



IAC-AH-SAR-V1

**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/04475/2019

THE IMMIGRATION ACTS

**Heard at Birmingham Civil Justice Centre
On 6 January 2020**

**Decision & Reasons
Promulgated
On 16 January 2020**

Before

**DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL**

Between

**HAWRAMAN [K]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Howard, Solicitor of Fountain Solicitors
For the Respondent: Mrs H Aboni, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Iran. He had permission to challenge the decision of Judge Parkes of 29 August 2019 dismissing his appeal against the decision made by the respondent on 26 April 2019 to refuse his protection claim. The appellant's grounds are threefold. It is contended that the judge erred:

- (1) in irrationally providing inadequate reasons for finding that the appellant is not at risk of persecution upon return to Iran or alternatively Iraq;
- (2) failing to apply country guidance in respect of return directly from the UK to the Iraqi Kurdistan Region (IKR) and in assessing whether it would be unreasonable and/or unduly harsh to expect the appellant to reintegrate into the IKR;
- (3) failing to make findings on the appellant's claim under paragraph 276ADE(i)(vi) of the Immigration Rules.

I am grateful to both representatives for their succinct submissions.

2. I see no arguable merit in ground 1. It is unparticularised and as a reasons challenge does not address the evident fact that the judge gave detailed reasons at paragraphs 12 to 21 for concluding that the appellant had not shown that he had ever faced difficulties in the IKR from Ettela'at.
3. Before proceeding to grounds 2 and 3, I note that the respondent did not submit a reply seeking to challenge the finding of the judge made at paragraph 22 that the appellant having refugee status in the IKR meant that he would meet the relevant criteria for refugee status so far as Iran was concerned. In the respondent's Reasons for Refusal Letter it was concluded that there was no reason to consider that the appellant could not return to Iran. Whilst I consider that that position has much to commend it, the judge's finding to the contrary was not challenged by the respondent. Accordingly, the only issue before me is whether or not the judge was entitled to conclude that the appellant could be returned to Iraq.
4. Insofar as ground 2 seeks to rely on the judge's finding that the appellant could be returned directly to the IKR, I do not consider that this constituted any legal error on the part of the judge. It is true that in **AAH [2018] (Iraqi Kurds - internal relocation) Iraq CG UKUT 00212** the headnote at paragraph 2 states that there are currently no international flights to the Iraqi Kurdish Region (IKR); it is stated that all returns from the United Kingdom are to Baghdad. However, **AAH** was heard in February 2018 and the decision of the respondent was made in April 2019 and the respondent identified at paragraph 84 that the appellant would be returned to Sulaymaniyah International Airport or alternatively could take a direct flight to Erbil. The appellant's grounds fail to identify any background country material contradicting that position taken by the respondent. There was no background material different from the position taken by the respondent produced by the appellant at the hearing before the judge. Accordingly, the judge did not err in finding at paragraphs 24 to 26 that the appellant would be able to avail himself of direct flights to the IKR.

5. Insofar as the grounds contend that it was contrary to country guidance in particular that as revised by the Court of Appeal in **AA (Iraq) [2017] EWCA Civ 944**, again I see no legal error on the part of the judge. The Tribunal country guidance in relation to the CSID was clearly concerned with persons who were nationals of Iraq. The appellant was not a national of Iraq. It was never found by the judge in any event that the appellant would be in the position of having to return to central or southern Iraq via Baghdad. The only issue was whether or not upon arrival in the IKR by direct flight the appellant would be able to live in safety and reasonably.
6. This brings me to the third limb of ground 2 which contended that the judge had failed to apply country guidance relating to the ability of the appellant to relocate to the IKR. However (leaving aside that the case was not even strictly speaking one concerned with relocation but with return to a home area and so it was not even necessary for the judge to consider reasonableness) , again I do not consider that it was incumbent on the judge to treat the guidance given in **AAH** as relevant to the circumstances of the appellant. On the judge's findings the appellant was in possession of an Iraq refugee card and a UNHCR certificate which the Home Office had confirmed could be used by him to return to the IKR. The appellant had lived in the Barika camp in Sulaymaniyah previously and the judge addressed the issue of internal relocation at paragraphs 29 and 30 as follows:

“29. The Appellant lived for many years in the IKR without difficulty. He obtained work regularly and was able to save a considerable sum which enabled him to travel to the UK. There is no evidence to show that the Appellant could not return to the IKR or that his circumstances there would be materially different on return compared to his situation before he left the area.

30. The evidence does not show that as matters stand it would be unreasonable or harsh to expect the Appellant to return and re-establish himself there in the same way that he did before leaving. The Appellant's circumstances do not meet the requirements of the Immigration Rules, there are no compelling circumstances and his removal would not place the UK in breach of its international obligations”.

In my judgment the assessment made by the judge of the reasonableness of relocation in respect of the appellant was entirely within the range of reasonable responses. The appellant did not produce before the judge, nor indeed has the appellant produced with the grounds of appeal before me, any background evidence to indicate that the IKR authorities would not readmit a person recognised as a refugee from Iran who had resided in the Barika camp. By contrast, the respondent had identified background country information in the form of the Iranian Kurdish Refugees in the Kurdistan Region of Iraq (KRI): Report from Danish Immigration Service's fact-finding mission to Erbil, Suleimaniyah and Dohuk, KRI 7 to 24 March

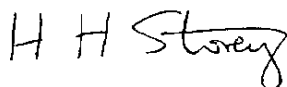
2011 to the effect that the head of the political department in Erbil had stated that it was considered safe and secure for Iranian refugees to reside in the KRI. (Paragraph 49). The respondent had also noted that the appellant had received five or six years of education in Iraq and had worked in Iraq and had been able to save the equivalent of US\$9,000 to US\$10,000 through his work to fund his journey to the UK and he was in contact with a friend in Iraq. These matters were clearly in the mind of the judge at paragraphs 29 and 30 and the conclusion set out in those paragraphs was properly based on the background evidence before the judge. The grounds fail to identify any background country evidence to the contrary.

7. In relation to ground 3, in light of the judge's findings on the likely circumstances of the appellant on return to the IKR, it was not realistically arguable that the appellant could show there would be very significant obstacles to his return there and he had singularly failed to identify any significant family or private life circumstances that would make his return unjustifiably harsh.
8. For the above reasons I consider that the grounds are not made out. Accordingly, the decision of the First-tier Judge must stand.

No anonymity direction is made.

Signed

Date: 15 January 2020



Dr H H Storey
Judge of the Upper Tribunal