



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-003998
First-tier Tribunal No: PA/56048/2021
IA/18074/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 2 May 2023

Before

UPPER TRIBUNAL JUDGE HANSON

Between

KFM
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms C Dunne, Legal Representative.

For the Respondent: Mr Diwnycz, a Senior Home Office Presenting Officer.

Heard at Phoenix House (Bradford) on 13 March 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant appeals with permission a decision of First-tier Tribunal Judge Hands ('the Judge'), promulgated following a hearing at Newcastle on 31 May 2022, in which the Judge dismissed the appellant's appeal against the refusal of his application for international protection based on further submissions made on 5 July 2021.
2. The appellant is a citizen of Iraq born on 12 December 1994 from Sayed Sadiq in Sulaymaniyah Governorate in the IKR.
3. The appellant's challenge relied upon three grounds of appeal, being a failure to consider the evidence/property apply country guidance case of SMO [2022]

UKUT 00110 ('SMO [2022]') when considering the issue of redocumentation, made unclear findings in respect of the appellant's CSID, made unclear findings in relation to the appellant's return, and in relation to internal relocation, for the reasons set out more fully in the grounds dated 21 June 2022.

4. The appeal is opposed by these Secretary of State.

Discussion

5. The Judge refers to an earlier determination in which a different judge of the First-tier Tribunal, promulgated on 8 May 2019, found the appellant's account difficult to believe, illogical, and in places wholly incredible. The earlier judge did not accept the appellant had been in a relationship with the name female or that her family were powerful in the IKR, or that he had fled Iraq because of the risk of harm he claimed.
6. The appellant's Kurdish ethnicity and citizenship of Iraq were not disputed. The Judge considered evidence not before the earlier judge. The Judge sets out finding from [7] of the decision under challenge.
7. The findings can be summarised in the following terms:
 - a. That Judge did not accept the appellant's argument that because he said his former girlfriend's surname was the same as that of people shown in Facebook pages, they are related, as the appellant's evidence is "seriously in doubt"[16].
 - b. The Judge was not satisfied the fresh evidence presented was sufficient to entitle her to remake the decision as the new material did not provide evidence that supported the appellant's claim of having a clandestinely relationship with a girl on the facts, as discrepancies and inconsistencies in the account of events led to a negative credibility findings [17].
 - c. The Judge did not find there was a real risk of serious harm as a result of an honour killing at the hands of the former girlfriend's family or from the PUK [18].
 - d. That the appellant has fabricated the details of his claim in order to substantiate his erroneous claim for protection and the fact he is an economic migrant who planned his journey to the United Kingdom for other reasons [20].
 - e. That the appellant will not suffer persecution on return to Iraq from non-state actors from whom he would not be able to seek protection, or persecution by the PUK. The appellant had not established he has a former girlfriend and not established her family have influence and power or are interested in the appellant. Should the appellant not want to return to the Sulaymaniyah province or his hometown it will be open to him to relocate within the IKR [21].
 - f. The appellant's life was based in Sulaimaniyah where it is more than likely his family members still reside. There are regular flights to the airports in the IKR to where the appellant can return directly without the necessity of travelling via Baghdad [23].
 - g. The appellant's argument that it was the respondent's intention to remove him only to Baghdad is not accepted in light of the fact removal is to be Iraq with the destination being set out a notice of removal making it feasible he will be removed directly to the IKR [24].
 - h. The appellant's family remain in the home he shared with them prior to his departure [25].
 - i. The appellant claimed both his CSID card and passport were retrieved by his uncle from his family home to aid his initial journey to Turkey. The

appellant's claim to have been disowned by his father for bringing disgrace the family, as a result of which his uncle helped him, was rejected by the Judge [26].

