



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

Appeal Number: PA/05143/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 30 January 2020**

**Decision & Reasons Promulgated
On 2 March 2020**

Before

UPPER TRIBUNAL JUDGE FINCH

Between

BA

(ANONYMITY ORDER MAINTAINED)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr. K. Smyth, Kesar & Co Solicitors

For the Respondent: Mr. L. Tarlow, Home Office Presenting Officer

DECISION AND REASONS

BACKGROUND TO THE APPEAL

1. The Appellant is a national of Iraq who is of Kurdish ethnicity and who was born in Kirkuk. It has never been suggested that he was born or spent any time in the Iraqi Kurdish Region (IKR). He arrived in the United Kingdom on 17 September 2015 and applied for asylum, as an unaccompanied minor, on 25 September 2015. In his screening interview, on that same

day, he stated that he feared persecution in Iraq by ISIL, that his father had died and that there was no-one to support him there.

2. In his substantive asylum interview on 15 March 2016, the Appellant explained that his father had been fighting as a Peshmerga when he was killed. He also said that he had one maternal uncle in Iraq who he had met once and who used to live in the village of Awaee Manzor but that he did not know where he was currently. He added that, after his father was killed, he became homeless and that one of his father's friends assisted him to leave Iraq.
3. The Appellant's application for asylum was refused on 18 May 2017. It was noted that he did not fear persecution on the basis of his imputed political opinion, as the son of a Peshmerga fighter, but rather that he had a fear of ISIL and the general situation in Iraq. The Respondent did accept that the Appellant was an Iraqi national from Rahimawa in Kirkuk. She also accepted that he was Kurdish and that he was 17 years and 9 months old at the date of the decision. However, she did not accept that the Appellant's father had been killed or that he had been a Peshmerga fighter or that there was now a risk that he would be persecuted by ISIL.
4. The Respondent also found that the situation in Kirkuk had changed and that the Appellant's return would not give rise to a breach of 15(c) of the Qualification Directive.
5. The Appellant appealed against this decision and First-tier Tribunal Judge Greasley dismissed his appeal in a decision promulgated on 6 July 2017. First-tier Tribunal Judge Brunnen granted the Appellant permission to appeal this decision to the Upper Tribunal on the basis that First-tier Tribunal Judge Greasley had not given sufficient justification or reasons for departing from the country guidance in *AA (Article 15C) Iraq CG* [2015] UKUT 544 (IAC). In a decision, promulgated on 1 May 2018, the Honourable Mr. Justice Edis and Upper Tribunal Judge Reeds then found that there had been errors of law in First-tier Tribunal Judge Greasley's decision promulgated on 1 May 2017. They set aside First-tier Tribunal Judge Greasley's decision but preserved his findings of fact in relation to the Appellant's personal circumstances in Kirkuk. They then remitted the appeal to the First-tier Tribunal.
6. The appeal came before First-tier Tribunal Judge Woolf who dismissed it in a decision promulgated on 21 June 2019. The Appellant appealed against this decision and First-tier Tribunal Judge Parkes refused him permission to appeal on 9 August 2019. However, Upper Tribunal Judge Coker granted him permission on the basis that it was arguable that the First-

tier Tribunal Judge should not have departed from the CG and had failed to have adequate regard to and/or make adequate findings with regard to obtaining a CSID in the context of CG caselaw.

7. The error of law hearing was heard on 7 October 2019 and in a decision, promulgated on 28 October 2019, I allowed the Appellant's appeal and set aside First-tier Tribunal Judge Woolf's decision in its entirety. I also retained the appeal in the Upper Tribunal for a re-hearing.

