



**Upper Tribunal  
(Immigration and Asylum Chamber)** Appeal Number: PA/01600/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 24 April 2019**

**Decision & Reasons  
Promulgated  
On 14 May 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JORDAN**

**Between**

**[K S]  
(~~ANONYMITY DIRECTION NOT MADE~~)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr C. Jacobs, Counsel instructed by Fountain,  
Solicitors

For the Respondent: Ms A. Everett, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Iraq who was born on 10 October 1999. He is now 19 years old but arrived in the United Kingdom in October 2015 having left Iraq in about September 2015 when he was still only 15 years old. He appeals against the determination of First-tier Tribunal Judge Hawden-Beal promulgated on 17 August 2018 dismissing his appeal against

the refusal of the Secretary of State made on 12 January 2018 to grant him further leave to remain.

2. It is accepted that the appellant is an Iraqi national of Kurdish ethnicity. The appellant claimed that, in 2015, Isis took control over his home town of Mosul requiring him and other workers in the same factory to join their forces but under a threat that, if he failed to do so, there would be killed. After the fifth occasion when the threat was reissued, he left Mosul and travelled to the United Kingdom via Turkey, Greece and France. He claimed asylum on 17 October 2015.
3. It is accepted that the appellant's identity documents are in the possession of the respondent. The appellant has a CSID and a nationality card.
4. It is the respondent's case that the appellant will be returned to Baghdad from where he will be able to travel to the IKR.
5. The issue in this appeal is limited to whether the First-tier Tribunal Judge properly applied the current country guidance of *AAH (Iraqi Kurds-internal relocation)* Iraq CG [2018] UKUT 00212 (IAC). The challenge to the determination focuses upon the judge's finding in paragraphs 31 and 32. Paragraph 31 reads as follows:

“The case of *AAH* makes it clear that since all Iraqis will be returned to Baghdad, if they are in possession of their nationality card and their CSID, those of Kurdish ethnicity will be able to relocate to the IKR without the risk of persecution or serious harm. They will be subjected to screening but, even though the appellant is a young single male from Mosul, I am satisfied that the fact that he will be able to evidence the fact that he has been in the UK since 2015 means he would be able to show that he has no connection to an ISIS controlled area.”
6. Mr Jacobs, appearing on behalf of the appellant criticises this paragraph as being wholly inadequate. In doing so, he relies upon paragraph 7 of the *AAH (Iraqi Kurds)* which provides:

“Whether [an Iraqi national returnee] P would be at particular risk of ill-treatment during the security screening process must be assessed on a case-by-case basis. Additional factors that may increase risk include ...(ii) coming from an area associated with ISIL and (iii) being a single male of fighting age. He is likely to be able to evidence the fact of recent arrival from the UK, which would dispel any suggestion of having arrived directly from ISIL territory.”

7. The italicised words are only a summary. For the full reasoning of the Tribunal, it is necessary to turn to paragraph 120 of the determination:

“The third potential obstacle for a person seeking refuge in the IKR is the security clearance procedure. IDPs wishing to enter the territory must pass through security screening checkpoints, where they are questioned about their origins, experiences and motives. The KRG is understandably concerned about infiltration by ISIL fighters who 'melted away' after the assault on Mosul and other strongholds. There is a general suspicion of people, particularly single young men, particularly those who have moved from areas formerly (or still) under ISIL control such as Ninewa and Diyala. A number of organisations, notably Human Rights Watch, have reported on the *Asayish* not simply refusing entry to suspects at these checkpoints, but detaining them and subjecting them to ill-treatment including torture. The majority of the cases reported concern Arabs and Turkmen, but Dr Fatah stressed that one could not rule out the possibility of Kurds being subjected to similar levels of scrutiny: there were after all Kurds who fought with ISIL. HRW report on at least one case of a Kurd being detained on the basis that he had remained in Mosul whilst it was under ISIL control; in another a young Kurdish boy amongst a group of Arabs was held and allegedly tortured. The current stand-off with the GoI means any relaxation of this security screening is unlikely. Whether a Kurd would be at risk of ill-treatment by the security services in the IKR must be assessed on a case-by-case basis. Factors that could increase risk include coming from a family with a known association with ISIL, coming from an area associated with ISIL and being a single male of fighting age. It is however the case that returnees should be able to evidence the fact that they have recently arrived from the UK, thus dispelling any suggestion that they have come straight from ISIL territory.”

8. This passage demonstrates the risk that the Iraqi authorities face from former ISIL fighters re-emerging from an area which they formally controlled. However, in the appellant's case there are overwhelming reasons why he would not be considered to be a member of ISIL. First, he was a boy of 15 when he left Iraq. There are cases where children have been forcibly “conscripted” into ISIL. There may even be cases where such children have done so voluntarily. However, this appellant can hardly be viewed as a volunteer as he left Iraqi within weeks of ISIL taking over control in Mosul. His departure is much more readily viewed as a flight. Indeed, were he to have demonstrated an interest in fighting on behalf of ISIL, he would hardly have left. The time of his departure roughly coincides with the arrival of ISIL in Mosul. Secondly, his arrival in the United Kingdom in 2015 has both geographically and intellectually distanced himself from the ISIL

fighters in Mosul. His presence in the United Kingdom is capable of incontrovertible proof. He could not have been an ISIL fighter who had melted away after the assault on Mosul by the Iraqi authorities in 2017. He has the documentation to establish both his identity as well as his presence in the United Kingdom.

