Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Numbers: LP/00096/2020**
PA/50163/2019

THE IMMIGRATION ACTS

Heard at Cardiff Civil Justice Centre	**Decision & Reasons Promulgated**
On 22nd September 2022	**On the 3rd January 2023**

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

HSS
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr H Dieu, instructed by Fountain Solicitors
For the Respondent: Ms S Rushforth, 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.

Introduction

2. This is the decision of the Upper Tribunal remaking the decision of the First-tier Tribunal (Judge Napier) whose decision was set aside by the Upper Tribunal (UTJ Grubb and DUTJ Davidge) in a decision sent on 4 March 2022.

Background

3. The appellant is a citizen of Iraq who was born on 25 January 1998. He comes from Kirkuk and he is a Kurd.

4. The appellant arrived in the United Kingdom on 14 June 2019 and on the next day he claimed asylum. The basis of his claim was that he was involved in the "battle for Kirkuk" in October 2017 fighting for the Peshmerga from the IKR against the Popular Mobilisation Forces ("PMF") (sometimes referred to interchangeably with the "Popular Mobilisation Units" or "PMU").

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

The Appeal to the First-tier Tribunal

6. The appellant appealed to the First-tier Tribunal. In a determination sent on 10 May 2021, Judge J H Napier dismissed the appellant's appeal on all grounds.

7. First, the judge accepted that the appellant had been involved in the "battle for Kirkuk". However, he did not accept that the appellant had shot any members of the PMF but, instead, only that he had "fired warning shots in the air" (see para 32).

8. Secondly, the judge did not accept that the appellant was wanted by the Iraqi authorities.

9. Thirdly, he did not accept, as credible, the appellant's claim that he had been sought by the PMF or any of its allied groups, that his family home had been searched or raided or that his involvement in the "Battle for Kirkuk" was known to the PMF (see para 53).

10. As a consequence, the judge dismissed the appellant's claim based upon asylum grounds.

11. Fourthly, the judge found that the appellant would not be at real risk of serious harm arising from indiscriminate violence on return to Kirkuk so as to engage Art 15(c) of the Qualification Directive (Council Directive 2004/83/EC) (see para 56).

12. Finally, as regards the appellant's Art 3 claim, the judge accepted, on the basis of the appellant's evidence, that his family in Kirkuk had his CSID

and, as a result, he could obtain that from them in order to safely return to Iraq and travel to his home area of Kirkuk.

The Appeal to the Upper Tribunal

13. Following the grant of permission to appeal to the Upper Tribunal, at the error of law hearing it was accepted by the parties, in the light of the UT's decision in SA (removal destination; Iraq; undertakings) Iraq [2022] UKUT 37 (IAC), that the judge had erred in law in considering the risk to the appellant (under Art 3 but not the Refugee Convention) on the basis that he would be voluntarily returned to the IKR when, on the evidence then before the UT, enforced return was only possible to Baghdad. The judge had failed properly to consider whether the appellant would be at risk, even with his CSID, travelling from Baghdad to Kirkuk.

14. However, the UT dismissed the appellant's challenge to the adverse decision in relation to Art 15(c) of the Qualification Directive based upon risk to the appellant in his home area of Kirkuk.

15. In the result, the UT set aside the judge's decision in order for it to be remade solely in respect of the issue of whether the appellant would be at risk in travelling from Baghdad to his home area in Kirkuk.

16. The judge's adverse finding in relation to Art 15(c) was upheld by the UT. Further, a number of the judge's findings were preserved as set out at [62] of the UT's decision, namely that

    (i) the appellant would not be at risk of persecution or serious harm on return to Kirkuk;

    (ii) the appellant had left his CSID at home with his family and the appellant could obtain that CSID from them prior to returning to Iraq; and

    (iii) the appellant would not be at risk in the IKR.

17. The resumed hearing to remake the decision was listed at the Cardiff Civil Justice Centre on 22 September 2022. The appellant was represented by Mr Dieu and the respondent by Ms Rushforth. I heard oral submissions from both representatives.

18. At the outset of the hearing, the representatives identified a limited number of outstanding issues.

19. First, both representatives accepted that the issue of risk concerned solely the risk to the appellant travelling from the IKR, to which he could now (and would) be involuntarily returned by plane from the UK.