HEARING

8. The Appellant's solicitors were directed to file and serve a skeleton argument and any additional evidence by 16 January 2020 but due to an oversight on their part, these directions were not complied with. The Appellant's solicitors filed and served a Second Supplementary Bundle on 24 January 2010 and a skeleton argument on 28 January 2020. The Home Office Presenting Officer had received copies of these documents and did not object to my extending time at the hearing. I did so on the basis that it was in the interests of justice for the Tribunal to have a detailed appreciation of the case being put forward on behalf of the Appellant.
9. The Appellant was called to give evidence and adopted his witness statement, dated 11 May 2019. He stated that his only remaining relatives in Iraq were his maternal aunt and uncle. They used to live in Manzor but he did not know where they were now and had not seen them since he visited them when he was ten or eleven years old. He also explained that he had no telephone number for them and that he had never had any contact with his paternal relatives who used to live in Mosul. When cross-examined he confirmed that both his parents were dead; his mother had died when he was still at school and his father had been killed whilst fighting as a peshmerga. He also referred to an email from the Red Cross, dated 20 March 2019, and an attached screenshot from the International Committee of the Red Cross' Trace the Face service.
10. The Appellant also confirmed that he was in a relationship with his girlfriend, S.B. When she was also living in Canterbury, he said that he saw her every day but, now that she had been transferred to Birmingham, he was only able to see her occasionally. He said that they planned to live together there when his immigration status had been regularised. I found the Appellant to be a witness of truth in relation to his activities in the United Kingdom and his attempts to trace relatives in Iraq. His evidence was consistent and was supported by that of

S.B., the Red Cross and Kent County Council. In addition, he gave his evidence carefully and did not seek to exaggerate his situation (In relation to his account of events in Iraq, I have addressed the effect of the earlier findings of First-tier Tribunal Judge Greasley in my findings below).

11. S.B. then gave evidence and adopted her witness statement, dated 11 May 2019. She confirmed that she had met the Appellant in 2016 and that he had stayed at her home or she had stayed at his accommodation throughout the next three years. She also said that, during this time, the Appellant had never had any contact with any of his family members. S.B. also explained that she had joined the British Army to train as a nurse and had been posted to Birmingham in September 2019. She said that, once the Appellant had regularised his immigration status, he would be able to move to Birmingham and that they would be able to live together in quarters provided by the Army. She also described accompanying the Appellant to see the Red Cross in the Summer of 2019 and remembered him being told that the organisation had not been able to locate the village where his maternal aunt and uncle used to live. She gave her evidence with care and confidence and I found her to be a truthful and cogent witness on whom I could rely.
12. I have taken this evidence and the oral submissions made by both representatives into account when reaching my decision below.

DECISION

13. It was not disputed by the Respondent that the Appellant was born in Kirkuk and is of Kurdish ethnicity or that he was only sixteen when he arrived in the United Kingdom and applied for asylum.
14. The Appellant had previously relied upon Article 15(c) of Council Directive 2004/83/EC on *minimum standards for the qualification and status of third-country nationals or stateless persons*, which states that a person will qualify for subsidiary protection if he will be subjected to serious harm on return to his country of origin which amounts to a “serious and individual threat to [his] life or person by reason of indiscriminate violence in situations of international or internal armed conflict”.

15. However, in the light of the country guidance decision in *SMO, KSP & IM (Article 15(c); identity documents) Iraq CG* [2019] UKUT 00400 (IAC) the Appellant now accepts that the Kirkuk Governorate in its entirety is now longer a “contested area” and that:

“There continues to be an internal armed conflict in certain parts of Iraq, involving government forces, various militia and the remnants of ISIL. Following the military defeat of ISIL at the end of 2017 and the resulting reduction in levels of direct and indirect violence, however, the intensity of that conflict is not such that, as a general matter, there are substantial grounds for believing that any civilian returned to Iraq, solely on account of his presence there, faces a real risk of being subjected to indiscriminate violence amounting to serious harm within the scope of Article 15(c) QD”.

16. Instead, it is submitted that he faces a breach of Article 3 of the European Convention on Human Rights on the basis that there is a serious risk that he will not be able to obtain a replacement Civil Status Identity Document (“CSID”) or an Iraqi National Identity Card (“INID”) in Iraq before his circumstances give rise to a situation of inhuman and degrading treatment.

