



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA012132016

THE IMMIGRATION ACTS

Heard at Glasgow  
On 22 May 2017

Decision Promulgated  
On 30 May 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE DOYLE

Between

MOHAMMED BAQY RASHID  
(ANONYMITY NOT MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Caskie (counsel) instructed by Latta & Co, solicitors  
For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

DECISION AND REASONS

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having considered all the circumstances and evidence I do not consider it necessary to make an anonymity direction.
2. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Bradshaw promulgated on 16 March 2017, which dismissed the Appellant's appeal.
3. The Appellant was born on 13 November 1994 and is a national of Iraq. On 22 January 2016, the Secretary of State refused the Appellant's protection claim.

## The Judge's Decision

4. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge Bradshaw ("the Judge") dismissed the appeal against the Respondent's decision. Grounds of appeal were lodged and on 10 April 2017 Judge E B Grant gave permission to appeal stating inter alia

2. The grounds submit the FtTJ erred in law when assessing internal relocation, when assessing article 15(c) of the qualification directive including making conflicting findings on the one hand that the appellant can be returned to KRG via Baghdad and on the other hand finding that return to Iraq is not feasible. The complaint in the grounds regarding to the credibility findings is devoid of merit and raises no arguable error of law in respect of the adverse credibility findings made by the FtTJ which were properly open to him for the reasons given.

3. Ground 1 may be argued.

## The Hearing

5. (a) For the appellant, Mr Caskie moved the grounds of appeal. He reminded me that the appellant is a 22-year-old man from a small village close to Kirkuk, and that the Judge made findings that the appellant could take up life in Erbil. He reminded me that the appellant is not from IKR. He referred me to AA (Article 15(c)) Iraq CG [2015] UKUT 544 (IAC (in particular paragraph 13 of the head note) & said that the Judge had erred in law because the Judge had failed to engage with what would face the appellant if he is returned to Iraq. He took me to [94] of the decision, where the respondent's position that return to Iraq is not currently feasible for the appellant is recorded. He then took me to [93] of the decision and told me that the Judge's finding there amounts to a material error of law.

(b) Mr Caskie told me that the Judge has given inadequate consideration to the events in the appellant's home area, which had been overrun by Daesh, before being reclaimed and dominated by the Iraqi army. He told me that inadequate consideration has been given to the background materials, and that the Judge had failed to consider the deteriorating position in IKR, which he says is overwhelmed by an influx of millions of internally displaced persons.

(c) Mr Caskie told me that the Judge's findings at [92], [93] and [94] are both inadequate and contradictory. He told me that even if the appellant held a valid CSID, the country situation is so dire that it is impossible and unreasonable to safely relocate. He told me that the Judge has not properly engaged with those considerations. He insisted that the decision is tainted by material errors of law and urged me to set the decision aside.

6. (a) Mr Matthews reminded me that permission to appeal had been granted in relation to ground 1 only. Ground 1 contains four subparagraphs. He told me that

Mr Caskie's submissions made a fleeting reference to ground one (iii) only, and that the argument advanced could not competently be considered because permission to appeal had not been granted for that argument.

(b) Taking each of the four parts of the ground of appeal for which permission to appeal has been granted, Mr Matthews told me that ground one (i) is a misconception. He told me that what is set out in that ground of appeal discloses a misunderstanding of the ratio of AA insofar as it relates to returned directly to IKR. (Mr Caskie interjected to say that he agreed with Mr Matthews.)

(c) He told me that ground one (ii) has no merit because it is the respondent's position, which is acknowledged by the Judge, that at the moment for this appellant return to Iraq is not feasible. Mr Matthews then focused on ground one (iii). He told me that [92] of the decision goes without challenge and that the ground of appeal focuses on [93] and [94]. He took me to the terms of [93] and [94] and argued that there is nothing contradictory contained in those two paragraphs. He told me that [93] is the Judge's conclusion on the question of internal relocation, and [94] records a fact which is not in dispute.

(d) Mr Matthews turned to ground one (iv) and told me that the Judge had correctly applied the country guidance contained in AA (Article 15(c)) Iraq CG [2015] UKUT 544 (IAC). He told with the decision does not contain any errors of law, material or otherwise, and urged me to dismiss the appeal and allow the decision to stand.

