



(IMMIGRATION AND ASYLUM CHAMBER)

UPPER TRIBUNAL

APPEAL NUMBER: PA/11943/2017

THE IMMIGRATION ACTS

Heard at: Field House  
On: 27<sup>th</sup> September 2018

Decision and Reasons Promulgated  
On: 12 October 2018

Before

Deputy Upper Tribunal Judge Mailer

Between

MR MOHAMMED [M]  
ANONYMITY DIRECTION NOT MADE

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Mr G O'Ceallaigh, counsel, instructed by Barnes Harrild & Dyer

For the Respondent: Mrs A Fijiwala, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Iraq, born on 1 June 1986. He appeals with permission against the decision of the First-tier Tribunal promulgated on 20 June 2018 dismissing his asylum, humanitarian protection and human rights appeal.
2. At the commencement of the hearing before me, I was informed by both parties that they were in agreement that there had been material errors of law in the decision of the First-tier Tribunal, as set out in the grounds of appeal. They submitted that the decision should accordingly be set aside and remitted to the First-tier Tribunal for a fresh decision to be made before another Judge.
3. The grounds in the application for permission asserted that the Judge failed to resolve a material dispute of fact. The location of Shekhan was central to the

appellant's appeal. He had explained in his later statement that he had been mistaken concerning the location of Shekhan, which is Nineveh Province, though geographically the town is close to Erbil and Mosul. Nineveh Province is a contested area.

4. It was thus contended that the appellant would be at risk if returned there in accordance with paragraph 1 of the headnote of AA (Article 15(c)) Iraq CG [2015] UKUT 544 (IAC) and paragraph 1 of the Annex of AA (Iraq) in the Court of Appeal dated 11 July 2017. It was also relevant to where the appellant's family may currently be, why he has lost touch with them and whether he can obtain a CSID in Iraq. This matter was not resolved.
5. Secondly, the finding that the appellant could safely internally relocate to the Kurdish controlled IKR, was reached without consideration of material parts of AA (Iraq): A person could only be returned directly to the IKR if they had previously originated from there – headnote 17.
6. The Tribunal thus failed to consider the feasibility of the appellant internally relocating to IKR and in particular how he would reach the area from Baghdad and alternatively, his safety in that city - (BA (Returns to Baghdad) CG [2017] UKUT 18).
7. It was further contended that the Tribunal asserted that the appellant would be granted financial assistance by the Iraq authorities as he was previously issued with a laissez passer by the Dutch authorities for his return to the UK in 2006 [37]. There was however no explanation by the Judge why the Iraqi authorities would treat this as proof of the appellant's identity. The laissez-passer considered in AA as proof of identity is one issued by the Iraqi authorities – headnote 9. The Judge failed to consider how the appellant would obtain a CSID. The Judge failed to consider at all whether the appellant would be able to obtain a travel document or the evidence submitted as to his contact with the Iraqi embassy.
8. In addition it is contended that the Judge failed to consider or refer to the expert report of Ms Laizer, who considered the massive displacement of people in the contested areas and the considerable difficulties in tracing family as a result., which is material to the appellant's evidence of losing touch with his family. She also set out in great detail the logistical issues to be considered pending a possible return to IKR.

### **Assessment**

9. Having considered the grounds of appeal, I am satisfied that the concession made on behalf of the respondent was properly made.
10. I find that the decision of the First-tier Tribunal involved the making of an error on a point of law. I set aside the decision, which will have to be re-made. The parties were agreed that this is a suitable case to be heard before the First-tier Tribunal as this would be a 'de novo appeal'.

11. I have had regard to the Senior President's Practice Statement regarding the remitting of an appeal to the First-tier Tribunal for a fresh decision.
12. Having regard to the extent of fact finding which is necessary for the decision to be re-made, and having regard to the overriding objective, I conclude that it would be just and fair to remit the case.

**Notice of Decision**

The decision of the First-tier Tribunal is set aside.

The appeal is remitted to the First-tier Tribunal (Hatton Cross) for a fresh decision to be made before another Judge. The time estimate given is two hours.

Anonymity direction not made.

Signed                      Date 5 October 2018

Deputy Upper Tribunal Judge C R Mailer