ARTICLE 3 OF THE ECHR AND STANDARD OF PROOF

17. Article 3 of the European Convention on Human Rights states that “No one shall be subjected to torture or to inhuman or degrading treatment”.
18. In paragraph 74 of *Chahal v. United Kingdom* (Application No. 22414/93) the European Court of Human Rights found that “it is well-established in the case-law of the Court that expulsion by a Contracting State may give rise to an issue under Article 3, and hence engage the responsibility of that State under the Convention, where substantial grounds have been shown for believing that the person in question, if expelled, would face a real risk of being subjected to treatment contrary to Article 3 in the receiving country. In these circumstances, Article 3 implies the obligation not to expel the person in question to that country”.

RETURN TO IRAQ

19. At the hearing, the Home Office Presenting Officer submitted that there was new internal guidance which indicated that it was possible to return an Iraqi Kurd to the IKR if his return was not under escort. He did not produce a copy of this internal guidance and informed me that it was non-disclosable.

20. However, in paragraph 52 of the decision under appeal, the Respondent stated that “based on your individual circumstances, it is considered that you can be returned to Kirkuk via Baghdad, as Kirkuk is outside of the Iraqi Kurdish Region administration”. The record of proceedings for the appeal hearing before First-tier Tribunal Judge Woolf on 13 May 2019, confirms that the Respondent continued to assert that the Appellant would be returned to Kirkuk via Baghdad. At the error of law hearing before me on 7 October 2019, it was not submitted that it would be possible to return to the Appellant directly to the IKR and he has not been notified of any intention to do so since that date. In addition, at paragraph 4 of *SMO*, the Upper Tribunal found that “return of former residents of the Iraqi Kurdish Region (IKR) will be to the IKR and all other Iraqis will be to Baghdad”. Therefore, I must proceed on the basis that the Respondent intends to return the Appellant to Kirkuk via Baghdad.
21. Paragraph 4 also notes that “the Iraqi authorities will allow an Iraqi national (P) in the United Kingdom to enter Iraq only if P is in possession of a current or expired Iraqi passport relating to P, or a Laissez Passer” and paragraph 5 states that “no Iraqi national will be returnable to Baghdad if not in possession of one of these documents”.
22. In paragraph 53 of the Respondent’s refusal letter, she noted that the Appellant had not provided his passport or an expired passport to the Home Office. The Appellant’s screening interview also confirms that he arrived in the United Kingdom illegally on 17 September 2015 and that when his screening interview was conducted on 25 September 2015, he told the interviewer that he had no Iraqi passport and had not used one on his journey to the United Kingdom. This assertion was not challenged by the Respondent and no passport was found on him when he was served with notice of illegal entry.
23. The Appellant did not assert that he was entitled to international protection merely because he was not in possession of a current or expired Iraqi passport and it was found in paragraph 7 of *SMO* that an Appellant “will be at no risk of serious harm at the point of return [to Iraq] by reason of not having a current passport”. Instead, it is his case that, even if he were able to obtain an Iraqi passport or the Respondent issued him with a laissez passer, he would be subject to ill treatment which amounted to a breach of Article 3 of the European Convention on Human Rights if removed to Baghdad.
24. The Appellant relied on the fact that in paragraph 8 of *SMO* the Upper Tribunal found that:

“The CSID is being replaced with a new biometric Iraqi National Identity Card – the INID. As a general matter, it is necessary for an individual to have one of these two documents in order to live and travel within Iraq without encountering treatment or conditions which are contrary to Article 3 ECHR. Many of the checkpoints in the country are manned by Shia militia who are not controlled by the [Government of Iraq] and are unlikely to permit an individual without a CSID or an INID to pass. A valid Iraqi passport is not recognised as acceptable proof of identity for internal travel.

