



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/00727/2018**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 15th October 2018**

**Decision Promulgated  
On 18th October 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE PICKUP**

**Between**

**DA**

[ANONYMITY DIRECTION MADE]

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the appellant: Mr H Pratt, instructed by WTB Solicitors LLP

For the respondent: Mr A McVeety, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is the appellant's appeal against the decision of First-tier Tribunal Judge Shergill promulgated 27.2.18, dismissing on all grounds his appeal against the decision of the Secretary of State, dated 12.12.17, to refuse his claim for international protection.
2. First-tier Tribunal Judge Manuel refused permission to appeal on 23.3.18. However, when the application was renewed to the Upper Tribunal, Upper Tribunal Judge Plimmer granted permission on 22.5.18.

*Error of Law*

3. For the reasons set out below, I find no material error of law in the making of the decision of the First-tier Tribunal such as to require it to be set aside.

4. The core bases of the claim for international protection, fear of Daesh and inability to relocate to the IKR because of his father's connections to the former Ba'ath Party, were rejected and these findings have not been appealed.
5. However, the judge accepted that the appellant was from a contested area of Iraq, near Mosul, and could not be expected to return there. The remaining issue in the appeal was that of relocation to either Baghdad or the IKR. At [42] the judge concluded that it would be unduly harsh to expect the appellant to relocate to Baghdad. At [45] the judge concluded that the appellant would be able to enter the IKR and either had a genuine CSID or would have the means to obtain a renewal of his CSID.
6. The grounds complain that the judge erroneously declined to apply the extant country guidance case law in relation to Kurdish returnees who do not originate from the IKR.
7. In granting permission, Judge Plimmer found it arguable that the judge failed to apply or give reasons for departing from the Country Guidance. For the reasons set out below, whilst there was an error in the judge's understanding or application of the Country Guidance, I am satisfied that it was not material.
8. I agree and find that the judge was in error in suggesting at [43] that the appellant could fly from the UK via Turkey to Erbil or Sulaymaniyah, both of which are within the IKR. The country guidance revised by the Court of Appeal in AA (Iraq) v SSHD [2017] EWCA Civ 944, and the subsequent decision of the Upper Tribunal in AAH (Iraqi Kurds - internal relocation) Iraq CG [2018] UKUT 00212 (IAC), is to the effect that a Kurd who is not from the IKR cannot be pre-cleared for direct entry with a laissez-passer but has to travel via Baghdad. However, with a CSID such a person will have no difficulty making his way to the IKR. At the time of the country guidance decisions there were no direct international flights to the IKR.
9. AA had been promulgated before Judge Shergill's decision, but AAH had not. The judge cannot be criticised for not following a country guidance decision that was not in existence at the time of his decision. However, on a reading of the decision as a whole, I am satisfied that the judge had given appropriate attention to the appellant's personal characteristics and likely circumstances in the IKR, so that the decision is not incompatible with AAH.
10. As the judge noted at [43] direct flights to the IKR have resumed, which they did in March 2018. Despite that, it remains the Country Guidance that a Kurd who does not originate from the IKR cannot fly directly there from outside Iraq but will have to travel via Baghdad. However, the appellant can be issued with a ticket to fly from the UK to Erbil or Sulaymaniyah, via a third country such as Turkey, and transiting at Baghdad Airport. With the same identity documentation (CSID) enabling him to reach Baghdad the appellant will not need to leave the airport and will have no difficulty in taking a connecting flight to one of the two destinations in the IKR. He will

not have to travel overland to reach the IKR and thus there are no risks to him in travelling between Baghdad and the IKR.

11. It follows that there is no material error in the decision of the First-tier Tribunal as the outcome would be exactly the same, a dismissal of the appeal.

### *Decision*

12. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.



**Signed**

**Deputy Upper Tribunal Judge Pickup**

### **Anonymity**

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal made an order pursuant to rule 13(1) of the Tribunal Procedure Rules 2014. Given the circumstances, I continue the anonymity order.

### **Fee Award**

**Note: this is not part of the determination.**

I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make no fee award.

Reasons: No fee is payable



**Signed**

**Deputy Upper Tribunal Judge Pickup**