



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-005504

First-tier Tribunal Nos: PA/50554/2023
LH/03083/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 4th of June 2024

Before

UPPER TRIBUNAL JUDGE PERKINS
DEPUTY UPPER TRIBUNAL JUDGE FARRELLY

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

HWF
(ANONYMITY ORDER IN FORCE)

Respondent

Representation:

For the Appellant: Ms S McKenzie, Senior Home Office Presenting Officer
For the Respondent: Mr A Eaton, Counsel instructed by Fadiga Solicitors

Heard at Field House on 5 February 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Respondent (also called “the claimant”) is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the claimant, likely to lead members of the public to identify the claimant. Failure to comply with this order could amount to a contempt of court. We make this order because the claimant seeks international protection and so is entitled to privacy.

DECISION AND REASONS

1. This is an appeal by the Secretary of State against a decision of the First-tier Tribunal allowing the appeal of the Respondent, hereinafter “the claimant”, against a decision of the Secretary of State refusing his protection and human rights claim.
2. The claimant is a national of Iraq and is Kurdish. The kernel of the problem is, we find, set out very well in Mr Eaton’s Rule 24 notice. The parties agree that the relevant consideration is the country guidance given in **SMO and KSP (Civil status documentation, article 15) (CG) Iraq [2022] UKUT 110 (IAC)**. It is accepted that, generally, a person cannot travel safely about Iraq unless they have either a CSID or an INID identification document. Put very simply it is the claimant’s case that he does not have such a document. The First-tier Tribunal believed that claim and allowed the appeal. It is the Secretary of State’s case that the judge should not have believed the claim, or at least should not have decided to believe the claim without giving a much more detailed explanation than appears in the Decision and Reasons.
3. The important part of the grant of permission by the First-tier Tribunal states:

“On the face of the decision the Judge fails to consider whether it would be feasible for the [claimant] to obtain existing ID documentation from family in Iraq. In circumstances where the Judge notes at §33 that the [claimant] was asked about his CSID and responded he had an ID with his name and his father’s name on it; and where the underlying reasons for having lost contact with family in Iraq, was not found to have been made out, this finding is capable of making a material difference, and so is an appealable error”.
4. This is not much shorter than the material parts of the grounds which assert:

“It is respectfully submitted, that [the First-tier Tribunal] errs in allowing the appeal on the basis that the [claimant] would be unable to re-document himself if returned to Iraq. As noted at paragraph 33 of the determination, the [claimant] indicated in cross examination, that he had an ID card which contains both his and his father’s name. It is respectfully asserted, that given there are only two types of national ID in Iraq, being CSID or INID cards, it is reasonable to presume that this is therefore one or the other, as such it is unclear why the [claimant] would be unable to obtain this document from a family member, which in turn would facilitate his return to his home area. It is submitted, that the document in question, could either be posted to the [claimant] or as stated by the FTTJ [35], he could be met by them on his return to Baghdad, which would then allow his safe passage through the country. It is respectfully submitted, that the FTTJ’s failure to consider this as an option has resulted in a conclusion that is unsound and therefore materially misdirected in law”.
5. We consider first what the First-tier Tribunal actually said at paragraph 33. The judge said:

“It was not disputed before that the [claimant] is a national of Iraq of Kurdish ethnicity from Kirkuk. Although the [claimant] said in his screening interview that he had a passport, in his substantive interview (Q43/44) that he did not have an Iraqi passport or any national ID card. He was not cross examined on the point. He was asked (Q46) whether he had a Civil Status Identity Card (CSID) and he said that he had an ID with his name and his father’s name on it but that was the only thing he had. It was not disputed before me that the [claimant] would be returned to Baghdad. It was not

suggested that he has family in Baghdad who would be in a position to support him there.”