20. Mr Dieu did not object to Ms Rushforth's application under rule 15(2A) to admit new evidence including an email within the Home Office and dated 6 June 2022 which stated that the Home Office had "successfully enforced

the return of 7 individuals to Erbil and Sulaymaniyah over the last 9 months." Mr Dieu accepted, on the basis of this evidence, that the appellant would be returned to one of those airports in the IKR and that, therefore, on the evidence now before the UT the issue was whether he could safely leave the IKR and travel to Kirkuk.

21. Secondly, the parties agreed that if the appellant would be at real risk of serious harm on that basis then the issue of relocating (by remaining) in the IKR arose.

22. Mr Dieu did not seek to introduce any additional evidence to support the appellant's case. He relied upon the Upper Tribunal's country guidance decision in SMO and others (Article 15(c); identity documents) Iraq CG [2019] UKUT 400 (IAC) ("SMO 1"). In addition, the representatives referred me to the subsequent country guidance decision in SMO and KSP (Civil status documentation; article 15 (Iraq) CG [2022] UKUT 110 (IAC) ("SMO 2") and also to AAH (Iraqi Kurds – international relocation) Iraq CG UKUT 212 (IAC) ("AAH").

The Submissions

(1) The Appellant

23. On behalf of the appellant, Mr Dieu submitted that the appellant would be at risk from the Iraqi authorities and the PMF at checkpoints on leaving the IKR and travelling to Kirkuk.

24. Relying upon [45] in SMO 1, Mr Dieu submitted that the PMF controlled the villages around Kirkuk City and controlled entry to the city. Relying on [43] of SMO 1, Mr Dieu submitted that there were both real and fake checkpoints, the latter were used for ambushing and kidnapping. He submitted that, despite having a CSID, the appellant was at risk of being questioned and his political activity in Kirkuk, namely fighting in the "battle for Kirkuk" would be a matter that he could not be expected to be discrete about but, if he told the truth, he would be at real risk of serious harm. In relation to the risk arising from either disclosing the truth of the appellant's political activity and not being expected to be discrete, Mr Dieu relied upon the well-known decision of the Supreme Court in HJ (Iran) v SSHD [2010] UKSC 31. Mr Dieu relied upon the expert evidence of Dr Fatah quoted by the UT in SMO 1 at [156] that the appellant as a Kurd, faced more questioning in Iraq particularly at checkpoints manned by Iraqi forces who would want to establish whether an individual had any political affiliations or ties to the Peshmerga.

25. As regards internal relocation, Mr Dieu relied upon the guidance in SMO 1 paras (21) – (28) of the judicial headnote. He accepted that there was no risk from the Kurdish authorities which would arise on the appellant's arrival in the IKR and that he would be allowed to enter as a Kurd in possession of a CSID despite not being a resident of the IKR. He accepted that, although the UT recognised at para (25) that an additional factor that

may increase the risk including that the individual came from an area associated with ISIL (as Kirkuk was), nevertheless the appellant's arrival from the UK would dispel any suggestion of them having arrived directly from ISIL territory.

26. Mr Dieu submitted that the issue was whether it would be reasonable and not unduly harsh for the appellant to live in the IKR applying the approach in paras (26) – (28) of the headnote. Mr Dieu pointed out that the appellant had no family in the IKR. They lived in Kirkuk. The appellant came to the UK when he was 21½ years old and he was now 24 years old. When he left Iraq he was a student and had no work experience to draw on and no qualifications. Mr Dieu submitted that he had a low prospect of gaining employment even though with his CSID he would be able to work. Mr Dieu accepted that the appellant could take advantage of the Voluntary Returns Scheme ("VRS") and would have access to £1,500 but that would not be a long-term solution as his income would become quickly depleted because of the costs of accommodation. Mr Dieu submitted that taking all these factors into account, it was unreasonable and unduly harsh for the appellant to locate in the IKR in order to avoid any risk on his returning to Kirkuk.

27. In the result, Mr Dieu invited me to allow the appeal under Art 3 and Art 15(b) of the Qualification Directive.

(2) The Respondent

28. On behalf of the respondent, Ms Rushforth submitted that there was insufficient evidence based upon what was said in SMO 1 to establish that the appellant would be at risk at checkpoints travelling to Kirkuk arising from questioning given that he would be in possession of a CSID. She submitted that SMO 1 was concerned with the risk to an individual if their identity could not be established at a checkpoint by, most commonly, a CSID. He referred me to [343], [369] and [378] and [386] of SMO 1 which was concerned with the arbitrary arrest and detention of someone without an ID document in order that their identity could be determined. She submitted that in [43]–[45], relied upon by Mr Dieu, there was no reference to questioning. She accepted that there was reference to it in Dr Fatah's evidence set out at [156] but that was not specific to Kirkuk and it did not indicate what, if any, questions would be asked in detail.

