



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

Appeal Number: PA/01480/2018

THE IMMIGRATION ACTS

**Heard at Manchester
On 30 May 2019**

**Decision & Reasons Promulgated
On 11 June 2019**

Before

UPPER TRIBUNAL JUDGE PICKUP

Between

**AK
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr K Wood, instructed by I A S (Manchester)

For the Respondent: Mr A Tan, Senior Home Office Presenting Officer

DECISION AND REASONS

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269), I make an anonymity direction. Unless the Upper Tribunal or a court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the appellant.

This is the appellant's appeal against a decision of First-tier Tribunal Judge Herwald promulgated 13 July 2018 dismissing his appeal against the decision of the Secretary of State dated 16 January 2018 to refuse his protection claim as an Iraqi Kurd.

First-tier Tribunal Judge Hodgkinson refused permission to appeal to the Upper Tribunal on 15 August 2018. However, when the application was renewed to the Upper Tribunal, Upper Tribunal Judge Coker granted permission on 15 November 2018. There is a Rule 24 reply dated 7 December 2018.

In granting permission to appeal Judge Coker considered it arguable that the First-tier Tribunal Judge failed to engage with the current country guidance which could in the appellant's particular circumstances have an impact on the outcome of his appeal. I take that to be a reference to the current country guidance of AAH (Iraqi Kurds - internal relocation) Iraq CG [2018] UKUT 00212 (IAC) and in particular the considerations whether the appellant would be at particular risk of ill-treatment on return to the IKR.

Judge Herwald rejected entirely the appellant's factual claim, finding him not credible. The judge then considered whether the appellant would be able to return to Iraq and/or relocate to the IKR. The appellant claimed that he did not know anyone in the IKR. However, the judge found that he claimed to have previously worked for the Mines Advisory Group (MAG) who employed him within the IKR, and their letter makes clear that he was working in Sulaymaniyah. The judge also found that his family were in Sulaymaniyah, having relocated there from Kirkuk.

The appellant's case is that he was born in Sulaymaniyah but at an early age moved with his family to Kirkuk. However, he clearly returned to the IKR, his family has also returned to the IKR, and he remains in contact with his family. The judge did not accept that the appellant had been targeted at all and therefore it follows that the claim that his family had relocated to the IKR as a matter of urgency because of threats in relation to the appellant's work as a mine clearer cannot be accurate and is not the basis upon which relocation to the IKR is to be considered.

In summary, therefore, the situation is that the appellant is a Kurdish Iraqi, born within the IKR, who lived for a period of time in Kirkuk outside the IKR, but who returned to live and work in the IKR immediately before coming to the UK. He has family in the IKR, he is in contact with that family in the IKR and he had employment in the IKR. In addition, the appellant has a photocopy of his CSID card and although the Secretary of State suggested that little reliance could be placed on that document because it was a photocopy, the appellant's case is that it is genuine. With that photocopy the appellant will be able to obtain a replacement CSID card before leaving the UK.

On the country guidance, as an Iraqi Kurd the appellant will be able to return to the IKR. If it is accepted that he comes from the IKR he could be returned there directly, according to the country guidance. However, even if he is not registered in the IKR he can certainly gain entry into the IKR, travelling there from within Iraq. With a CSID his return to Iraq is feasible. The country guidance is to the effect that with a CSID the appellant will have no difficulty boarding a plane from Iraqi international airport to the IKR, either to Erbil or Sulaymaniyah, and will be granted temporary admission and will not be asked to leave.

It is correct that the judge did not specifically address the factors set out within AAH as to the appellant's circumstances in the IKR on return. Paragraph 9 of the headnote of AAH states that for those without the assistance of family in the IKR accommodation options are limited. That is not going to be a difficulty for the appellant because his family already live in the IKR and he remains in contact with them. In paragraph 10 of the country guidance it is stated that whether the appellant is able to secure employment must be assessed on a case by case basis taking the matters listed therein into account, including:

gender;

the unemployment rate for Iraqis, where the employment rate for IDPs is 70%;

that the appellant could not work without a CSID;

that patronage and nepotism continue to be important factors in securing employment. A returnee with family connections to the region will have a significant advantage in that he would ordinarily be able to call upon those contacts to make introductions to prospective employers and to vouch for him;

skills, education and experience. Unskilled workers are at the greatest disadvantage with the decline in the construction industry reducing the number of labouring jobs available;

if the appellant is from an area with a marked association with ISIL that may deter prospective employers.

As stated above, the appellant will have access to his family. He has a CSID with which he can seek and obtain work. He will have the assistance of his family for accommodation as well as for moral and physical support whilst he looks for work to be able to sustain himself independently in due course. He has previously worked for MAG and it is reasonable to expect, and Judge Herwald was entitled to find that, the appellant could turn to the Mines Advisory Group (MAG) for help in seeking employment. Considering the way in which the judge looked at the evidence as a whole and taking into account the credibility findings, there is no reason why the appellant would be at any particular disadvantage in returning to the IKR, whether he does so directly from the UK on the basis of a preclearance by the IKR authorities, or whether he returns to Baghdad International Airport and takes a connecting flight from there to the IKR.

I am satisfied that even if the judge had directly set out and considered the various criteria referred to in AAH the appeal would have been dismissed. If there is any error in the failure of the judge to specifically address AAH and the criteria, I am satisfied that that failure is not material given the way in which the judge has addressed all the other factors and assessed the appellant's personal circumstances. The outcome of the appeal would have been the same. It should also be noted that whilst AAH indicates that there were no direct flights at that time from the UK, that has now changed. There are daily and regular flights from both international airports to the IKR and from Baghdad International Airport; which was not challenged by Mr Ell. As the judge noted, with a CSID the appellant would be able to work in line with the country guidance, as stated at [20(b)] of the decision.

In all the circumstances, I am satisfied that there is no material error of law in this decision and that the appeal cannot succeed.

Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such as to require the decision to be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed.



Signed

Upper Tribunal Judge Pickup

Dated

30 May 2019

**To the Respondent
Fee Award**

I have had regard to the Joint Presidential Guidance Note Fee awards in immigration appeals (December 2011).

I make no fee award.

Reasons: the appeal has been dismissed.



Signed

Upper Tribunal Judge Pickup

Dated

30 May 2019