



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: PA/05250/2016

THE IMMIGRATION ACTS

Heard at Liverpool

On 14 August 2018

Decision and Reasons Promulgated

On 11 September 2018

Before

UPPER TRIBUNAL JUDGE HANSON

Between

RANJA ALI MOHAMMAD

(Anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss Farrell instructed by Morgan Reiss Solicitors.

For the Respondent: Mr C Bates - Senior Home Office Presenting Officer

DECISION AND REASONS

1. Following a hearing at Manchester on 31 May 2018 it was found the First-Tier Tribunal had materially erred in law when considering the reasonableness of internal relocation by failing to have proper regard to the country guidance case of AA (Iraq) and to make adequate findings by reference to that guidance on whether relocation is feasible and reasonable in all the circumstances. The decision of that tribunal was set aside. The findings made in relation to the protection claim are preserved findings.

Background

2. The preserved findings can be summarised as follows:
 - a. That there was some doubt about the documents produced by the appellant which sought to substantiate his claim in regard to the court proceedings in Iraq involving his father and his uncle and the dispute relating to the property and the death certificate for his father. No weight could be attached to these documents.
 - b. The appellant had not shown to the required standard that his father was killed in a property dispute with the uncle.
 - c. The appellant's account that he is one side of a blood feud in Iraq is not credible. The appellant's account of being injured in his leg was not credible. The appellant provided different accounts of how he received the injury.
 - d. Even if the uncle had seized the land as alleged by the appellant it was found the appellant has no intention of going near his uncle if he returned to Iraq. The appellant claimed he had no contact with his family since he left Iraq but also said in his evidence that he had been in contact with his mother who said his uncle was still threatening his safety. This was inconsistent.
 - e. The appellant conceded his younger brother remained in Iraq but was not targeted. The appellant had not established a Convention reason which would form the basis of his being entitled to a grant of asylum. No substantial grounds had been made out for believing there was a real risk of serious harm to the appellant on return to Iraq.
3. For the purposes of these proceedings the appellant provided a supplementary witness statement confirming he was born on 26 May 1997 in Iraq, in Kirkuk. In that statement the appellant claims to have already explained the situation regarding his uncle whose senior membership of the PUK is addressed in his initial witness statement and that, as a result of his uncle's membership, he is unable to return to Kirkuk.

4. The appellant further claims not to have an ID card from Iraq and to have no way of obtaining it as his mother and brother have left Iraq and he has no contact with his family. The appellant claims to have contacted the Red Cross to try and find his family but they had not been able to find them. The appellant claims it is not safe in the Kurdish region and that he cannot return there due to the PUK being in power and his uncle's senior position in the party. The appellant also claims he cannot live in the Kurdish region without ID or passport as he will have to pass through a checkpoint which is controlled by the Shia militia. The appellant claims that Kirkuk is a disputed area and to go anywhere else he will have to have relevant documents otherwise he will not be let through exit controls.
5. The appellant gave further oral evidence and was subject to cross-examination by Mr Bates. There was no re-examination.

Discussion

6. The latest applicable country guidance cases can be summarised as follows:

AA (Article 15(c)) Iraq CG [2015] UKUT 544 (IAC) (unchanged by the Court of Appeal) in which it was held that (i) the Respondent will only return an Iraqi national (P) to the IKR if P originates from the IKR and P's identity has been "pre-cleared" with the IKR authorities. The authorities in the IKR do not require P to have an expired or current passport, or laissez passer; (ii) the IKR is virtually violence free. There is no Article 15(c) risk to an ordinary civilian in the IKR; (iii) A Kurd (K) who does not originate from the IKR can obtain entry for 10 days as a visitor and then renew this entry permission for a further 10 days. If K finds employment, K can remain for longer, although K will need to register with the authorities and provide details of the employer. There is no evidence that the IKR authorities pro-actively remove Kurds from the IKR whose permits have come to an end; (iv) whether K, if returned to Baghdad, can reasonably be expected to avoid any potential undue harshness in that city by travelling to the IKR, will be fact sensitive; and is likely to involve an assessment of (a) the practicality of travel from Baghdad to the IKR (such as to Irbil by air - there is not a real risk of an ordinary civilian travelling from Baghdad airport to the southern governorates, suffering serious harm en route to such governorates so as engage Article 15(c.); (b) the likelihood of K's securing employment in the IKR; and (c) the availability of assistance from family and friends in the IKR; (v) As a general matter, a non-Kurd who is at real risk in a home area in Iraq is unlikely to be able to relocate to the IKR.

