



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/12401/2017

THE IMMIGRATION ACTS

Heard at Liverpool CJC
On 7 August 2018

Decision & Reasons Promulgated
On 21 August 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE BIRRELL

Between

HEMEN [A]

(ANONYMITY DIRECTION NOT MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Smith counsel

For the Respondent: Me Diwnycz Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having

considered all the circumstances and evidence I do not consider it necessary to make an anonymity direction.

2. The Appellant was born on 20 August 1993 and is a national of Iraq of Kurdish ethnicity.
3. This is a resumed hearing after an error of law decision in which I set aside the decision of the Judge in so far as it related to the issue of internal relocation as the findings were inadequate.
4. The Appellant had made an additional statement dated 31 July 2018 which he adopted. Mr Diwnycz did not cross examine the Appellant stating that there was 'little point.'
5. By way of clarification I asked the Appellant had he ever worked previously. He stated that he had worked in the town where they lived briefly cleaning up in a barbers shop but had no permanent job. He helped at home and took food to his father at his place of work.

Final Representations

6. Mr Diwnycz and Ms Smith made representations and there is a full note of those representations in the record of proceedings.

The Law

Internal relocation

7. Paragraph 339O of the Immigration Rules, which is intended to incorporate the Directive, states:
 - (i) The Secretary of State will not make:
 - (a) a grant of asylum if in part of the country of origin a person would not have a well founded fear of being persecuted, and the person can reasonably be expected to stay in that part of the country; or
 - (b) a grant of humanitarian protection if in part of the country of return a person would not face a real risk of suffering serious harm, and the person can reasonably be expected to stay in that part of the country.
 - (ii) In examining whether a part of the country of origin or country of return meets the requirements in (i) the Secretary of State, when making his decision on whether to grant asylum or humanitarian protection, will have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the person.

(iii) (i) applies notwithstanding technical obstacles to return to the country of origin or country of return.

8. The most up to date guidance in respect of relocation to the IKR is found in AAH (Iraqi Kurds – internal relocation) Iraq CG UKUT 00212 (IAC) whose headnote states:

1. *If P has family members living in the IKR cultural norms would require that family to accommodate P. In such circumstances P would, in general, have sufficient assistance from the family so as to lead a 'relatively normal life', which would not be unduly harsh. It is nevertheless important for decision-makers to determine the extent of any assistance likely to be provided by P's family on a case by case basis.*
2. *For those without the assistance of family in the IKR the accommodation options are limited:*
 - (i) *Absent special circumstances it is not reasonably likely that P will be able to gain access to one of the refugee camps in the IKR; these camps are already extremely overcrowded and are closed to newcomers. 64% of IDPs are accommodated in private settings with the vast majority living with family members;*
 - (ii) *If P cannot live with a family member, apartments in a modern block in a new neighbourhood are available for rent at a cost of between \$300 and \$400 per month;*
 - (iii) *P could resort to a 'critical shelter arrangement', living in an unfinished or abandoned structure, makeshift shelter, tent, mosque, church or squatting in a government building. It would be unduly harsh to require P to relocate to the IKR if P will live in a critical housing shelter without access to basic necessities such as food, clean water and clothing;*
 - (iv) *In considering whether P would be able to access basic necessities, account must be taken of the fact that failed asylum seekers are entitled to apply for a grant under the Voluntary Returns Scheme, which could give P access to £1500. Consideration should also be given to whether P can obtain financial support from other sources such as (a) employment, (b) remittances from relatives abroad, (c) the availability of ad hoc charity or by being able to access PDS rations.*
3. *Whether P is able to secure employment must be assessed on a case-by-case basis taking the following matters into account:*
 - (i) *Gender. Lone women are very unlikely to be able to secure legitimate employment;*
 - (ii) *The unemployment rate for Iraqi IDPs living in the IKR is 70%;*
 - (iii) *P cannot work without a CSID;*

- (iv) *Patronage and nepotism continue to be important factors in securing employment. A returnee with family connections to 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 to 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 P is from an area with a marked association with ISIL, that may deter prospective employers.*

