



**Upper Tribunal  
(Immigration and Asylum Chamber)  
AA/10842/2015**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 15 November 2017**

**Decision & Reasons  
Promulgated  
On 04 December 2017**

**Before**

**UPPER TRIBUNAL JUDGE McWILLIAM**

**Between**

**KR  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms A Muzira, Counsel instructed by Solomon Solicitors  
For the Respondent: Mr S Kotas, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant is a citizen of Iraq of Kurdish ethnicity. His date of birth is 1 January 1997.
2. The Appellant came here on 3 February 2015. He claimed asylum. His application was refused on 21 July 2015. He appealed. His appeal was dismissed by Judge of the First-tier Tribunal M A Hall in a determination, promulgated on 13 March 2017, following a hearing on 2 March 2017. Permission was granted by Upper Tribunal Judge O'Connor on 12 September 2017 on the following grounds:

“In light of AA (Iraq) [2017] EWCA Civ 944, the grounds are plainly arguable. The FtT was required to undertake an assessment of

whether the Appellant would be able to obtain a CSID and then assess whether relocation to Baghdad and/or the IKR would be unduly harsh in light of its conclusion thereon. It is arguable that it failed to undertake such an assessment.”

3. The case as advanced before the First-tier Tribunal was that the Appellant lived in Jalawla before coming to the UK with his parents and siblings. The Appellant’s evidence in a nutshell was that he was pressured to join ISIS but changed his mind before doing so. The Iraqi authorities came to his family home to look for him. They arrested the Imam at the local mosque and believed that the Appellant was involved with ISIS. The Appellant’s evidence was that he had not been in contact with his family since he arrived in the UK. The Appellant’s evidence was that he fears ISIS and the Iraqi authorities.
4. The judge did not find the Appellant to be credible and rejected his account. The judge did not accept that there had been an attempt by ISIS to recruit the Appellant and found that he was not at risk from the Iraqi authorities. The judge found that the Appellant’s date of birth is 1 January 1997; not 5 January 1999 as advanced by him. The Appellant relied on two documents (an Iraqi national ID card and an Iraqi nationality certificate) which he stated were obtained from Iraq. They showed his date of birth as 5 January 1999. The judge concluded that the Appellant had given conflicting and inconsistent accounts in relation to the identity documents and how he obtained them which adversely affected his credibility. The judge considered the document verification report produced by the Respondent and concluded that the documents were not genuine. He accepted that the Appellant originates from a contested area and therefore could safely return there. He went on to consider relocation. The Appellant submitted that he would not be able to safely return to Baghdad because he was at risk from the authorities and that he could not be returned directly to IKR because he does not originate from there.
5. The judge concluded that the Appellant’s return was not feasible because he did not have either a current or expired Iraqi passport or *laissez passer* (the identity documents that he produced at the hearing, having been found not to be genuine). The judge went on to consider risk on return and he made the following findings at paragraphs 75-79:

“75. I find that the Appellant would have an option of reasonable internal relocation to Baghdad. He is a young man with no medical or health difficulties. I accept that he does not speak Arabic, but his own evidence is that he has two maternal uncles, one of whom arranged his journey to the United Kingdom, who live in Baghdad. I do not accept, as the Appellant is not a credible witness that he has not had contact with his uncles, and I find that he would therefore have family who would be able to accommodate him. I find that internal relocation to Baghdad would not be unduly harsh.

76. In the alternative, I find that the Appellant has a reasonable internal relocation option to the IKR. This would mean firstly

travelling to Baghdad. The Appellant would not have any language difficulty if returned to the IKR as he speaks Kurdish Sorani. I find that there would be no risk in the IKR. In AA (Iraq) at E18 of the head note the IKR is described as virtually violence free, with no Article 15(c) risk to an ordinary civilian.