AAH (Iraqi Kurds - internal relocation) Iraq CG [2018] UKUT 212 in which there was general agreement that for Arab Iraqis there was in general terms no reasonable internal relocation to the IKR. All returns to Iraq were via Baghdad but for a returnee of Kurdish origin in possession of a valid passport or CSID the journey whether by land or

air was affordable and practical and can be made without real risk neither are there unduly harsh difficulties on the journey. Without a passport or CSID a flight could not be boarded; as there are checkpoints if the journey is made by road there is a real risk of the returnee being detained at a checkpoint if he cannot verify his identity. The verification would normally require attendance of a male family member with the returnee's identity documents but connections higher up the chain of command could also be called upon. It would not be reasonable to require the returnee to travel unless he could verify his identity. There is no sponsorship requirement for Kurds so they would normally be permitted to enter after security screening and registering their presence with the mukhtar. Whether a returnee was at risk during the screening process was fact sensitive but coming from a family associated with ISIS, from ISIS territory and being a single male of fighting age may increase the risk but the returnee is likely to be able to show that he arrived from the UK and therefore not immediately from ISIS territory. Family members living in the IKR would in general be required by cultural norms to accommodate him so that he would in general have sufficient assistance from the family not to render his life unduly harsh but this would have to be determined on a case by case basis. Without the assistance of family accommodation options are limited - it costs \$300 - \$400 to rent an apartment in a modern block; whilst critical shelter arrangements are available (living in an unfinished structure, a school, a mosque, a tent etc) it would be unduly harsh for a returnee to live there without basic necessities such as food clean water and clothing. To consider whether basic necessities could be accessed account must be taken of the fact the returnee could apply for a grant under the voluntary returns scheme giving access to £1500 - financial support from other sources such as work, remittances from relatives abroad or accessing PDS rations should be considered. So far as securing employment is concerned, lone women are unlikely to secure employment, the unemployment rate for IDPs is 70%, the returnee needs a CSID in order to work, unskilled workers are at a disadvantage, patronage and nepotism are important in gaining employment so that someone with contacts is in a better position, being in a location with an association with ISIS can deter prospective employers.

7. Mr Bates made a comparison between the appellant in this appeal and that in AAH who was also a man from Kirkuk who had lost his family but in relation to whom it was found he could return to Iraq.
8. It is not disputed that if the appellant has neither a passport or relevant Iraq identification document that he cannot be returned to Baghdad and travel by air from Baghdad to the IKR or obtain necessary services. The appellant claims in his witness statement that he has neither a passport nor identity document and maintained in his evidence that he will be unable to obtain the same. Whether any weight can be placed upon such an assertion needs to be

considered in light of the evidence as a whole including the credibility issues arising from the proceedings before the First-Tier Tribunal and the preserved finding that the appellant is not a credible witness whose claim has been found to be a fabrication.