9. A Laissez Passer will be of no assistance in the absence of a CSID or an INID, it is confiscated upon arrival and is not, in any event, a recognised identity document. There is insufficient evidence to show that returnees are issued with a ‘certification letter’ at Baghdad Airport, or to show that any such document would be recognised internally as acceptable proof of identity”.

25. On the basis of these findings, I find that the Appellant would need to be in possession of a CSID or INID before he started on any journey from Baghdad to Kirkuk. In addition, I have taken into account that the Upper Tribunal found in paragraph 11 of *SMO*:

“Once in Iraq, it remains the case that an individual is expected to attend their local CSA office in order to obtain a replacement document. All CSA offices have now re-opened, although the extent of which records have been destroyed by the conflict with ISIL is unclear and is likely to vary significantly depending on the extent and intensity of the conflict in the area in question”.

26. The Upper Tribunal also confirmed in paragraph 12 that:

“An individual who is not from Baghdad is not likely to be able to obtain a replacement document there, and certainly not within a reasonable time. Neither the Central Archive nor the assistance facilities for [Internally Displaced Persons] are likely to render documentation assistance to an undocumented returnee.”

27. Therefore, I find that the Appellant would have to travel from Baghdad to Kirkuk in order to obtain a CSID in person, but such travel would amount to a breach of Article 3 without a CSID on account of the control of checkpoints by members of the Shia militia.

OBTAINING A CSID THROUGH CONSULAR SERVICES

28. However, in paragraph 10 of *SMO* the Upper Tribunal did find that:

“Notwithstanding the phased transition to the INID within Iraq, replacement CSIDs remain available through Iraqi Consular facilities. Whether an individual will be able to obtain a replacement CSID whilst in the UK depends on the documents available and, critically, the availability of the volume and page reference of the entry in the Family Book in Iraq, which system continues to underpin the Civil Status Identity process. Given the importance of that information most Iraqi citizens will recall it. That information may also be obtained from family members, although it is necessary to consider whether such relatives are on the father’s or the mother’s side because the registration system is patrilineal”.

29. Therefore, the first question which arose was whether the Appellant was able to recall the volume and page reference for his patrilineal family’s entry in the Family Book in Iraq. In her decision letter, the Respondent did not consider this question. Neither did First-tier Tribunal Judge Greasley, in his decision promulgated on 6 July 2017, and which I must take as my starting point in relation to my fact finding following *Devaseelan (Second Appeals, ECHR, Extra-Territorial Effect)* [2002] UKIAT 000702*.

30. In paragraph 46 of his decision, First-tier Tribunal Judge Greasley went no further than to find that:

“Although paragraph 53 of the refusal decision describes the appellants return as not being currently feasible due to the absence of supporting documentation, this does not mean that the appellant cannot or will not provide sufficient information to the Iraqi Embassy so as to enable him to be issued with a passport or laissez passer. He does not dispute that he is an Iraqi citizen and this had not been disputed by the respondent”.

31. Therefore, I must look at the evidence relating to this issue that is before me. I have taken into account that in paragraph 391 of *SMO* the Upper Tribunal noted that:

“It is impossible to overstate the importance of an individual’s volume and page reference in the civil register. These details appear on numerous official documents, including an Iraqi passport, wedding certificate and birth certificate, as well as the CSID”,

32. However, in paragraph 392, it also noted that “there will of course be those who can plausibly claim not to know these details. Those who left Iraq at a particularly young age, those who are mentally unwell...may ...be able to make such a claim plausibly...”.

