



**IN THE UPPER TRIBUNAL  
IMMIGRATION AND ASYLUM  
CHAMBER**

Case No: UI-2024-001248

First-tier Tribunal No:  
PA/00899/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 26 June 2024**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JARVIS**

**Between**

**BXI (IRAQ)**  
(ANONYMITY ORDER MADE)

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms A. Seehra, Counsel instructed by Barnes, Harrild & Dyer Solicitors

For the Respondent: Mr E. Banham, Senior Home Office Presenting Officer

**Heard at Field House on 10 June 2024**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the anonymity order is maintained due to the international protection issues in this appeal - neither side asked for it to be lifted.**

**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 and/or any member of his family. Failure to comply with this order could amount to a contempt of court.**

## **DECISION AND REASONS**

1. The Appellant is a national of Iraq, born in 2005 who has appealed to this Tribunal against the decision of First-tier Tribunal Judge Codd (hereafter “the Judge”) dated 5 February 2024, which dismissed his international protection and human rights appeals.
2. Permission to appeal to the Upper Tribunal was initially refused by the First-tier Tribunal on 12 March 2024 before being granted by the Upper Tribunal in brief terms on 30 April 2024.

### **The Appellant’s claim**

3. In short, the Appellant claimed that his father/family had been in a land dispute with a rival family since 2000. The Appellant asserted that this led to him being shot at in around 2015 with ongoing shootings at the family home for a sustained period. There was an attempt at reconciliation/medication between the parties which failed and in 2021 the Appellant’s father decided that the Appellant should leave Iraq due to the dispute.

### **The Judge’s decision**

4. In the decision the Judge made the following record/findings relevant to these proceedings:
  - a. The Appellant is of Kurdish ethnicity and from Sulaymaniyah in the IKR, §5.
  - b. The Respondent accepted that the Appellant’s family had been involved in a land dispute with a rival family since 2000, §§5 & 11.
  - c. The Respondent also accepted that the Appellant’s father only had one leg, §24.
  - d. The Appellant claimed to have been threatened as a result of this dispute in 2015 and therefore remained residing in his father’s home, §7.
  - e. The Judge recorded the evidence that during the period 2015 until 2018 the rival family would often shoot at the property, §7.
  - f. At §21, the Judge recorded the Presenting Officer’s submissions in summary form, which were:
    - i. The land dispute had been accepted by the Respondent however the “violent nature” of it was disputed.
    - ii. The Respondent did not accept the Appellant’s allegation that the rival family were politically influential.
    - iii. Nor did the Presenting Officer accept that the Appellant had lost contact with his father.

- iv. It was also argued that the Appellant could be re-documented without risk as he was still in contact with his family.

5. In terms of his own findings:

- a. The Judge accepted that it was reasonably likely that the attempted mediation between the two families was not resolved as the Appellant claimed, §26.
- b. The Judge further decided that it was relevant that the Appellant's father had remained using the land despite the difficulties with the rival family and, importantly in respect of this error of law appeal, that the Appellant claimed that he was last shot at in 2018, §27.
- c. The Judge also accepted within that finding that the Appellant had reasonably likely been threatened, §28.
- d. The Judge was also prepared to accept that there had been at least one physical altercation between the Appellant and the rival family but was not satisfied that the Appellant had told the truth when he claimed that the rival family had shot at his father's property on a fortnightly basis and considered this to be an embellishment, §29.
- e. Furthermore, the Judge concluded that the land dispute had been going on for well over 20 years and was not resolved which spoke against the Appellant's claim that the rival family were/are politically influential. The Judge noted that the only evidence provided by the Appellant was based on supposition and the assertion of his own father and concluded that this part of the Appellant's evidence was not credible, §30.
- f. In respect of the country expert report from Dr Ghobadi, the Judge gave weight to parts of the report which noted the background to the history of land disputes in Iraq which corroborated much of the Appellant's account regarding the failed mediation, however the Judge also concluded that the expert's assessment of risk was predicated upon the rival family having political influence which the Judge did not accept, §31.
- g. At §32 the Judge accepted that the authorities in Iraq may be reluctant to engage in the issue on the basis that such disputes are complex and difficult to prove.
- h. The Judge went on however to conclude that there would be a sufficiency of protection for the Appellant and again reiterated the finding that he did not accept that the rival family had political influence or had bribed the relevant authorities, §32.
- i. The Judge also made an alternative finding that if the authorities are not reluctant to involve themselves or that their involvement would be

ineffective, there had been no ongoing threat to the Appellant since 2018, §33.