77. The authorities in the IKR do not require a Kurdish returnee to have an expired or current passport or laissez passer. A Kurd who does not originate from the IKR can obtain entry for ten days as a visitor and then renew this entry permission for a further ten days. If he finds employment he can remain for longer although he would need to register with the authorities and provide details of the employer. There is no evidence that the IKR authorities proactively remove Kurds from the IKR whose permits have come to an end.
  78. The Appellant would therefore be able to gain admission to the IKR as an individual of Kurdish ethnicity. I see no reason why the Appellant would not be able to gain employment. He confirmed that he had employment as a porter in Iraq before travelling to the United Kingdom. There is no evidence to indicate that the Appellant could not travel from Baghdad by air. Because I have not accepted that the Appellant's account is credible, it is my view that his family members are still in Jalawla and I am not satisfied that he could not regain contact with them. The maternal uncle who arranged the Appellant's travel to the United Kingdom was able to arrange for the Appellant to travel into the IKR without difficulty and I do not find that any evidence has been submitted to indicate that that uncle could not provide support for the Appellant. He was able to arrange a journey to the United Kingdom.
  79. I therefore conclude that because the Appellant has a reasonable option of internal relocation either to Baghdad or to the IKR via Baghdad, he is not entitled to a grant of asylum or humanitarian protection, and his removal from the United Kingdom would not breach Articles 2 or 3 of the 1950 Convention."
6. The grounds seeking permission assert that the judge failed to adequately consider relocation to Baghdad without a CSID. It is asserted that the judge's conclusions in respect of relocation to IKR are flawed because he did not make any findings as to the practicality of travel from Baghdad to the IKR for somebody who does not have any identity documentation. The judge undertook no consideration of whether the Appellant would be able to find employment in the IKR without such documentation. In addition, it is asserted that there were no findings about the availability of assistance from family or friends in the IKR.
  7. As a matter of fact, the judge did not consider whether the Appellant has a CSID or would be able to obtain one reasonably soon after arrival in Iraq and therefore his decision in respect of relocation to Baghdad is flawed. However, he properly considered relocation to the IKR. The Appellant's

representative relied on written submissions which quote extracts from Country of Origin Information Reports. The thrust of her oral submissions was that an Appellant needed a CSID or at least identity documents to safely re-locate and travel to the IKR.

8. The argument that the Appellant would not be able to safely travel from Baghdad to IKR because he does not have any identity documents (because the documents that he produced for the hearing before the First-tier Tribunal Judge were counterfeit) is a non-starter. Whilst the Appellant would need identity documents to ensure return (to Baghdad) is feasible, the absence of them does not give rise to risk on return to Baghdad or the IKR. The judge concluded that there was no evidence to indicate that the Appellant could not travel from Baghdad by air and there is no properly articulated challenge to this. There was no evidence before the judge to seek to establish that travel from Baghdad was not practical. The grounds conflate feasibility of return and risk on return. In respect of the absence of a CSID, this is a matter material to risk on return to Baghdad. The background information and AA (*Iraq*) [2017] EWCA Civ 944 do not support the argument that without a CSID there would be a risk on return to the IKR and/ or risk would arise from travelling there from Baghdad without a one. There was no evidence before me (or the FtT) that the absence of a CSID would put this Appellant at risk on return to IKR.
9. In the context of whether re-location to the IKR would be reasonable, the judge conducted a fact sensitive assessment in accordance with the guidance in AA. He considered all material matters and made adequately reasoned findings which are grounded in the evidence. The relevant guidance in AA reads;

#### E. IRAQI KURDISH REGION

*17. The Respondent will only return 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.*

*18. The IKR is virtually violence free. There is no Article 15(c) risk to an ordinary civilian in the IKR.*

*19. 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.*

*20. 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); (b) the likelihood of K's securing employment in the IKR; and (c) the availability of assistance from family and friends in the IKR.*

*21. 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.*

There was evidence before the First-tier Tribunal that the Appellant had family in Iraq (albeit in Baghdad and his home area) and the judge concluded, at paragraph 75, that he has two maternal uncles, one of whom arranged his journey to the UK. Whilst the Appellant does not have family in IKR, he has family in Iraq who can support him. The judge did not accept the Appellant's evidence that he had not had contact with his uncles. The judge considered the likelihood of the Appellant securing employment in the IKR and his findings, at paragraph 78, are lawful and sustainable. I have not been referred to any evidence that was before the First-tier Tribunal that was not considered. There is no properly articulated challenge to the findings of the judge in relation to family assistance (see paragraph 78 of the decision). I conclude that the judge's finding that the Appellant could safely and reasonably return to the IKR is lawful.

10. The decision of the judge contains an error of law. However, it is not material and the decision to dismiss the Appellant's appeal is maintained.

### **Notice of Decision**

The appeal is dismissed.

Anonymity direction made.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Joanna McWilliam

Date 1 December 2017

Upper Tribunal Judge McWilliam