33. It is not disputed that the Appellant was just sixteen years old when he entered the United Kingdom and that he did not have a passport with him when he did so. It is also not disputed that his fingerprints were first taken as an undocumented minor asylum seeker on 7 August 2015 in Greece, when he was fifteen years old. There is also no evidence that he was ever in possession of an Iraqi passport or a marriage certificate.
34. His medical records also confirm that on 3 May 2018 he had told his GP that he was suffering from insomnia and that he did not feel able to talk about the stress caused by past events. On 24 July 2018 it was recorded that he was suffering from post-traumatic stress disorder and waking up in a panic. On 6 November 2018 he was still recorded as having post-traumatic stress disorder and the GP was following up on a referral to a counselling service, Think Action. There was also a letter from this organisation, dated 11 March 2019, which confirmed that an assessment had indicated that he was suffering from extreme symptoms of depression and anxiety and had moderate to severe levels of psychological distress. In addition, in his witness statement the Appellant said that he had been struggling with his mental health for a number of years. Both he and S.B. also confirmed that, due to his post-traumatic stress disorder, he avoided recalling details of his past history and past events in order to attempt to control the symptoms of this disorder.
35. In addition, the Appellant did not deny that he had had an identity card but said in his witness statement that he “once had a ‘nasname’ which is an ID card which lots of people in Iraq have. My father kept the document so I only remember seeing it when I was young. Apart from my name and photo, I can’t remember any details on it. I remember that it was white with some green writing”. It is my view that, if the Appellant had intended to deceive the authorities about his knowledge of the volume and page number of his patrilineal family’s entry in the Family Book, he would not have admitted knowledge of his ID card or provided details of his family and his family home.
36. Taking this together with age when he fled from Iraq and the evidence which confirms that he is suffering from severe mental ill-health and post-traumatic stress disorder, I find, on the requisite lower standard of proof, that the Appellant does not know the volume and page number of his patrilineal family’s entry in the Family Book which he would need in order to obtain a CSID through Iraqi consular facilities.

OBTAINING A CSID THROUGH MALE RELATIVES

37. However, I must also consider whether the Appellant has any remaining male relatives in Iraq who may be able to assist him to obtain a CSID. In paragraph 46 of his decision, First-tier Tribunal Judge Greasley found that the Appellant's father was still alive and, by implication, he found that his father was still living in Kirkuk. He based this on the evidence given by the Appellant about his contact with his father before he left Iraq in 2015, nearly five years ago.
38. As found in paragraph 39 of *Devaseelan* First-tier Tribunal Judge Greasley's findings must be my "starting point". However, as said in that paragraph they are an "authoritative assessment of the Appellant's status at the time it was made", which was in this case 6 July 2017, nearly three years ago. I am not precluded from taking into account facts which relate to events which have happened after that date or facts which were not relevant to First-tier Tribunal Judge Greasley's findings, but which were in existence before his decision. In relation to the latter, I note that the issue before First-tier Tribunal Judge Greasley was whether the Appellant was entitled to protection from ISIL. He did not make any findings about any Article 3 risk which arose from not being in possession of a CSID or INID.
39. It is my view that the objective evidence relating to the situation in Kirkuk from the time at which the Appellant left Iraq is relevant to an assessment of whether the Appellant is in touch with his father and/or any other male relative and whether they can be located in order to assist him to obtain a CSID.
40. The European Asylum Support Group in its Country of Origin Information Report on *Iraq: Security Situation*, March 2019 noted that:

"[The] International Crisis Group described Kirkuk as one of the areas of the disputed territories that has experienced 'the worst turbulence' in recent years. When ISIL launched its 2014 offensive in northern Iraq, the Iraqi army collapsed and ISIL took over the region around Hawija City, in south-western Kirkuk governorate, with a local population of about 100,000 who lived under ISIL control. ISIL took over and administered areas of Hawija district since June 2014, controlling the countryside and rural areas of Kirkuk until it was pushed out in October 2017. From Hawija district, ISIL carried out attacks against Kirkuk governorate from 2014.

In the wake of the Iraqi army's collapse fighting ISIL in Kirkuk in 2014, Peshmergas moved in and replaced the district forces, with Kirkuk city remaining for three years under the rule of the Patriotic Union of Kurdistan...the second largest party in the Kurdistan Region of Iraq. For three years, Peshmergas and ISIL were at a standoff in Kirkuk, with 'repeated clashes' along the southern and western parts of the city, although the city itself was 'tightly controlled'".