29. Ms Rushforth submitted that in order for the appellant to establish that he would, in effect, be forced to disclose his political activity, by being involved in the "battle for Kirkuk", there would need to be more evidence to establish that questioning would take place of the sort which would either require the appellant to disclose that or, as he could not be required to do, to dissemble and be discrete.

30. Secondly, Ms Rushforth submitted that the appellant could relocate to the IKR applying the approach set out in SMO 1 at paras (27) and (28) of the judicial headnote. Ms Rushforth accepted that the appellant had no family

in the IKR: they lived in Kirkuk. She accepted, therefore, on the basis of para (27(i) – (iii)) of the headnote, that the appellant would be unable to gain access to a refugee camp and he would not be able to live with a family member. Ms Rushforth submitted that the guidance contemplated financial support from family assisting an individual, not only where the relatives were abroad but that could include relatives in Iraq (see para (27(iv))). Ms Rushforth submitted that the evidence before the judge was that the appellant's father had provided the appellant financial support both while the appellant was in Turkey and also whilst he was in Greece and he had also paid a bribe in order for the appellant to obtain a passport. She referred to paras 62 and 34 of the First-tier Judge's decision. The appellant would also, she submitted, have support from the VRS of £1,500. She submitted that the appellant could stay for a period of say six months with that support and that given the appellant's background, he would be able to work. She accepted that he had no work experience but that, on his own evidence set out in the screening interview, he had studied to year 12 of secondary school and was, therefore, relatively well-educated. She submitted that the appellant could reasonably and without undue harshness locate within the IKR.

Discussion

31. I will deal in turn with the two issues of (1) the risk, if any, to the appellant at checkpoints travelling from the IKR to Kirkuk; and (2) whether it would be reasonable and not unduly harsh for the appellant to locate to the IKR.

(1) Risk at Checkpoints

32. The appellant's claim is brought in reliance upon Art 3 of the ECHR and Art 15(b) of the Qualification Directive.

33. In relation to Art 3, the burden of proof is upon the appellant to establish that there are substantial grounds for believing that there is a real risk that he would be subject to torture, inhuman or degrading treatment or punishment. In essence, having regard to all the appellant's circumstances, the issue is whether there is a real risk of serious harm to the appellant.

34. In relation to Art 15(b) of the Qualification Directive, the burden of proof is upon the appellant to establish that there are substantial grounds for believing that he will face a real risk of suffering serious harm, namely torture or inhuman or degrading treatment or punishment, on return to Iraq.

35. The parties accept that the sole outstanding issue concerns the risk to the appellant at PMF/Iraqi authorities' checkpoints after the appellant has left the IKR and before he reaches Kirkuk. A risk arises, it is said, because he will be questioned and the nature of that questioning will require him to either volunteer (or inappropriately remain discrete) about his involvement in the "battle for Kirkuk" fighting for the Peshmerga against the PMF. Ms

Rushforth did not seek to argue that, if the appellant would be questioned in this way, that the treatment he would receive would not amount to serious harm. She submitted, rather, that the evidence relied upon was, somewhat limited, and did not establish that the appellant would be questioned in this way and so be at risk.

36. There is a paucity of directly relevant evidence on this issue in this appeal. I was referred to no evidence other than a number of specific passages in SMO 1 and AAH.

37. In SMO 1, at [45] the evidence was that the PMF controls the villages around Kirkuk City and controls entry to the city. At [45] it is said:

> "The PMUs tended to control the villages around Kirkuk city and to control entry to the city."

38. Further, the evidence in SMO 1 notes the existence of "checkpoints" in Iraq (see [43]) and reference is also made to the: "use of fake checkpoints for ambushing and kidnapping". That is said in the section of the decision in SMO 1 concerned with the "Kirkuk Governorate" starting at [25]. Checkpoints are also referred to in [46].

39. In AAH at [111[the UT noted the existence of "innumerable checkpoints" on the roads between Baghdad and the IKR. Of course, the central issue which arose in successive country guidance cases, for example AAH, SMO 1 and SMO 2 concerned the risk to an individual travelling from their point of entry to Iraq to their home area in the absence of a CSID or INID and was predicated on the risk arising at "checkpoints".