- j. The Judge also noted the Appellant's evidence that he had left Iraq for the UK because he was fed up and because he was having to stay at home because of the threats. The Judge took into account the impact of the trauma of the historical attacks and concluded that this may have had an impact on the Appellant's willingness to venture out of the house. The Judge however went on to explain that there were multiple reasons for the Appellant's family choosing to send him abroad and concluded that this is predominantly because the Appellant's future prospects were limited and they wanted a better life for him, §34.
  - k. The Judge further rejected the credibility of the Appellant's account that his father did not have any means of telephone communication bearing in mind that the Appellant himself has a mobile phone and has had the same mobile number since arriving in the UK, §36.
  - l. Additionally, the Judge noted that the Appellant's father was responsible for coordinating workers to tend his land and this amounted to a form of management which would have required him to communicate with workers at a distance, §36.
  - m. The Judge also recorded that the Appellant's father had lived in the same area for over 20 years and whilst the Appellant had contacted the Red Cross to attempt to locate him this was not sufficient to exhaust all of the available resources. The Judge noted that the Appellant's departure from Iraq was planned by his father and that the Appellant was most likely to have access to a recoverable contact list on his phone despite changing handsets, §37.
  - n. The Judge also found incredible the Appellant's claim that he had no other family members other than his father in Iraq, §38.
6. The Judge further found that there was no articulated convention reason under the Refugee Convention, §35. Additionally, the Judge concluded that the Appellant would not need to internally relocate within the IKR or Iraq as the rival family do not have political influence and no wider risk had been identified, §39.
7. At §40, the Judge concluded that the reach of the rival family had not been adequately proved and the Appellant could avoid the dispute via a modest relocation. Furthermore the Judge found that the Appellant's father appeared to have some economic resources (as a landowner and employer) and that he could therefore support his son in a way which avoided the threat of destitution. Equally, the Judge also concluded that the Appellant could work as he is a healthy young man, §40.
8. In respect of documentation issues, the Judge decided that it was likely that the Appellant had been issued with a CSID card in Iraq, §41.

9. In terms of return issues, the Judge made reference to the Respondent's CPIN, 'Iraq: internal relocation, civil documentation and returns' (October 2023) as well as the Upper Tribunal's guidance in SMO and KSP (Civil status documentation, article 15) (CG) Iraq [2022] UKUT 110 ("SMO (2)") and found that the Appellant would be able to attend an interview at the Iraqi embassy in order to obtain a travel permit to travel to Iraq, §42.
10. In assessing the CPIN, the Judge took into account the Respondent's view in the CPIN that returnees could be returned to all areas of Iraq including the IKR and therefore the Appellant would not be required to travel internally across a regional boundary to renew his documentation. The Judge went on to conclude that the Appellant is still in contact with his father or that there are likely to be other family members locally who could assist with CSID issues; in the alternative his family could assist him with his CSID information or family book number and provide these to the Appellant whilst in the UK, §43.
11. Furthermore, the Judge concluded that the Appellant would be able to seek a new INID with the support of a local mukhtar, §44.
12. The Judge therefore dismissed the Appellant's Refugee Convention, Article 3 ECHR and humanitarian protection appeals.

### **The error of law hearing**

13. The error of law hearing was conducted in person at Field House in London. The Appellant attended the hearing with his support worker.
14. I heard detailed oral submissions from both representatives of which I have kept my own note and at the end of those submissions I formally reserved my judgment.