### Analysis

7. In AA (Article 15(c)) Iraq CG [2015] UKUT 544 (IAC) it was held that (i) Return of former residents of the Iraqi Kurdish Region (IKR) will be to the IKR and all other Iraqis will be to Baghdad. The Iraqi authorities will allow an Iraqi national (P) in the United Kingdom to enter Iraq only if P is in possession of a current or expired Iraqi passport relating to P, or a laissez passer; (ii) No Iraqi national will be returnable to Baghdad if not in possession of one of these documents; (iii) In the light of the Court of Appeal's judgment in HF (Iraq) and Others v Secretary of State for the Home Department [2013] EWCA Civ 1276, an international protection claim made by P cannot succeed by reference to any alleged risk of harm arising from an absence of Iraqi identification documentation, if the Tribunal finds that P's return is not currently feasible, given what is known about the state of P's documentation.

8. In AA (Article 15(c)) Iraq CG [2015] UKUT 544 (IAC) it was also held that (i) It will only be where the Tribunal is satisfied that the return of an Iraqi national (P) to Iraq is feasible that the issue of alleged risk of harm arising from an absence of Iraqi identification documentation will require judicial determination; (ii) Having a Civil Status Identity Document (CSID) is one of the ways in which it is possible for an Iraqi national in the United Kingdom to obtain a passport or a laissez passer. Where the Secretary of State proposes to remove P by means of a passport or laissez passer, she will be expected to demonstrate to the Tribunal what, if any, identification

documentation led the Iraqi authorities to issue P with the passport or laissez passer (or to signal their intention to do so); (iii) Where P is returned to Iraq on a laissez passer or expired passport, P will be at no risk of serious harm at the point of return by reason of not having a current passport or other current form of Iraqi identification document; (iv) Where P's return to Iraq is found by the Tribunal to be feasible, it will generally be necessary to decide whether P has a CSID, or will be able to obtain one, reasonably soon after arrival in Iraq. A CSID is generally required in order for an Iraqi to access financial assistance from the authorities; employment; education; housing; and medical treatment. If P shows there are no family or other members likely to be able to provide means of support, P is in general likely to face a real risk of destitution, amounting to serious harm, if, by the time any funds provided to P by the Secretary of State or her agents to assist P's return have been exhausted, it is reasonably likely that P will still have no CSID; (v) Where return is feasible but P does not have a CSID, P should as a general matter be able to obtain one from the Civil Status Affairs Office for P's home Governorate, using an Iraqi passport (whether current or expired), if P has one. If P does not have such a passport, P's ability to obtain a CSID may depend on whether P knows the page and volume number of the book holding P's information (and that of P's family). P's ability to persuade the officials that P is the person named on the relevant page is likely to depend on whether P has family members or other individuals who are prepared to vouch for P; (v) P's ability to obtain a CSID is likely to be severely hampered if P is unable to go to the Civil Status Affairs Office of P's Governorate because it is in an area where Article 15(c) serious harm is occurring. As a result of the violence, alternative CSA Offices for Mosul, Anbar and Saluhaddin have been established in Baghdad and Kerbala. The evidence does not demonstrate that the "Central Archive", which exists in Baghdad, is in practice able to provide CSIDs to those in need of them. There is, however, a National Status Court in Baghdad, to which P could apply for formal recognition of identity. The precise operation of this court is, however, unclear.

9. In BA (Returns to Baghdad) Iraq CG [2017] UKUT 18 (IAC) it was held that (i) The level of general violence in Baghdad city remains significant, but the current evidence does not justify departing from the conclusion of the Tribunal in AA (Article 15(c)) Iraq CG [2015] UKUT 544 (IAC). (ii) The evidence shows that those who worked for non-security related Western or international companies, or any other categories of people who would be perceived as having collaborated with foreign coalition forces, are still likely to be at risk in areas which are under ISIL control or have high levels of insurgent activity. At the current time the risk is likely to emanate from Sunni insurgent groups who continue to target Western or international companies as well as those who are perceived to collaborate with the Government of Iraq. (iii) The current evidence indicates that the risk in Baghdad to those who worked for non-security related Western or international companies is low although there is evidence to show that insurgent groups such as ISIL are active and capable of carrying out attacks in the city. In so far as there may be a low level of risk from such groups in Baghdad it is not sufficient to show a real risk solely as a perceived collaborator. (iv) Kidnapping has been, and remains, a significant and persistent problem contributing