40. On the basis of this evidence, I am satisfied that it is established that there are checkpoints, including in the vicinity of Kirkuk, maintained by the PMF or Iraqi authorities. I accept that the appellant is likely to have to pass through such a checkpoint having left the IKR (where he is of no interest to the IKR authorities) and into Iraq itself and the Kirkuk region.

41. The next link in Mr Dieu's reasoning is that at such a checkpoint the appellant will be questioned in such a way about his background that he will be required to disclose his political activity by fighting for the Peshmerga in the "battle of Kirkuk" or wrongly required to be discrete about it. Mr Dieu candidly accepted that the only evidence concerning questioning, to which he could draw my attention in SMO 1 (or indeed elsewhere) was in the quoted evidence of Dr Fatah at [156] as follows:

> "156. Dr Fatah was asked about the parts of his report in which he had identified personal characteristics giving rise to increased risk. He explained that a Sunni Kurd would face as much additional risk as a Sunni Arab. After 2017, a Kurd might face more questioning in Iraq proper and particularly at checkpoints which were manned by Iraqi forces, who would want to establish whether he had any political affiliations or ties to the Peshmerga. Dr Fatah did not consider there to be any additional risk from having been out of Iraq, unless an individual did not have an ID or was displaying non-Islamic symbols at

> a checkpoint, for example. An association with the Iraqi Security Forces was definitely a profile which enhanced an individual's risk, however."

42. Mr Dieu submitted that Dr Fatah's evidence was that a Kurd (such as the appellant) might face more questioning at checkpoints manned by Iraqi forces than others including to determine their political affiliations or ties to the Peshmerga.

43. That evidence is, in my judgment, the only evidence to which my attention was drawn which directly relates to the issue of questioning at checkpoints. None of the country guidance decisions which are concerned with the risk to an individual at a checkpoint who lacks a CSID or INID provide any direct support for the clam that, if in possession of such a CSID or INID, nevertheless the individual may still be subject to questioning and at risk. Each of those cases makes plain that the issue at a checkpoint is whether an individual is able to satisfy those maintaining the checkpoint as to their identity or, if not, they are likely to be detained in order their identity can be established (see e.g. AAH at [114], SMO 1 at [347]), SMO 2 Annex A [27]-[28]).

44. At [347] of SMO 1 Dr Fatah's evidence in AAH was summarised as follows:

> "It was Dr Fatah's uncontested evidence in [AAH] that a failure to produce a CSID or, in the environs of the airport a valid passport, would be likely to result in detention until the authorities could be satisfied of an individual's identity."

45. At [378] of SMO 1, the UT again emphasises the importance of an identity document because of the need to prove identity at a checkpoint:

> "In the light of the other evidence which we have about the behaviour of the PMU, we accept what was said by Dr Fatah about their likely attitude to alternative forms of identity. He reminded us that they are often religious zealots with the most rudimentary training. If, as is very likely to be the case, they have been trained to ask people for a CSID or an INID, there is every reason for them to insist upon seeing such a document. All of the evidence shows that those who do not have one of these recognised forms of identification are likely to encounter difficulties at checkpoints. "

46. Again, no specific reference is made to difficulties faced by individuals who do possess such a document.

47. Then at [386], the UT referred to evidence from the Danish Immigration Service's report of November 2018 that:

> "However, without documents it is very difficult to travel anywhere and pass checkpoints, because people without documents more often face arbitrary arrests and detentions."

48. Likewise, in the earlier decision of AAH, at para (5) of the judicial headnote, the importance of identity documents – and the risks to individuals who lack them, at checkpoints is the focus of the guidance:

> "P will face considerable difficulty in making the journey between Baghdad and the IKR by land without a CSID or valid passport. There are numerous checkpoints en route, including two checkpoints in the immediate vicinity of

> the airport. If P has neither a CSID nor a valid passport there is a real risk of P being detained at a checkpoint until such time as the security personnel are able to verify P's identity. It is not reasonable to require P to travel between Baghdad and IKR by land absent the ability of P to verify his identity at a checkpoint. This normally requires the attendance of a male family member and production of P's identity documents but may also be achieved by calling upon "connections" higher up in the chain of command."

49. In short, apart from Dr Fatah's evidence in [156] of SMO 1, the focus of the evidence and the UT's assessment of it relates to the risk to an individual at a checkpoint of not being able to establish their identity without a CSID or INID document. The UT, perhaps because of the lack of any cogent evidence, did not consider the risk to an individual who has a CSID or INID. Whilst Dr Fatah's evidence at [156] does refer to the potential of "more questioning" at checkpoints for a Kurd whose political affiliation or ties to the Peshmerga may be of interest, it is not clear that Dr Fatah is expressing that view in the context of an individual who has a CSID and may, if a Kurd, be subject to questioning about any political affiliations rather than when an individual has not been able to produce a CSID or INID and is, therefore, likely to be questioned in order to seek to establish their identity. If anything, the overall context of the evidence and case law suggests the latter rather than the former context is intended.