### **Findings and reasons**

15. In coming to my conclusions, I have had careful regard to the composite bundle produced for the Upper Tribunal proceedings of 326 PDF pages; I have also seen the 2023 expert report which was sent in late in by the representatives as they forgot to add it to the composite bundle.
16. I am grateful to Ms Seehra for assisting the Tribunal in its work by seeking to properly categorise the otherwise somewhat prolix and repetitious grounds of appeal.

#### **Ground 1**

17. In this ground, the Appellant asserts that the Judge erred by not considering the Appellant's return to Baghdad as required in SMO (2) including the alleged failure of the Judge to consider how the Appellant's father would be able to bring the CSID to Baghdad airport bearing in mind that he has one leg and is "*confined to the home*".

18. In her submissions, Ms Seehra evolved the ground to include a challenge to the Judge's finding that the CPIN (October 2023) confirmed the potential for return to all areas of Iraq (at §43). Ms Seehra averred that the evidence within the CPIN did not support the conclusion that this applied to enforced returns and argued that the Respondent had not been clear if he was in fact resiling from the position taken in the refusal letter.
19. I note from the outset that the Appellant did not challenge the contents of either of the Respondent's CPINs (the Judge referred to one from October 2023 whereas the Appellant provided an earlier one in his bundle for the First-tier proceedings) in the grounds as lodged to the First-tier Tribunal and then to the Upper Tribunal and there is no indication that this was ever argued before the Judge. I also record that Ms Seehra did not apply to amend the grounds and I have therefore decided that the Appellant should not be allowed to argue this point.
20. In any event, I also find that there is no merit in the argument made about the interpretation of the wording of the CPINs where it was not put to the Judge at first instance as it should have been. There is no error of law in this discrete respect.
21. In terms of the point relating to the application of SMO (2) and the position taken by the Respondent in the refusal I also find that there is no merit in the point. It is beyond clear that the Respondent asserted that the Appellant could be removed to Erbil (in the IKR) or Baghdad, see page 236 (PDF) of the composite bundle. Ms Seehra's submission that the Respondent had only made the case on the basis of enforced return to Baghdad is quite simply a bad one. There is equally repeated references to the Appellant returning to the IKR in other parts of the refusal which must be read in line with the removal destinations proposed at page 236.
22. There is equally no incompatibility with SMO (2) which states at head-note 7:  

*"Return of former residents of the Iraqi Kurdish Region (IKR) will be to the IKR and all other Iraqis will be to Baghdad. The Iraqi authorities will allow an Iraqi national (P) in the United Kingdom to enter Iraq only if P is in possession of a current or expired Iraqi passport relating to P, or a Laissez Passer."*
23. There was therefore no error in the Judge looking at the question of documentation by reference to return to the IKR (Erbil); the Respondent carried out his duty to specify the potential removal destinations as required from head-note 26 of SMO (2).

## Ground 2

24. At para. 13 of the grounds, the Appellant avers that the Judge committed a material error of fact by mischaracterising the Respondent's position in the refusal and the Appellant's witness statement evidence about the time period in which the rival family carried out shootings at the house.