9. It is clear that the judge had this in mind when she recorded the crucial factors which were directly drawn from the decision in *AAH* to which she also made express reference. She acknowledged he would be subject to screening and that, as a young single male from Mosul, the authorities would wish to examine his whereabouts in the crucial period between 2015 to date. However, she correctly satisfied herself that he would be well capable of establishing his identity and his presence in the United Kingdom since 2015. When the judge said that he would be able to show he has no connection to an Isis controlled area, she could not and did not mean that Isis was not in control of Mosul. She had already acknowledged that he came from Mosul. Instead, it is clear, without doubt, that she was making the obvious factual finding that he had no connection with Mosul, an Isis-controlled area, during the time when Isis was conducting atrocities there.
10. I reject Mr Jacobs' principal assertion in the grounds of appeal and in his skeleton argument that the judge did not follow the guidance in *AAH (Iraqi Kurds)*. Instead, I find that she followed its guidance to the letter. Nor was she making a general assessment of Iraqi males of Kurdish ethnicity. Instead, as her recital of the facts makes clear, she was considering the position of this particular appellant, his age when he left, the place he left from and the time spent in the United Kingdom. All of these factors informed her assessment of whether this appellant would be wrongly perceived to have been an ISIL fighter who melted away when the authorities re-took control of Mosul.
11. The second principal submission made by Mr Jacobs arises from paragraph 10 of the italicised words in *AAH (Iraqi Kurds)*. This concerns the ability of a returnee to secure employment bearing in mind the unemployment rate for Iraqi IDPs in the IKR is 70%. The material parts are as follows:
  - “(iv) patronage and nepotism continue to be important factors in securing employment. A returnee with family connections in 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 the vouch for him;
  - (v) 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;

(vi) if [a returnee] P is from an area with a marked association with ISIL, that may deter prospective employers.”

12. For the reasons I have already given, the fact that this appellant formally came from Mosul and left, as a boy, when ISIL took control should dispel the suggestion that a prospective employer would be deterred in the circumstances of the appellant’s case.

13. Mr Jacobs also submitted that the appellant’s personal profile put him at risk. He did so relying upon paragraph 44 of *AAH (Iraqi Kurds)* which provides:

“UNHCR (April 2017) report that the implementation of such on-entry screening varies from governate to governate, and even checkpoint to checkpoint. It is reported to commonly focus on the person's religious/ethnic profile, background, place of origin and family composition. For that reason the groups most likely to be denied entry are Sunni Arabs or Turkmen from former ISIL territory. There have been a number of disturbing cases of IDPs attempting to enter the IKR being detained and tortured on suspicion of being ISIL fighters. This has included, reports Human Rights Watch (June 2017), at least one Kurdish boy amongst a group of Arab children aged between 11 and 17.”

14. This submission is related to that which he made earlier. However, he was only able to rely upon the fact that the appellant is a Sunni Muslim from Mosul as being factors likely to raise a suspicion that he is a former ISIL fighter. For the reasons that I have already given, I am satisfied that the appellant is quite capable of establishing his identity and history such as to avoid the risk of detention and torture on suspicion of his being a former ISIL fighter.

15. In paragraph 32 of the determination, the judge said

“The appellant’s situation is similar to that of the appellant in *AAH* who had limited education and was semi-skilled. The appellant before me has had some education here in the UK which will stand him in good stead and he did have work when in Mosul albeit of the labouring sort and only for a short time which is not a factor in his favour given the decline in the construction industry in the IKR. However, the crucial thing is that he has documents just as had the appellant in *AAH*. The fact that the appellant in *AAH* had no links to the IKR did not prevent the tribunal from concluding that it was not unduly harsh to expect him to relocate to the IKR even though it was accepted that he could not go back to Kirkuk. In this case, the fact that the appellant has been educated in the UK for almost 3 years, almost negates the fact that he has very little work experience because he will be able to make use of that education and thus be on a par with someone who is considered to be semi-skilled at the

very least and thus in a better position to obtain employment and thus keep the accommodation he will be able to obtain in the beginning with the assistance of the grant given to all returnees.”

16. Mr Jacobs submitted that, in reaching this conclusion, the judge failed to have regard to the factors identified by the Tribunal in paragraph 10 of the italicised words. That submission is not sustainable. It is apparent from the judge’s reference to education and skills that the judge was referring to the difficulties faced by returnees to the IKR. She correctly pointed out that the appellant’s position is similar to the appellant in the case of *AAH (Iraqi Kurds)*. The appellant arrived in the United Kingdom as a minor and was treated as a minor by the local authority which must have included placing him in an appropriate educational environment. Mr Jacobs referred to his having only limited qualifications (ESOL) but the judge clearly had in mind the progress that the appellant is likely to have made in the United Kingdom since 2015.
17. Far from failing to have regard to the factors identified by the Tribunal in paragraph 10 of the italicised words in *AAH (Iraqi Kurds)*, the judge made scrupulous reference to them and reached a lawful and proper conclusion that the personal circumstances of the appellant would not render his return unlawful notwithstanding the less advantageous economic circumstances that presently face Iraq when compared with those in the United Kingdom.

## DECISION

The First-tier Tribunal Judge made no error of law and her determination of the appeal shall stand.

ANDREW JORDAN  
DEPUTY UPPER TRIBUNAL JUDGE  
Dated 25 April 2019