6. As will be apparent there was no cross-examination about what he said at interview. There was nothing before us other than the Secretary of State’s grounds of appeal to indicate that the claimant said in answers to questions in cross-examination that he had an identity card in his and his father’s name. This makes it very difficult to give the answer context that might compound or clarify any ambiguity in the answer given.
7. We do not understand the phrase “screening interview” to be a precise term in the case of an unaccompanied child asylum seeker but there is in the bundle a Statement of Evidence Form to be completed on the claimant’s behalf. There the claimant identifies himself and gives his birthday precisely as a day in the autumn of 2003. At section A5 (page 375 in bundle) the claimant indicated that he had no documents when he arrived in the United Kingdom or when he started his journey and had no documents to confirm his identity. He said he had held a passport in his own name. He believed it was in Iraq but he did not know where to find it. There is also an interview record referring to an interview on 2 September 2022 (page 414). At question 43 he was asked if he had ever possessed an Iraqi passport and he indicated that he had not. It was drawn to his attention that in his “Statement of Evidence” he had said that he had had a passport and he was asked to explain why he had given different answers to substantially the same question. He replied, “I had no passport and I could not travel with my parents did not have anything to obtain a passport”. He was then asked if he had ever had an Iraqi national identity card (45) and he replied, “No because my parents did not have anything at that time therefore I could not obtain any Iraqi documents”. He was asked to confirm that he did not have a CSID card and he indicated he did not have one. He did not know the meaning of a “CSID card” but he did say (46) “I had only an ID with my name and my father’s name was recorded on it, that was the only thing I had”.
8. He was then asked to explain how he was allowed to attend schools if he did not have an identity document and he said that his paternal uncle knew some people. He seemed familiar with the idea of the “Family Book” but just said it was a long number and he did not know it. As will be obvious the record of the interview does not confirm the claim in the grounds that the claimant had indicated in cross-examination that he had had an identity document at all. It does however suggest that he had said in interview that he had had an identity document but he had not described it as “official” in any way.
9. It is a clear assertion in the grounds that the words used, which are set out above, could only refer to one of two types of national identity document. Indeed, according to the grounds “it is reasonable to presume that this is therefore one or the other” but the same interview made it abundantly plain that it was the claimant’s case that he did not have a CSID document. We do not agree that the inference relied upon by the Secretary of State was necessary at all.
10. We consider now the Reasons for Refusal set out in the letter of 13 January 2023. It sets out the summary outline of the claimant’s case; it also says that the Secretary of State was satisfied that the claimant had given the correct name, date of birth and nationality. This was based on answers in interview or nationality assessment. The explanation (page 351) looked at the guidance given in **SMO** and the importance of having a CSID or INID card. The form continues:

“You have claimed that you never had Iraq identification documents (AIR43-46). As you have stated that you do not currently have a CSID or an INID, you will not be able to obtain one in the UK. In this instance, the Country Policy (?) for Iraq: Internal relocation, civil documentation and returns Version 13.0 July 2022, states that a replacement INID card can only be applied for in person.

The EASO report stated:

‘Individuals applying for the unified national card had to book an appointment with the local office via the website of the Directorate of National Card Affairs and download an application form, which had to be completed and taken to the appointment.

In addition, they had to submit their civil status ID and their nationality certificate. The website of the Directorate of National Card Affairs also requested applicants to submit their residency card with the application and it stated that the original documents needed to be presented.”

11. It then gave details about how applications could be made.
12. The same letter noted it was the claimant’s case that he was in contact with his grandmother and suggested that he obtain a Family Book from his grandmother or the details necessary to get a CSID while in the UK.
13. Mr Eaton’s Rule 24 Notice makes plain by reference to version 14 of the CPIN that there are no places currently issuing CSIDs outside Iraq.
14. At paragraph 10 of his Rule 24 notice we read:

“Pertinent to the [claimant’s] appeal is that he would need to return “home” in order to get a INID card. The [claimant] would have to attend in person in order to obtain this card. However, he would not be able to travel without an INID card. The [claimant] would not be able to obtain an CSID/INID within a reasonable time upon return to Iraq and therefore is likely to be at risk of a breach of Art 3.”
15. Put shortly it is the claimant’s case that the respondent, although noticing an inconsistency in the claimant’s evidence about whether or not he had had a passport, never asserted that the claimant had an official identity document. The application was not refused on the basis that he had an official identity document and the case was not argued on appeal on the basis that he might have been able to have obtained an official identity document.
16. It is plain to use that the case before the First-tier Tribunal was run as indicated. We see no basis whatsoever for saying that the judge erred in law as alleged or at all. It really does not follow that the *only* documentation the claimant *might* have been talking about in interview was one of two official identity cards. This is especially so as in supplementary questions he claimed that he had been able to further his education because somebody knew someone, not because the correct identity had been produced. This remark could, of course, been a lie to try and distance himself from an unhelpful admission but he was not cross-examined on that basis (as far as we know) and it could be the truth.
17. Ms McKenzie indicated that the claimant had not dealt with the possibility of the claimant returning to Iraq and getting help. He did not need to deal with that because that is not the way the case was argued before the judge. Subsequent evidence identified by Mr Eaton points out the difficulties involved in that.

18. This was described as a narrow point. We find it is in fact a misconceived point. The Secretary of State's grounds are based on that false premise that the claimant admitted having an official identity document but that is not established.
19. When we look carefully at what did happen the Secretary of State's underlying point that the claimant had admitted having an official identity document is just not right. He had admitted having a passport at some stage but that was not investigated further when he denied saying that and certainly the case was not determined on the basis that he had a passport.
20. The judge did not err. The judge proceeded to determine the case on the issues before him and reached a conclusion that was permissible on that evidence.
21. It may be that the Secretary of State has not stated his position with complete clarity at each stage but we are quite satisfied that the judge was entitled to make the decision he did for the reasons given and there is no error of law.

Notice of Decision

22. The Secretary of State's appeal is dismissed.

Jonathan Perkins

Judge of the Upper Tribunal
Immigration and Asylum Chamber

22 May 2024