light of the observations at [3]-[7] of the attached directions, the SSHD is content for the Upper Tribunal to find that the decision of the First Tier Tribunal (promulgated on 08th April 2022) contains a material error of law and should be set aside. In light of this, the SSHD is content for the decision to be remade by the Upper Tribunal without a hearing, allowing the appeal.

[]

Senior Presenting Officer

Specialist Appeals Team, Central London.

4. In light of the current country guidance case law and the correctly stated position of the Secretary of State, the Upper Tribunal concludes that it is possible to determine this appeal without the need for a further hearing.

5. For the reasons set out in the grounds seeking permission to appeal, the grant of permission to appeal, as reflected in the directions given above, it is found the decision of Judge Garrett contains a material error of law and is set aside.

6. In light of the current country guidance case and the available evidence in this appeal the Upper Tribunal is able to substitute a decision allowing the appeal.

Decision

7. **I allow the appeal.**

Anonymity.

8. The First-tier Tribunal made no 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 26 September 2022