



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/00609/2019**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 2<sup>nd</sup> September 2019**

**Decision & Reasons Promulgated  
On 9<sup>th</sup> September 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR**

**Between**

**MR K A H**

(ANONYMITY DIRECTION NOT MADE)

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr C Holmes of Parker Rhodes Hickmotts Solicitors  
(Bradmarsh Way)

For the Respondent: Mr M Diwnycz, Home Office Presenting Officer

**DECISION AND REASONS**

This is the appellant's appeal against the decision of Judge Herwald made following a hearing at Manchester on 21<sup>st</sup> February 2019.

**Background**

The appellant is a citizen of Iraq born on 3<sup>rd</sup> August 1997. He arrived in the UK on 29<sup>th</sup> June 2016 and claimed asylum on the basis that he feared a return to Iraq because of a land dispute and because he and his family had been targeted by Daesh.

The judge did not find the appellant to be a credible witness.

Originally the appellant sought to challenge the judge's credibility findings but Mr Holmes confirmed at the hearing that he was no longer pursuing that aspect of the appeal.

The appellant is an ethnic Kurd from Kirkuk, and a Sunni Muslim. The judge, having found that the appellant had not been truthful about the events which caused him to leave Iraq, concluded that he could safely return to Baghdad, albeit that he could not return to his home area of Kirkuk, which is in a contested area.

At the hearing the respondent produced a Rule 24 reply conceding that the judge had erred in law in relation to the issue of internal relocation.

In the light of the respondent's concession the judge's decision is set aside.

Whilst there is a case which may be promulgated shortly in the Upper Tribunal dealing with the issue of contested areas, including Kirkuk, the present country guidance cases, namely AA (Article 15(c)) Iraq CG [2015] UKUT 00544, AA (Iraq) v SSHD [2017] EWCA Civ 944, BA (Returns to Baghdad) Iraq CG [2017] UKUT 00018 and AAH (Iraqi Kurds - internal relocation) Iraq (CG) [2018] UKUT 00212 remain good law. Mr Holmes asked that the case proceed today, and Mr Diwnycz did not object. Accordingly, there was no reason put forward to adjourn this case pending a possible change in the law.

### **Submissions**

Mr Diwnycz submitted that the appellant could return to Baghdad. He relied on the latest CPIN report dated February 2019, which has two annexes to it, namely a letter from the Iraqi Ambassador to the UK dated September 2018 and a letter from the Counsellor at the Iraqi Embassy in the UK dated October 2018. Those letters state that arriving returnees can continue their onward journey to their final destination in Iraq by domestic flights or road using their laissez passer, or letter if provided, which help them to pass through other designated checkpoints. He submitted that the appellant could therefore board a domestic flight straight to the IKR, and it would be reasonable for a Kurd from Kirkuk who has been found not to have given a credible account of any difficulties which he experienced in Iraq to relocate there.

Mr Holmes submitted that the appellant could not reasonably return to Baghdad in line with the findings of the country guidance case in AA and BA. He asked me to find that the letters now relied upon by the respondent did not constitute the very strong grounds supported by cogent evidence required to persuade the Tribunal to depart from a country guidance case. He relied on the decision in SS v SSHD [2019] EWHC 1402 (Admin). The appellant, on return, would effectively be trapped in the airport since he could not obtain the relevant documents in the UK before departure or in Iraq after arrival.

### **Findings and Conclusions**

At paragraph 202 in AA the Tribunal set out the guidance on internal relocation within Iraq other than the IKR. They wrote as follows:

- “14. As a general matter, it will not be unreasonable or unduly harsh for a person from a contested area to relocate to Baghdad City or (subject to paragraph 2 above) the Baghdad Belts.
15. In assessing whether it would be unreasonable/unduly harsh for P to relocate to Baghdad, the following factors are, however, likely to be relevant:
- (a) whether P has a CSID or will be able to obtain one;
  - (b) whether P can speak Arabic (those who cannot are less likely to find employment);
  - (c) whether P has family members or friends in Baghdad able to accommodate him;
  - (d) whether P is a lone female (women face greater difficulties than men in finding employment);
  - (e) whether P can find a sponsor to access a hotel room or rent accommodation;
  - (f) whether P is from a minority community;
  - (g) whether there is support available for P bearing in mind there is some evidence that returned failed asylum seekers are provided with the support generally given to IDPs.”

This appellant does not have a CSID and cannot speak Arabic. He has no family members or connections in Baghdad and no sponsor there. He is from a minority community. Moreover, he is of the Muslim faith and in BA the Tribunal held that a Sunni identity, whilst alone is not sufficient to give rise to a real risk of serious harm, did mean that Sunni males are more likely to be targeted as suspected supporters of Sunni extremist groups such as ISIL.

I conclude that the appellant cannot reasonably relocate to Baghdad.

The appellant is not in a position to be able to redocument himself within the UK. He does not have the documents required to obtain a CSID and is unable to establish his family's details in the civil register, which remain in Kirkuk. He could not do so within Iraq because he would not be able to leave the airport. The evidence before the Tribunal in AAH was that an undocumented individual would be detained until a family member appeared who could vouch for him to the satisfaction of the personnel manning the checkpoints or the immigration staff. There is absolutely no evidence that the appellant has any family member who could do that.

In AA the Tribunal received evidence from Dr Fatah that laissez passer were confiscated upon arrival in Baghdad. The Upper Tribunal in AAH concluded that laissez passer were indeed confiscated.

The letters relied upon by the Secretary of State have recently been considered by the High Court in SS.

The High Court in SS at paragraph 91 said:

“Whilst the defendant can rely on the CPIN, it must be seen as part of the totality of the evidence. I find that this new information whilst it may be relevant, is not sufficiently clear and coherent to constitute strong enough grounds to supersede the CG. It may supplement it. It certainly gives rise to the need for further enquiries.”

And again, at paragraph 99:

“In summary, therefore, I find that the defendant was wrong to apply the CPIN rather than follow the CG because: the information/evidence in the CPIN was limited in both scope and content; the new evidence is not clear as to its actual effect in Iraq; the decision maker failed to consider how it would affect this claimant’s ability to obtain a CSID within a reasonable timeframe and; the CG was recent, comprehensive, detailed and reliable in comparison.”

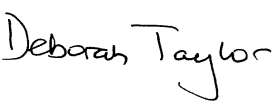
SS is persuasive authority. I concur with HHJ Coe QC that the letters are insufficient evidence to persuade me to depart from the country guidance case.

I conclude therefore on the basis of the law as it presently stands that the appellant cannot reasonably relocate to Iraq because it would not be reasonable for him to relocate to Baghdad, which in any event he could not access. Although he could reasonably live in the IKR, he has no means of getting there.

### **Decision**

The original judge erred in law. His decision is set aside. It is remade as follows. The appellant’s appeal is allowed.

No anonymity direction is made.

Signed   
2019

Date 6 September

Deputy Upper Tribunal Judge Taylor