41. Paragraph 9.4.2. of the Country Policy and Information Note *Iraq: Security and humanitarian situation* Version 4.0, March 2017, states that IOM data indicated that in February 2017 there were 164,662 displaced persons in Kirkuk Governorate out of a population of 227,154, that is 72% of the population.
42. The Country of Origin Information report on *Northern Iraq: Security situation and the situation for internally displaced persons (IDPs) in the disputed areas, incl. possibility to enter and access the Kurdistan Region of Iraq (KRI)*, November 2018, states in its executive summary that:

"Iraqis who were internally displaced due to the conflict with ISIS must go through heavy clearance procedures in order to reach their area of origin. Other obstacles for return are the sectarian division of the [Popular Mobilisation Units], conflict remnants, the lack of demining and reconstruction in the areas of origin of the IDPs, lack of civil administration, property conflicts, lack of basic services, and lack of ID cards".
43. In paragraph 1.1.2 of the report it was also noted that "the general situation in Kirkuk Governorate is characterised as both fragile and complex...The PMUs are controlling the suburbs and surrounding villages outside Kirkuk city, ...They conduct their own security screening, thus deciding who is allowed entry to the city". The UNHCR report *International Protection Considerations with Regard to People Fleeing the Republic of Iraq*, May 2019 also stated at page 48 that "as a result of conflict, displacement and confiscation of documents, many IDPs do not hold critical documentation, restricting access to basic services, limiting freedom of movement, and increasing the risk of arbitrary arrest".
44. It is the Appellant's evidence, which has not been challenged, that he used to live with his father in rented accommodation in Rahimawa district of Kirkuk city and he was able to provide the Respondent with details of the location of his home and the secondary school which he attended. At the hearing, he continued to say that he had not seen his father since he

left to fight as a peshmerga and both Kent County Council and S.B. stated that they had never had any knowledge of any contact between the Appellant and any relative whilst he had been in the United Kingdom. In addition, the fact that he said that he was an only child has also not been challenged. In his oral evidence he also said that he believed that he had some paternal relatives in Mosul but that he had never met them and had had no contact with them. This was not challenged at the hearing.

45. In the context of the Appellant's unchallenged evidence and this objective evidence, I find that on the requisite low standard of proof that the Appellant is not in contact with any male relative which he may have had in Iraq when he left in 2015 and that, even if they are still alive, they may well have been displaced and themselves dispossessed.

FAMILY TRACING

46. The relatives which the Appellant did refer to in his asylum interview and which he has asked the International Red Cross to trace were maternal relatives, who would not be able to assist the Appellant in obtaining a CSID. However, the fact that the Red Cross are now assisting the Appellant is, in my view, of more broader relevance.
47. Firstly, it is relevant to the credibility of the Appellant's stated wish to contact remaining relatives in Iraq. The evidence before me confirmed that he has consistently sought the assistance of the Red cross in order to trace his maternal uncle and aunt, who he asserts are the only relatives he has had any contact within the past. He mentioned these relatives in his asylum interview in 2015 and Wayne Wright, a member of the 18 Plus Team at Kent County Council, in a letter, dated 22 January 2020, confirmed that the Appellant had contacted the Red Cross in 2019 and that the process was on-going. There was an email from the Red Cross itself, dated 20 March 2019, which confirmed that it was following up a family tracing request. S.B. also gave oral evidence before me and confirmed that she had accompanied him to a meeting with the Red Cross in the Summer of 2019.
48. Perhaps more importantly the attachment to the email from the Red Cross identifies its current family tracing methodology. Having told the Appellant and S.B. that it had not been able to identify the location of his maternal aunt and uncle's village, it placed his photograph on its Trace a Face pages. These are available throughout Iraq via the internet and would enable the Appellant's father or his paternal relatives, if still alive, to contact him via the Red Cross. However, no one has identified themselves as one of the Appellant's relatives.