50. In my judgment, the evidence does not establish what Mr Dieu contends in order for the appellant's claim to succeed. There is insufficient evidence to establish a real risk that a person with a CSID or INID (and therefore whose identity is likely to be established) will nevertheless be subject to questioning if they are Kurdish such that they may be required to disclose (as the appellant has) his prior political activity fighting for the Peshmerga against the PMF. Mr Dieu's submission, in effect, is that – regardless of being in possession of a CSID or INID – a Kurd with a political background, which they must disclose, is at real risk of serious harm at any PMF/Iraqi authorities checkpoint in Iraq. I do not accept that the evidence establishes the basis for that position which has never been put forward in any of the CG cases such as AAH, SMO 1, and, now, SMO 2.

51. For these reasons, I am not satisfied that the appellant is at real risk of serious harm contrary to Art 3 of the ECHR or Art 15(b) of the Qualification Directive on return to Iraq.

(2) Relocation to the IKR

52. Strictly, the issue of relocation does not arise as the appellant can safely return to Kirkuk in possession of his CSID. However, I heard detailed arguments on the issue of relocation and whether it would be "unreasonable" or "unduly harsh" having regard to all the circumstances for the appellant to live in the IKR. I will, therefore, address the issue and the submissions made to me.

53. I approach the issue of relocation applying the test of "unreasonableness" or "undue harshness" having regard to all the appellant's circumstances

(see summary of the law in SC(Jamaica) v SSHD [2022] UKSC 15 at [53]-[62] per Lord Stephens). At [95] of SC(Jamaica) Lord Stephens summarised the issue as follows:

> "95. The correct approach to the question of internal relocation under the Refugee Convention is that set out in *Januzi* at para 21 and in *AH (Sudan)* at para 13 (see paras 58 and 59 above). It involves a holistic approach involving specific reference to the individual's personal circumstances including past persecution or fear thereof, psychological and health condition, family and social situation, and survival capacities in order to determine the impact on that individual of settling in the proposed place of relocation and whether the individual "can reasonably be expected to stay" in that place. It does not take into account the standard of rights protection which a person would enjoy in the country where refuge is sought. Also, as correctly conceded by the SSHD, it does not take into account what is "due" to the person as a criminal…."

54. The issue of relocation to the IKR by a Kurd from Central Iraq is dealt with in the country guidance decision of SMO 1 and that guidance was approved in SMO 2. As I was referred to the relevant guidance in the judicial headnote of SMO 1, I will set out that out. Paragraph (26), deals with the situation where the individual has family members living in the IKR as follows:

> "If P has family members living in the IKR cultural norms would require that family to accommodate P. In such circumstances P would, in general, have sufficient assistance from the family so as to lead a 'relatively normal life', which would not be unduly harsh. It is nevertheless important for decision-makers to determine the extent of any assistance likely to be provided by P's family on a case by case basis."

55. That, it is accepted, does not apply to the appellant as his family live in Kirkuk. As a result, the relevant paragraphs, setting out the factors to be considered, are at paras (27) and (28) of the headnote.

56. Paragraph (27) provides as follows:

> "27. For Kurds without the assistance of family in the IKR the accommodation options are limited:
>
> (i) Absent special circumstances it is not reasonably likely that P will be able to gain access to one of the refugee camps in the IKR; these camps are already extremely overcrowded and are closed to newcomers. 64% of IDPs are accommodated in private settings with the vast majority living with family members;
>
> (ii) If P cannot live with a family member, apartments in a modern block in a new neighbourhood are available for rent at a cost of between $300 and $400 per month;
>
> (iii) P could resort to a 'critical shelter arrangement', living in an unfinished or abandoned structure, makeshift shelter, tent, mosque, church or squatting in a government building. It

would be unduly harsh to require P to relocate to the IKR if P will live in a critical housing shelter without access to basic necessities such as food, clean water and clothing;

(iv) In considering whether P would be able to access basic necessities, account must be taken of the fact that failed asylum seekers are entitled to apply for a grant under the Voluntary Returns Scheme, which could give P access to £1500. Consideration should also be given to whether P can obtain financial support from other sources such as (a) employment, (b) remittances from relatives abroad, (c) the availability of ad hoc charity or by being able to access PDS rations."

