



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

Appeal Number: PA/03974/2017

THE IMMIGRATION ACTS

**Heard at Glasgow
On 27 February 2018**

**Decision & Reasons Promulgated
On 1 March 2018**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

ENAD SALAH ELYAS

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms N Loughran, of Loughran & Co, Solicitors

For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The respondent refused the appellant's protection claim for reasons explained in her decision dated 6 April 2017.
2. First-tier Tribunal Judge David C Clapham dismissed the appellant's appeal by his decision promulgated on 8 July 2017.
3. The appellant applied to the FtT for permission to appeal to the UT. The principal contention in his grounds is that the judge erred in applying country guidance by making no findings about relocation, and by making

inadequate findings about relocation to the IKR. The guidance now stands as re-formulated in *AA (Iraq) v SSHD* [2017] EWCA Civ 944 (11 July 2017).

4. On 4 October 2017 the FtT refused permission.
5. The appellant sought permission from the UT, through different representatives, but renewing the same grounds.
6. On 5 December 2017 UT Judge Pitt granted permission.
7. Ms Loughran submitted that the judge erred by proceeding directly to consider the appellant's return to the IKR, and not the guidance under headnote B, documentation and feasibility of return (excluding IKR) and D, internal relocation other than the IKR, relevant matters being place of origin, and absence of assistance in obtaining a CSID and otherwise, headnote C; and that he made none of the findings necessary to resolve matters under headnote E, return to the IKR, particularly at 20 (a) practicality of travel from Baghdad to the IKR, (b) the likelihood of securing employment, and (c) availability of assistance from family and friends in the IKR. Such findings as had been made tended towards a favourable rather than a negative outcome.
8. Mr Matthews said that failure to resolve whether the appellant might relocate in Baghdad was immaterial, as relocation to the IKR was more obviously viable and would be a complete answer. He accepted, however, that the judge erred by leaving matters unresolved on the IKR option, which required a set aside and a further decision. He submitted further that the onus remained on the appellant and was to be answered on up-to-date evidence, which raised fresh possibilities, as the appellant's home is no longer a contested area; and that while there was no basis on which to interfere with credibility findings in the appellant's favour, further findings needed include the current whereabouts of and possibility of contacting family members.
9. I agree that failure to resolve the question of relocation in Baghdad might have been immaterial.
10. The appellant has shown that the absence of clear findings to underpin the outcome on relocation to the IKR is an error of law which requires the decision of the FtT to be **set aside**.
11. Parties agreed on the further course of the case as follows.
12. The generally favourable credibility finding at paragraph 44 stands as the starting point for further decision-making.
13. Further decision-making may also be informed by further evidence (from either or both parties) on matters such as contested areas and documentation needed or likely to be available for travel.

14. The nature of the further decision-making is such that it is appropriate in terms of section 12(2)(b)(i) of the 2007 Act and of Practice Statement 7.2 to **remit the case to the FtT** for that purpose. Judge David C Clapham is not excluded from further decision-making. The case may be listed again before him, or, if that is for any reason impracticable within the usual listing timetable, before any other FtT Judge.
15. No anonymity direction has been requested or made.

A handwritten signature in black ink that reads "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

27 February 2018
Upper Tribunal Judge Macleman