49. For all of the above reasons, I find that, on the requisite low standard of proof, the Appellant has taken all reasonable steps to trace any male relatives in Iraq who could assist him in obtaining a CSID.

OBTAINING A CSID BY PROXY

50. It still remains possible for an individual to obtain a CSID by proxy in some parts of Iraq. However, in paragraph 28 of *AAH (Iraqi Kurds – internal relocation)* CG [2018] UKUT 212 Dr. Fatah confirmed that “the key piece of information that the individual (proxy) would have to have would be his family’s volume and page reference number in the civil register”. Therefore, as I have found that the Appellant does not have this information and that he had not been able to contact any relatives who may be able to access this information, he will not be able to obtain a CSID by obtaining a proxy or giving someone power of attorney.

OBTAINING AN INID

51. In paragraph 11 of the headnote to *SMO* the Upper Tribunal found that:

“The likelihood of obtaining a replacement identity document by the use of a proxy, whether from the UK or on return to Iraq, has reduced due to the introduction of the INID system. In order to obtain an INID, an individual must attend their local CSA office in person to enrol their biometrics, including fingerprints and iris scans. The CSA offices in which INID terminals have been installed are unlikely – as a result of the phased replacement of the CSID system – to issue a CSID, whether to an individual in person or to a proxy. The reducing number of CSA offices in which INID terminals have not been installed will continue to issue CSIDs to individuals and their proxies upon production of the necessary information”.

52. For the reasons given above, as the Appellant does not have a CSID or INID, any attempt by him to travel from Baghdad to Kirkuk to obtain an INID, which could only be obtained in person, would give rise to a risk of a breach of his Article 3 rights.
53. In addition, the fact that he is from Kirkuk is of particular relevance, as in paragraph 431 of *SMO*, it was noted that:

“In any event, as we have noted, matters have moved on as the CSID is being phased out and replaced by the INID. If, as appears to be the case, the judge in the FtT concluded that the appellant would be able to use a proxy to obtain a replacement CSID from the

CSA office in Kirkuk, we cannot be sure that this represents the position in 2019. It is likely, to our mind, that the CSA office in Kirkuk has an INID terminal and that it would not be willing to issue a CSID to the appellant through a proxy...In the event that he does not have access to an existing CSID card and is unable to obtain a replacement whilst he is in the UK, we think that it is likely that his return to Iraq would be in breach of Article 3 ECHR...”.

54. The Upper Tribunal also considered the circumstances of a Kurdish individual who was returned to Baghdad but who had no CSID or INID to travel on to his place of birth. It found that:

“Baghdad is generally safe for ordinary civilians but whether it is safe for a particular returnee is a question of fact in the individual case. There are no on-entry sponsorship requirements for Baghdad but there are sponsorship requirements for residency. A documented individual of working age is likely to be able to satisfy those requirements. Relocation to Baghdad is likely to be reasonable for Arab Shia and Sunni single, able-bodied men and married couples of working age without children and without specific vulnerabilities. Other individuals are likely to require external support, ie a support network of members of his or her family, extended family or tribe, who are willing and able to provide genuine support. Whether such a support network is available is to be considered with reference to the collectivist nature of Iraqi society, as considered in AAH (Iraq)”.

55. The Appellant is not an Arab Shia or Sunni man and the evidence relating to his mental ill-health indicates that, although not suffering from any physical impairment, his ability to obtain work would be compromised. He has been dependent upon the support of Kent County Council whilst in the United Kingdom and this support would be terminated when he left the country. In addition, for the reasons given above I have found that he is not in touch with any relatives who may be able to provide him with financial or other support.
56. For all of these reasons, I also find that expecting him to remain in Baghdad for an indefinite period of time with no ability to obtain a CSID or INID would also amount to a breach of Article 3o of the European Convention on Human Rights.

DECISION

(1) The Appellant's appeal is allowed.

Nadine Finch

Signed
Upper Tribunal Judge Finch

Date 11 February 2020