



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

Appeal Number: PA/03322/2017

THE IMMIGRATION ACTS

**Heard at Birmingham Civil Justice Centre
On 20 November 2018**

**Decision & Reasons
Promulgated
On 15 January 2019**

Before

UPPER TRIBUNAL JUDGE O'CONNOR

Between

**MOHAMMED SADIQ SADIQ
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: E. Rutherford, instructed by Braitch RB Solicitors
For the Respondent: D. Mills, Senior Presenting Officer

DECISION AND REASONS

(Given Orally on 20 November 2018)

Introduction

1. This appellant is an ethnic Arab from Mosul in Iraq, born in 1991. He appealed to the First-tier Tribunal against the Secretary of State's decision of 20 March 2017 refusing his protection claim. The appeal was heard by First-tier Tribunal Judge Meyler on 7 August 2017 and dismissed on all grounds in a decision promulgated on 17 August 2017. Ms Rutherford, who appears in the Upper Tribunal, also appeared before the First-tier Tribunal in August 2017 and drafted the grounds upon which this appeal is founded.

First-tier Tribunal's Decision

2. The First-tier Tribunal broadly rejected the evidence given by the appellant and his witnesses, in particular the evidence relating to the risk from Daesh and the evidence as to the events that are said to have led to the inability of the appellant to obtain documentation necessary for day-to-day life in Iraq, such as his Civil Status ID. The foundation of this latter conclusion was the rejection of the appellant's evidence that he has lost contact with family members in Iraq.
3. The FtT accepted the contention that Mosul is still "*a contested area*" and that there is an Article 15(c) risk in that area (as identified in the country guidance decision of *AA* (Iraq) [2015] UKUT 00544, amended by *AA* (Iraq) [2017] EWCA Civ 944). It then went on in paragraphs 40 onwards to consider the issue of internal relocation - the region of focus being the city of Baghdad, which is also the city to which the appellant would be returned. At paragraph 40 of its decision the FtT state as follows in this regard:

"The appellant is a Sunni Muslim and ethnic Arab. He speaks Arab fluently. According to his own evidence, he has some employment experience of setting up and managing a small business. I have found that he has extended family in and around Mosul, including a number of maternal and paternal uncles in addition to his mother and brother".
4. The FtT continued by considering the country guidance decisions relating to Baghdad, and thereafter concluded that there is no risk to the appellant in that city. It then turned to consider the question of whether it would be unduly harsh for the appellant to live in Baghdad - a central issue in this regard being whether the appellant already has, or could obtain, originals or copies of his Civil Status ID (CSID), Iraqi Nationality Certificate and Public Distribution System card. In this regard, the FtT concluded as follows at paragraph 43 of its decision:

"I have found that the appellant has failed to establish that he would not be able to obtain his original identity documents from his mother or extended family members who remain in Mosul. The appellant eventually explained in his oral evidence that on his trip to the UK, he had copies of his passport, his Iraqi ID card and his ration card. I find that he most likely left the originals with his mother and that his mother or extended family members will be able to obtain and send these original documents to him. I therefore find the appellant most likely already owns a civil status ID, an Iraqi nationality certificate and public distribution system card that can be obtained on his behalf and sent to him in Baghdad".
5. The FtT subsequently made alternative findings in the event that it was wrong in the above primary finding, concluding that it would not be unsafe or unduly harsh for the appellant to relocate to Baghdad.

Grounds of Challenge

6. Upper Tribunal Allen granted permission to appeal to the Upper Tribunal on 10 January 2018, stating that "*the grounds raise arguable issues as to*

the appellant's ability to obtain a CSID and as a consequence to be able effectively to relocate in Baghdad".

7. Ms Rutherford accepted that if the challenge to the alternative findings is discounted, the appellant's grounds resolve to one question - did the FtT err in failing to engage with the issue of how the appellant, living in Baghdad, would be able to obtain his CSID and other documentation from his family members in Mosul, given that they are living in a contested area?

Decision and Discussion

8. The fact that Mosul is a contested area should, it is said, lead to an inference being drawn that it is reasonably likely that there would not be a mechanism enabling the appellant to obtain the relevant documentation from his relatives in the Mosul area, if he were residing in Baghdad.
9. It was accepted by Ms Rutherford that no submissions were made to the FtT on this issue because it had never been the appellant's case that such documentation was held by, or was obtainable from, his family members in Mosul. The fact remains, however, that no submissions were made to the FtT on this issue and the FtT was not drawn to any background documentation supporting what is now the appellant's contention that his CSID, and other documents, could not be obtained from Mosul to Baghdad.
10. At the hearing I invited Ms Rutherford to draw my attention to any background evidence supportive of the aforementioned contention, but she was unable to do so. In such circumstances, the ground of challenge rests solely on the proposition that because his documentation is currently with his family members in Mosul and Mosul is a contested area there can be no reasonable likelihood of the appellant obtaining his CSID and other documentation in Baghdad.
11. In my view, in the absence of any documentation supporting this submission the FtT was perfectly entitled to conclude as it did, particularly in the absence of submissions being made to the contrary, and it was not required to engage in any further enquiry. For this reason, I conclude that the FtT's finding on this issue is sustainable. This conclusion disposes of the appeal before the Upper Tribunal, the other grounds being challenges to the alternative findings of the FtT, which need not be considered.

Notice of Decision

There is no error of law in the First-tier Tribunal's decision capable of affecting the outcome of the appeal and its decision stands.

Signed:



Upper Tribunal Judge O'Connor
27 December 2018