25. The Appellant firstly asserts that the Respondent did not challenge the alleged threats but rejected the risk on the basis that the Appellant had not come to harm in the 6 year period *“he was in Iraq after the specific threat made to A[ppellant]’s life was he was 10 years age in 2015 through to the time he left Iraq in 2021”* (sic).
26. In my view the Appellant’s understanding of the Respondent’s position in the refusal (as quoted above) is itself misconceived. It is clear that at no point in the Respondent’s refusal or review did the decision-maker accept that the Appellant was subject to a threat of harm for 6 years: the refusal letter expressly states that *“[f]rom 2018 until 2021, when you left Iraq, you have provided no evidence of any further incidents, with the [rival] family, or that you came to any harm during this time.”*
27. Furthermore, the Respondent’s review also states that *“what remains in dispute and is not accepted is the nature of the dispute and that the A or face serious harm or persecution as a result of it”* (sic) (page 323 PDF of the bundle).
28. This is also consistent with the position taken by the Presenting Officer (as recorded by the Judge at §21) in which it is recorded that she said that the Respondent did not accept the violent nature of the land dispute.
29. There was therefore no error of fact by the Judge and no wholesale change in the Respondent’s position that might otherwise have led to a situation of procedural unfairness. It is also noticeable that the Appellant does not assert that his representative at the First-tier Tribunal proceedings was surprised by the way that the Respondent’s representative put their case either in cross-examination or in submissions and there is no suggestion at all that the representative sought to argue that the Respondent could not make the case as put or otherwise asked for an adjournment due to a concern about fairness.
30. In respect of the second complaint of a material error of fact by reference to §29 of the judgment read against the Appellant’s evidence in his witness statement (dated, I think, 23 February 2023) at para. 11, I also find that there is no error.
31. In paras. 10 & 11 (page 285 of the composite bundle) the Appellant stated the following:
  10. *Between 2015-2018 the [rival] family began shooting at our house. They were coming every two weeks and shooting at our house. No one was injured. My father asked for mediation. And it took place around 2016 and 2017 but the mediation was unsuccessful. It didn’t solve the problem because my father said the land was his and the [rival] family said it belonged to them.*
  11. *After the mediation they started coming to our house again once a month and the threats are the same. My father didn’t go to the*

*authorities for help because they expect people to resolve this kind of issues yourself. Because it was a dispute between 2 families.”*

32. At para. 18 of the grounds, the Appellant mis-characterises his own evidence by asserting that his witness statement at para. 11 had made clear that the failed reconciliation attempt was in 2018 and that the same threats continued albeit reduced from weekly to monthly.
33. It is clear that para. 11 of the witness statement does not say that the mediation/reconciliation attempts failed in 2018 at best, para. 10 states that they took place around 2016 and 2017 but were unsuccessful.
34. As I have already detailed, the Respondent considered that the Appellant’s statement evidence amounted to showing that the shootings at the Appellant’s family home ended at some before 2018 and that there were no further incidents before his departure in 2021. The Appellant was therefore plainly on notice that there was a dispute over the Appellant’s evidence as to the ongoing (or not) nature of the shootings.
35. The Appellant has therefore, (taking into account the wording of paras. 10 & 11 of the witness statement and bearing in mind the interpretation taken by the Respondent in the refusal letter), failed to establish that his evidence clearly stated that the attacks continued until 2021 and he has not argued that the Judge’s interpretation of those paragraphs amounts to perversity. For completeness if that argument had been made I would have rejected it on the basis that it is an interpretation of the evidence which was plainly open to the Judge.
36. Furthermore I find that the Judge gave lawful reason for concluding that the Appellant’s claim that the property was shot at on a fortnightly basis (this was the Appellant’s evidence in the hearing, see §19) was an embellishment. It is also clear that the Judge took into account the Appellant’s age when making the finding at §29.
37. Contrary to the points made at paras. 19 to 21 of the grounds (and argued by Ms Seehra), I find that the Judge gave sufficient reasons for concluding that the Appellant’s assertion that his father told him the rival family was politically influential was not made out on the evidence. Contrary to para. 21 of the grounds, the Judge clearly explained at §30 and §32 that the fact that the land dispute had gone on for over 20 years and that the mediation between the families had failed was strong evidence that the rival family did not have influence.
38. In other words, the Judge found that there was no evidence to show that the authorities had been influenced or bribed in order to involve themselves to try to pressurise resolution to the dispute in favour of the rival family which would be indicative of that family having relevant political or financial influence.