9. The appellant claims that his father was killed by his uncle and that his mother and other family left Iraq due to the threat they would face but the First-Tier Tribunal found that the evidence relating to the father's death was not reliable and the appellant's claim his father had died as a result of an alleged feud lacked credibility. As such the alleged threat which the appellant claimed is the reason his mother and other family members were forced to leave Iraq cannot exist. The appellant fails to establish, even to the lower standard applicable to appeals of this nature, that his claim to this effect has any merit.
10. The consequence of the lack of credibility in the appellant's claim and the preserved findings is that the appellant has family in Iraq. These arguably include father, mother, siblings and extended family members. The appellant fails to establish any credibility in his assertion that he has not had contact with the family in light of the contradiction in the evidence reflected in the preserved findings. The appellant fails to make out that he cannot contact family or use family members to obtain a copy of any of the identity documents required. As noted by Mr Bates, the Iraq Embassy in the United Kingdom will be able to obtain the same if required.
11. Mr Bates highlighted a further credibility issue that arose in the appellant's oral evidence. The appellant was asked about the friend who allegedly lent him \$11,000 to enable him to travel to the United Kingdom and the friend who obtained various documents for him which he produced for the purposes of the hearing before the First-Tier Tribunal. The First-Tier Tribunal at [33] noted that when this issue arose at the earlier hearing the appellant had claimed that the friend who lent him the money for the journey was not the same friend who had obtained the documents for him and that he named both friends. Before the Upper Tribunal, in response to a question asked by Mr Bates, the appellant contradicted his earlier evidence claiming that the person who lent him the money and who provided the documents were one and the same. This is a further example of the appellant being unable to maintain a consistent account and giving evidence which clearly demonstrates a lack of credibility in his claim.
12. I find the reality of this matter is that the appellant is not telling the truth in relation to his circumstances. In the reasons for refusal letter at [33] the respondent's position in relation to the ability to acquire the necessary documents is set out in the following terms:
 33. You do not have your CSID, and your claimed home area is a contested area therefore, you would be unable to visit the Civil Status Affairs Office in your claimed home governorate of Kirkuk. However, it is considered that you can apply for formal recognition of your identity via the National Status Court in Baghdad. By your own account, your family members are living in Kirkuk. Your family are wealthy (AIR Q26) and have provided

you with financial support. Therefore, it is considered that they will continue to do so and you will not face destitution in Iraq whilst your application for your CSID is being processed. Furthermore, your mother and maternal uncles can vouch for your identity.

13. The appellant fails to establish that this does not reflect the reality of his situation. The appellant will be returned to Baghdad but as recognised in AAH will be able to travel onto the IKR where he has family available to him, including male relatives.
14. Although the appellant claims he has been unable to trace his family members and has sought assistance from the British Red Cross, for which a letter was provided, it is only dated 25 July 2018. The latter thanks the appellant for the tracing enquiry concerning relatives and accompanying family members which has been sent to the British Red Cross UK office in London. There is no explanation for why the appellant failed to make such a request until shortly before the Resumed hearing of this matter and as the Red Cross note it will be some time before they have anything to report. The letter of the Red Cross also contains a specific note to those applying to use its tracing services, written in bold type, in the following terms:

***“In the view of the British Red Cross, the fact that a Tracing Request is or is not opened should not be considered as evidence that the person sought is/is not missing, or indeed that the person does/does not exist. Neither should the opening of a Tracing Request be considered as credible evidence of efforts to contact family members, nor should the decision not to open such a Tracing Request be seen as absence of such credible evidence. In the same way, a request to transmit a Red Cross Message, or a failure to so request, should not be considered as evidence of the relationship between the sender and the addressee, or of the status of the sender or addressee.*”**

15. The Red Cross confirm they will write to the appellant every three months about the status of the case and as soon as their enquiries are completed will contact him. This letter does not, therefore, corroborate the appellant’s claim that he is unable to contact family members as it is the specific view of the Red Cross themselves that no such claim is made out based upon this evidence. The best that can be said so far as the appellant is concerned is that the production of the letter of 25 July 2018 proves he contacted the Red Cross, but no more.
16. The submission on the appellant’s behalf that despite the adverse credibility findings it was still necessary to consider how the appellant will travel to the IKR and how he could obtain a CSID or other requisite documents is fair comment in light of the need for the same and country guidance case law. The difficulty for the appellant is that the burden of establishing his claim he cannot obtain such documents falls upon him and his failure to tell the truth means there is no credible evidence that he cannot obtain such documents. His advocate’s submissions that his mother had left the country has not been shown

to have arguable merit. Even to the lower standard applicable to appeals of this nature the appellant has failed to make out that he does not have family members and support, both financial and otherwise, in Iraq that will enable him to secure the documentation required to travel to the IKR via Baghdad.

17. I find the appellant has failed to establish an entitlement to be recognised as a refugee, a person entitled to any other form of international protection, or a to grant of leave on any other basis.

Decision

18. I substitute a decision to dismiss the appeal.

Anonymity.

19. The First-tier Tribunal did not make an 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 5 September 2018