- j. The appellant has established himself on Facebook and using that social media could have contacted his family to obtain the information required in respect of where the family book is registered and where his CSID card would have been issued and could be reissued [27].
 - k. There is no evidence that the appellant's local CSA office in Said Sadiq was burned down, although the appellant did not claim that his family book was registered there [28].
 - l. CSID remain available through those CSA offices that have not been updated enabling the appellant to obtain a replacement CSID if his family do not have his original one [29].
 - m. The Judge rejects the appellant's claim to have lost contact with all his family. The Judge rejects the appellant's claim as lacking credibility that he does not want to contact his family or uncle because he does not wish to place them in danger. The appellant's CSID can be forwarded to him in Iraq by his family [30].
8. Ground 1 of the application for permission to appeal asserts the Judge failed to consider the guidance provided in SMO [2022] referring to the burden being upon the Secretary of State to ascertain whether the appellant's CSA Office are issuing INID's or CSID's. The appellant has always maintained that he is from Sayed Sadiq in Iraq. Information provided by the Secretary of State in cooperation with the Iraqi authorities shows that the original list showing very few CSA offices issuing CSID was materially incorrect and that a substantial number of such offices still issue the old-style CSID. One of these is the CSA for Sayed Sadiq in Sulemaniyah Governorate, office reference 1318. Although the grounds refer to the appellant providing evidence in the form of a news article stating that protesters had set fire to the local offices of several political parties in his home area, the information provided by the Iraqi authorities confirms that all CSA offices are open and functioning.
9. Reference by the Judge to the Registration 1957 document does not disclose material legal error when this matter is considered as a whole. The Upper Tribunal in SMO [2022] confirmed the status of this document but the Judge does not find this is the only document available to the appellant which is the reason the Judge finds there will be no breach of Article 3 in relation to documentation, and that the appellant will be able to re-document himself on return to Iraq if required in any event.
10. Ground 2 asserting unclear findings in respect of the CSID has no merit in establishing material legal error. The author of the grounds appears to be seeking perfection in the reasons given in support of the findings made when such reasons only need to be adequate. A reader of the determination is clearly able to understand the Judge's findings in relation to the issue of documentation. No material legal error is made out.
11. Ground 3 asserting flawed findings in respect of return does not establish material legal error. The position of the Secretary of State in relation to returns is that they are now to any airport within Iraq. The appellant is not likely to be returned to Baghdad, as in Iraq Kurd from Sulamaniyah, but directly to that city's airport. The Judge refers to the CPIN that was available to her at that time in which the change to the Secretary of State's arrangements is clearly recorded. Contrary to the assertion in the ground seeking permission to appeal there have been a number of actual returns to the IKR, as evidenced in the more up to date CPIN, and no evidence that the Kurdish authorities does not accept enforced returns from the UK of Iraqi Kurds. The material change in both the Secretary of State's arrangements for enforced returns and the evidence

that such arrangements are working in practice is a material change from the previous position that all returns, unless voluntary, were to Baghdad. It is also important to note that the country guidance case in SMO [2022] recorded the position in relation to returns to Baghdad at the date the decision was promulgated but not as a point of law which must be slavishly followed by the Judge. It was a recognition of the procedural arrangements in force at that time which have now materially altered and had at the date of the hearing before the Judge.

12. The assertion at [23] of the grounds seeking permission to appeal that there was no consideration of risk to the appellant pursuant to Article 3 if the appellant travelled without documentation to his home area is without merit. The appellant will be returned to Sulamaniyah. That is within the IKR. There was no evidence he would not be able to obtain a laissez passer within the UK which he could use to fly to that airport or that, as an Iraqi Kurd in relation to whom there was no evidence of any credible adverse interest in him from any party, he would not be able to pass through the airport without difficulty. His home area is also within Sulamaniyah Governorate and, as identified by Mr Diwnycz, approximately 34 miles or so from the airport. There was no evidence adduced before the Judge or subsequently to show that the appellant will be required to cross any external borders of the IKR, such as those that exist between the Kurdish area and government-controlled areas of Iraq, which would require him to produce documentation. It is also the case that the Judge's finding that the family members with whom the appellant is in contact could meet him at the airport to bring his identity documents or to assist him in returning to his home area where, if necessary, he could secure further identity documents including an INID once he has provided his biometrics, has not been shown to be a finding outside the range of those reasonably available to the Judge on the evidence. On the basis of the evidence before the Judge she was entitled to find that the appellant could be safely returned to the IKR, will be able to obtain necessary documentation, and has the support of his family living there.
13. Ground 4 refers to internal relocation claiming that the Judge found the appellant could safely relocate but arguing the respondent did not identify or raise the issue of internal relocation. The reason there was no reference to internal relocation in the refusal of the asylum claim is because the Secretary of State's stated position is that the appellant can return to his home area in Sulamaniyah. That is also the finding of the Judge. It was therefore not necessary for the Judge to go on and consider whether there is another place to which the appellant could reasonably relocate within Iraq which, in light of the primary finding that he could return to his home area safely, is an obiter comment in any event. No material legal error is made out.
14. Having considered the evidence, determination, grounds of challenge, and submissions made by the advocates before the Upper Tribunal, I find that the appellant has failed to establish that the Judge has erred in law in a manner material to the decision to dismiss the appeal. The Judge applied relevant legal principles, made clear findings that adequately reasoned, and which have not been shown to be perverse, irrational, or outside the range of those reasonably available to the Judge on the evidence.

Notice of Decision

15. The First-tier Tribunal has not been shown to have materially erred in law. The determination shall stand.

C J Hanson

Judge of the Upper Tribunal

Appeal Number: UI-2022-003998

Immigration and Asylum Chamber

30 March 2023