to the breakdown of law and order in Iraq. Incidents of kidnapping are likely to be underreported. Kidnappings might be linked to a political or sectarian motive; other kidnappings are rooted in criminal activity for a purely financial motive. Whether a returnee from the West is likely to be perceived as a potential target for kidnapping in Baghdad may depend on how long he or she has been away from Iraq. Each case will be fact sensitive, but in principle, the longer a person has spent abroad the greater the risk. However, the evidence does not show a real risk to a returnee in Baghdad on this ground alone. (v) Sectarian violence has increased since the withdrawal of US-led coalition forces in 2012, but is not at the levels seen in 2006-2007. A Shia dominated government is supported by Shia militias in Baghdad. The evidence indicates that Sunni men are more likely to be targeted as suspected supporters of Sunni extremist groups such as ISIL. However, Sunni identity alone is not sufficient to give rise to a real risk of serious harm. (vi) Individual characteristics, which do not in themselves create a real risk of serious harm on return to Baghdad, might amount to a real risk for the purpose of the Refugee Convention, Article 15(c) of the Qualification Directive or Article 3 of the ECHR if assessed on a cumulative basis. The assessment will depend on the facts of each case. (vii) In general, the authorities in Baghdad are unable, and in the case of Sunni complainants, are likely to be unwilling to provide sufficient protection.

10. The grant of permission to appeal makes it clear that the Judge's credibility findings stand. Permission to appeal was granted on ground one only. Ground one suggests argues that an error of law has been made when assessing internal relocation and when assessing article 15(c) of the qualification directive. No submissions were made to me in relation to article 15(c) of the qualification directive. This appeal is all about the question of internal relocation.

11. The Judge sets out his findings between [39] and [86] of the decision. No challenge is taken to any of those findings. At [87] the Judge finds that the appellant has fabricated his claim; the Judge concludes [87] by saying

"I do not find the appellant to be a credible witness."

In terms of the grant of permission to appeal, that finding must go without challenge.

12. This appeal focuses on three paragraphs in the decision, [92], [93] and [94]. By the time the objective reader reaches the end of [91] of the decision, the Judge has made clear, sustainable, findings that the appellant is a young single male Kurd from a disputed area, who speaks Kurdish. It is equally clear that every other part of the appellant's claim has been found to be a fabrication.

13. At [90], [91] and [92] the Judge correctly takes guidance from AA (Article 15(c)) Iraq CG [2015] UKUT 544 (IAC). The ground of appeal that was moved is, quite simply, that there is a contradiction between [93] and [94] of the decision. A fair reading of the decision as a whole shows that there is no such contradiction. [93] and

[94] cannot be read in isolation. [93] is the succinct conclusion that the Judge reaches after making his findings of fact and taking guidance in law. [94] simply records the respondent's position that for this appellant return to Iraq is not currently feasible. The fact that return to Iraq is not currently feasible does not equate to a finding that the appellant cannot safely and reasonably relocate to the IKR.

14. The Judge can only make findings of fact based on the evidence placed before him after assessing the quality of the evidence. In this case, the Judge found that the appellant has lied about what happened in Iraq and lied about his reason for leaving Iraq.

15. In Shizad (sufficiency of reasons: set aside) [2013] UKUT 85 (IAC) the Tribunal held that (i) Although there is a legal duty to give a brief explanation of the conclusions on the central issue on which an appeal is determined, those reasons need not be extensive if the decision as a whole makes sense, having regard to the material accepted by the judge; (ii) Although a decision may contain an error of law where the requirements to give adequate reasons are not met, the Upper Tribunal would not normally set aside a decision of the First-tier Tribunal where there has been no misdirection of law, the fact-finding process cannot be criticised and the relevant Country Guidance has been taken into account, unless the conclusions the judge draws from the primary data were not reasonably open to him or her.

16. The decision does not contain an error of law. It is for the Judge to decide what weight to place on the evidence. There is no justifiable criticism of the fact-finding exercise. The Judge directed himself correctly in law. The Judge sets out adequate reasons for reaching the conclusion that he reaches. The decision reached by the Judge is well within the range of reasonable conclusions available to the Judge.

17. In this case, there is no misdirection in law & the fact-finding exercise is beyond criticism. The decision is not tainted by a material error of law. The Judge's decision, when read as a whole, sets out findings that are sustainable and sufficiently detailed.

## CONCLUSION

**18. No errors of law have been established. The Judge's decision stands.**

## DECISION

**19. The appeal is dismissed. The decision of the First-tier Tribunal stands.**

Signed *Paul Doyle*

Date 24 May 2017

Deputy Upper Tribunal Judge Doyle