Findings

9. I am required to look at all the evidence in the round before reaching any findings. I have done so. Although, for convenience, I have compartmentalised my findings in some respects below, I must emphasise the findings have only been made having taken account of the evidence as a whole.
10. The Appellant was born in Sulaymaniyah in the IKR but having left there as a child has lived the vast majority of his life in Hawija. The Respondent accepts that his hometown of Hawija is unsafe for him to return to and therefore the question is can he reasonably relocate to the IKR.
11. The Appellant is a 24 year old Iraqi national of Kurdish ethnicity. The Appellant was born in Sulaymaniyah in the IKR but when he was 5 years old the family moved to Hawija in Iraq where he lived until the security situation led to his family fleeing to Dobz. He lived there with his parents and younger sister. He has no family in the IKR. I accept that the Appellant has had very limited education and no job experience other than tidying up in a barbers shop.
12. His unchallenged evidence now is that he together with his parents and younger sister were initially displaced from Hawija to Dobz because of the security situation and they lived in makeshift accommodation provided for internally displaced people in a school. In May 2015 they travelled to Turkey together where his father instructed an agent. His unchallenged evidence is that his father took care of all of the family's documents, passports and CSID cards and that these were then taken from him by the agent. He

asserts that he became separated from his family in Turkey when the agent put single males in one lorry and families in a separate lorry. He states that he never had a mobile phone in Iraq and that while his father had one it was lost or stolen during their journey and therefore they had no way to maintain contact. I find that the Appellant has made genuine efforts to locate his family via the Red Cross which is consistent with his account and he has produced a number of letters from them starting in February 2017 confirming that their efforts have so far been unsuccessful.

13. Mr Diwnyz conceded that the Appellant irrespective of his place of birth would be returned to Baghdad. In order to access food and services while there and to be able to internally relocate to the IKR I accept that he would need a CSID card.
14. I accept that his evidence is plausible that he has neither a passport or CSID card with him in the UK because this was confiscated by the agent in Turkey. I accept that he does not remember the necessary page and book number that would enable him in accordance with the evidence of Dr Fatah relied on in AA (Iraq) and referred to art paragraph 101 of AAH to obtain a replacement in London at the Iraqi Embassy. I also accept that he given plausible has lost contact with his parents and has no other family members in Iraq who would be able to assist him in providing the necessary information for redocumentation.
15. Applying the caselaw I accept that the prospect of the Appellant obtaining a replacement CSID card in Baghdad is unlikely given his lack of knowledge of relevant information, absence of family to assist and the general unwillingness of officials to assist in the absence of the required information. Without a CSID card the Appellant will be unable to leave Baghdad and is likely therefore to face destitution.
16. In the extremely unlikely event of the Appellant being able to obtain a CSID card I have considered whether he could relocate to the IKR I have considered those factors set out in in AAH that determine whether such relocation would be reasonable or whether in the Appellants particular circumstances it would be unduly harsh. Have found that he is a single man of very limited education with no family in the IKR indeed with no knowledge of the whereabouts of his family so they could not even assist remotely. The Appellant has no working skills that are likely to enable him to find employment particularly given that the unemployment rates in the IKR are 70%. The Appellant is not reasonably likely

to be able to gain access to a refugee camp and the cost of private accommodation would be prohibitively expensive as a long term option given his likely employment opportunities. The material available in respect of shelters in AAH suggests that critical shelter arrangement would be unduly harsh as he would be unable to access basic necessities such as food, clean water and clothing.

Conclusions on Humanitarian Protection

17. On the basis of the facts found in this appeal, the Appellant has discharged the burden of proof on him to show that on his return he would face a real risk of suffering “serious harm” by reference to paragraph 339C of the Immigration Rules (as amended).

Conclusions on ECHR

18. On the facts as established in this appeal, there are substantial grounds for believing that the Appellant’s removal would result in treatment in breach of ECHR.

Decision

19. The appeal is allowed on humanitarian grounds

20. The appeal is allowed on human rights grounds.

No anonymity direction

Signed
Deputy Upper Tribunal Judge Birrell

Date 13 August 2018