57. As can be seen, the issue of the availability of accommodation and available resources to the appellant both to provide for that accommodation and sustenance and support living in the IKR.

58. At para (28) the specific issue of obtaining employment, as a means to provide for that support, is considered as follows:

"28. Whether P is able to secure employment must be assessed on a case-by-case basis taking the following matters into account:

(i) Gender. Lone women are very unlikely to be able to secure legitimate employment;

(ii) The unemployment rate for Iraqi IDPs living in the IKR is 70%;

(iii) P cannot work without a CSID or INID;

(iv) Patronage and nepotism continue to be important factors in securing employment. A returnee with family connections to the region will have a significant advantage in that he would ordinarily be able to call upon those contacts to make introductions to prospective employers and to vouch for him;

(v) Skills, education and experience. Unskilled workers are at the greatest disadvantage, with the decline in the construction industry reducing the number of labouring jobs available;

(vi) If P is from an area with a marked association with ISIL, that may deter prospective employers."

59. Ms Rushforth accepted that the appellant had no ties in the IKR. She also accepted that he would, in effect, be required to obtain his own accommodation at a cost of between $300 and $400 per month. She submitted that it was reasonable to expect the appellant to live in Iraq as he would be in receipt of the VRS funds of £1,500 and also could obtain funds and support from his family in Kirkuk given that his father had previously provided him with funds in Turkey and Greece. Further, Ms Rushforth submitted that although there was no evidence that the appellant had any work experience, he was now 24 years old, and he had attended school until year 12 when, on his evidence in his asylum interview, he had been unable to complete his schooling because of the ISIS attack on Kirkuk. She submitted that, if the appellant could obtain

accommodation and survive for about six months, on the funds provided by VRS and his family, then he would be able to obtain employment and continued accommodation etc.

60. I do not accept Ms Rushforth's submissions and that it would be "reasonable" for the appellant to relocate to the IKR. I accept, of course, that he would in the short term have some financial means to provide accommodation and living costs in the IKR. However, the cost of accommodation is $300 - $400 per month. As a matter of common sense, the VRS money will provide for accommodation for a few months even having regard to the need for the appellant to also provide for other living costs. That, however, is not a long-term (or even medium-term) solution to provide for the appellant. I do bear in mind that the appellant's father has previously provided him with financial support, though the specifics of any such support is not apparent in the evidence. I accept, therefore, that the appellant's father could provide him with some support.

61. However, Ms Rushforth's submission is that the appellant would, in a relative short period of time (she referred to six months), be able to build up links such that he could obtain employment and therefore become self-supporting. Whilst I accept that the appellant has a school education, it would appear, up to a point shortly before he had left school, he has no work experience and, there is no suggestion in the evidence, he has any particular skills that he has acquired as a teenager or young man. He is also a person who comes from an area associated with ISIL, namely Kirkuk, which the guidance indicates may deter prospective employers. Of course, he is able to work as he has a CSID but, I am not satisfied, on the basis of the evidence that there is a real possibility that he will be able to obtain work in the relatively short period of time contemplated given all his circumstances and the difficulties, identified in the country guidance, of individuals in the IKR being in employment. In my judgment, there is a real risk that once the money from the VRS is expended and even with some support from his family, the appellant will not be in a position to work and so supplement that money such that he would be able to afford the relatively high cost of rent for accommodation and living costs in the IKR. Given that his relocation cannot be seen simply as providing a temporary base in the IKR, it would not, in my judgment, be reasonable to expect him to relocate there in order to avoid any risk if he were to try to return to Kirkuk.

62. However, my finding is not material to the outcome of the appeal as the appellant has failed to establish that he is at real risk of serious harm if he were to seek to return to Kirkuk and on that basis his claim under Art 3 of the ECHR and Art 15(b) of the Qualification Directive must fail.

Decision

63. The decision of the First-tier Tribunal was set aside by the Upper Tribunal in its decision sent on 4 March 2022.

64. I remake the decision dismissing the appellant's appeal under Art 3 of the ECHR and Art 15(b) of the Qualification Directive.

65. The First-tier Tribunal's decisions to dismiss the appellant's appeal on asylum grounds and under Art 15(c) of the Qualification Directive stand.

Signed

Andrew Grubb

Judge of the Upper Tribunal
28 September 2022