39. The Appellant's characterisation of this finding as being a failure to provide reasons is simply incorrect and stands as a simple disagreement with the Judge's conclusion which has not been argued to be perverse.
40. For the same reasons, I conclude that the Judge did not demand corroboratory evidence in order to seek to accept the Appellant's assertion that his father told him that the rival family were politically influential. At §29 the Judge was contrasting the clear evidence of a lack of political interference during the 20 year land dispute and mediation with the Appellant's assertion that he was told by his father that the family have such influence.
41. In my view, the Judge's credibility findings are lawful and were carefully made. Contrary to the Appellant's complaints, the Judge carried out a nuanced assessment of the Appellant's claim applying the lower standard of proof and clearly accepted parts of the Appellant's core claim whilst also explaining why he did not accept others.

### Ground 3

42. On the basis of my finding that the Judge did not err in law when making his findings in respect of the Appellant's credibility I conclude that there is no force in the Appellant's related criticism that this undermined the Judge's assessment of the expert evidence at §31.
43. It was legitimate for the Judge to give weight to parts of the expert report but also to explain the limitations of the report based upon the fact that the expert had predicated his/her assessment of risk on the Appellant's assertion that the rival family in Iraq had influence which the Judge found was not a credible claim.

### Ground 4

44. The Appellant also avers that the Judge's findings at §32 about sufficiency of protection in Iraq were internally inconsistent and contrary to the Appellant's evidence.
45. There is some force in the Appellant's criticism that some of the Judge's reasoning is potentially contradictory in both finding that there would be a sufficiency of protection but also concluding that it was plausible that the authorities would not get involved in the dispute due to the nature of the allegations
46. However, it is also clear enough that the Judge made a finding in the alternative if he were wrong about the authorities' desire to involve themselves or their ability to provide a sufficiency of protection at §33. In this paragraph the Judge concluded that there had not been an ongoing threat to the Appellant since 2018 and that there was no quantifiable ongoing risk.

47. I have already decided that the Judge's findings in respect of the evidence about the shootings and when they occurred were lawfully made and I further conclude that even if there is error in the Judge's assessment of the sufficiency of protection issues that it is nonetheless not material.

#### Ground 5

48. The Appellant further criticises the Judge's findings on internal relocation (§§39-40) by reference to the earlier assertion that the Judge erred in his assessment of the evidence about the political influence of the rival family. I have already explained why I have not accepted this earlier submission and therefore there is nothing in this part of the ground.

49. Contrary to paras. 31 onwards (and Ms Seehra's oral argument) there was no failure of the Judge to lawfully consider the expert evidence. Unhelpfully the grounds entirely fail to detail which parts of the report apparently undermine the conclusions drawn by the Judge. As best as I can see para. 54 is the expert's view of internal relocation issues:

*"54. In theory, the Appellant can relocate to another place in the KRI. However, this is not a viable option if he is wanted by the [rival] family who allegedly have influence within the government. Furthermore, under the current circumstances of worsening economic conditions, the Appellant might find it difficult to establish his life in the KRI if he does not have the support of his family and/or connection to one of the ruling political parties, i.e., KDP and PUK."*

50. As is perfectly clear the expert's view is mainly predicated upon the claim that the rival family have political influence which the Judge lawfully rejected.

51. The latter part of the paragraph about worsening economic conditions is based upon the claim to a lack of support from his family. In that respect the Appellant has not in fact directly challenged the Judge's conclusion that the Appellant could look to assistance from his father who, despite his disability, had economic resources, see §40.

52. There is no error in the Judge's conclusion on internal relocation.

#### Ground 6

53. In ground 6 the Appellant repeats the argument that the Judge erred in not considering return issues to Baghdad - I have already explained why this is misconceived.

54. Additionally in respect of para. 38 of the grounds, I conclude that the Judge did give lawful reason for finding that the Appellant would be able to redocument himself. At §43, the Judge reiterated his earlier lawful and unchallenged finding that the Appellant was not credible in his claim to have lost contact with his father (see §§36 & 37) and at §45 added that:

*“It follows therefore that I consider that the Appellant can re-document, either by his family providing him his CSID or with assistance on return to obtain an INID. I do not consider there to be a risk of harm to the Appellant in this regard so as to meet the test for humanitarian protection, and I cannot see that he meets the test for protection from inhumane treatment under article 3 of the ECHR.”*

55. In my view the finding that the Appellant’s family could provide him with the CSID is compatible with the Upper Tribunal’s conclusion in SMO, KSP & IM (Article 15(c); identity documents) CG Iraq [2019] UKUT 400 (IAC) that a CSID can be sent to the relevant person in the UK prior to their return: see §430, and so is not in legal error.
56. In any event, if I am wrong about that, the finding is also compatible with the Judge’s observations that the Appellant’s father continued to farm and manage his land despite the dispute and had some economic resource. In my view then there is no error of law in the Judge’s additional finding that the Appellant’s father could assist him with CSID issues on his return to the airport in the IKR (§43).
57. The Judge gave lawful reasons for finding that the direct threat to the Appellant had dissipated by at least 2018 and that the rival family was not politically or geographically influential.
58. In respect of the Judge’s finding that the Appellant was not credible in his evidence that he does not have any other family in Iraq I find no material error. The Judge has given clear reasons for finding that the Appellant’s father can assist him on return.

#### Ground 6

59. At para. 41, the Appellant avers that his CSID would be invalid and therefore he would be forced to return to his home area making internal relocation unviable.
60. I reject this argument. Firstly, the Appellant has never argued that his CSID was invalid, it was his claim (as rejected by the Judge) that he did not have one or did not know if there was one.
61. Secondly, the Judge gave clear and legally adequate reasons for finding that the Appellant had not faced a direct risk of harm from the rival family since at least 2018 and that they did not have any wide-ranging political influence in the area. There is therefore no basis for the claim that the Appellant could not go to the INID office in his local area – this is a clear disagreement and reargument of the claim.

#### Grounds 7 & 8

62. In respect of the related issue of the allegation that a CSID would be invalid, the Appellant asserts that this is a R v SSHD ex parte Robinson [1998] QB 929 obvious point. I reject this submission and conclude that the

argument is not obvious as meant in the Robinson sense in that it does not have a strong prospect of success.

63. Again it is worth recalling that the Appellant asserted that he did not have one or know that he had one and the Judge concluded that he must have had one from school age (§41). In my view the Judge was not required to go on to speculate without evidence or any other assistance about whether the CSID was still valid. I find that the Judge's approach was fully in accordance with the principle as explained in MA (Somalia) v Secretary of State for the Home Department [2010] UKSC 49 at §§47 & 48.

64. Furthermore the grounds rely upon an unreported decision of the Upper Tribunal which I do not give the Appellant permission to rely upon. Whilst it is right to say that there is no Practice Direction for the Upper Tribunal about the citation of unreported decisions, there remains one for the First-tier. Para. 8 is the relevant part:

*"8. Citation of unreported decisions*

*8.1 A decision or judgment of any court or tribunal which has not been reported may not be cited in proceedings unless:*

*(a) the person who is or was the Appellant before the Tribunal, or a member of that person's family, was a party to the proceedings in which the previous decision was issued; or (b) the Tribunal gives permission.*

*8.2. An application for permission to cite an unreported decision or judgment must:*

*(a) include a full transcript of the decision or judgment;*

*(b) identify the proposition for which the decision or judgment is to be cited; and*

*(c) certify that the proposition is not to be found in any reported decision or judgment."*

65. There is no reason in principle why the guidance given here should not also be applied by the Upper Tribunal. In my view the Appellant has not established sufficient reason for the decision to be cited in these proceedings:

a. The Judge's conclusions were based on specific evidence relating to the appellant in that case.

b. The Judge was considering an appellant travelling through checkpoints in Baghdad and southern Iraq which is not the case here.

66. Furthermore, the Appellant's failure to give credible evidence about the existence of a CSID completely undermines his claim now that the CSID

would have been issued more than 15 years ago and therefore have become invalid.

**Notice of Decision**

The Appellant has not identified any material errors in the Judge's decision and his appeal is therefore dismissed.

***I P Jarvis***

Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber

18 June 2024