



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

Appeal Number: PA/04880/2019

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 20 November 2020**

**Decision & Reasons Promulgated  
On 26 November 2020**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**SAA  
(Anonymity direction made)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Miss K Smith of Garden Court North.

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

**DECISION AND REASONS**

1. On 4 July 2019 First-tier Tribunal Judge Davies dismissed the appellant's appeal on protection and human rights grounds.
2. Permission to appeal was granted by another judge of the First-tier Tribunal on the 10 September 2019.
3. In a decision promulgated on 29 October 2019 Deputy Upper Tribunal Judge Chapman found the First-tier Tribunal Judge had erred in law and

set that decision aside. At [5 - 6] of the error of law finding the Deputy Judge wrote:

- “5. At the hearing before the Upper Tribunal, Mr Bates acknowledged that there had been a rule 24 response dated 1 October 2019 defending the decision of the First-tier Tribunal Judge, however, he did not intend to follow the line taken by the Respondent in that document. Mr Bates accepted that the judge had failed to make a clear finding on whether the Appellant’s brother is employed in Baghdad and whether there was a societal risk of FGM from the Kurdish community in Baghdad. He accepted the judge had not dealt with either of those issues and therefore the decision was unsafe. The parties agreed that the only issue is internal relocation to Baghdad and the risk of FGM there.”
4. As a result of the Covert 19 pandemic and it not being practical for the Deputy Judge to complete the resumed hearing without undue delay, a transfer order has been made by the Upper Tribunal dated 20 October 2020.
5. The matter comes before me as a face-to-face hearing for the purposes of enabling the Upper Tribunal to either allow or dismiss the appeal.

### **The law**

6. The current county guidance case is SMO, KSP & IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 00400 (IAC) which is known to the parties which I do not need to set out in this decision. Nor in relation cases such as AAH (Iraqi Kurds – internal relocation) Iraq.

### **Discussion**

7. The First-tier Tribunal judge noted the appellant is a citizen of Iraq who was born on 1 July 1977. Her husband and two daughters, aged 11 and 7 at the date of the hearing before the First-tier Tribunal, are dependent upon her claim.
8. In an earlier decision promulgated on 28 March 2018 First-tier Tribunal Judge Tully wrote at [36]:

“36. Looking at the evidence in the round I find that the appellant has not given a credible and consistent account of the business she says she started with her husband. I find that they are so inconsistent by far the most likely explanation is that they have fabricated the account to mount a false asylum claim in the UK. I do not accept, even to the lower standard required, that she ran this business as she claims or that she is therefore at risk from either her family or the Iraqi authorities as a result. The protection claim must therefore fail.”

9. The current claim is predicated on a different basis which can be summarised in the following terms:

‘[Mrs A], [R] and [B] are Iraqi nationals born in Iraq. They and their families are Kurdish and Sunni Muslims. The family originates from Pahadar in the IKR, which is in a remote area near the Iranian border in

the governorate of Suleymaniyah. [Mrs A's] tribe is Mirawdali and her husband's (her daughter's father), is tribe Sheikh.

[Mrs A], was subject to FGM as a minor at approximately 10 years of age. The families of girls' mother and father practice FGM, with female family members on both sides having been cut as children. FGM is usually performed at the instigation of the family at around 10 years of age. As [R] reached the age of 10, the family have received threats from Iraq to have the girls cut. [R] and [B] are at risk of FGM been performed on them if returned to Iraq.'

10. Judge Davies noted at [43] the issue in the appeal is that of internal relocation as the respondent accepted that the appellants daughters are at risk of FGM in the IKR, area, making the question whether there is any other part of Iraq to which the appellant can be reasonably expected to internally relocate. It was accepted by the First-tier Tribunal that the appellant herself had been cut.
11. In relation to identity documents the First-tier Judge recorded at [23]:
 

“23. The Respondent took into account the Appellant had purported to have possessed a CSID document. He believed the Appellant could not utilise this document her sister who she was still in contact could assist her in obtaining a CSID and subsequently a passport. The Respondent took into account the Appellant had not made any attempt to obtain documentation from the Iraqi embassy in London.”
12. The appellant has filed a skeleton argument dated 19 November 2020 which sets out the core issues and which needs to be read as if set out in full in this decision.
13. The appellant attended the hearing with her husband remaining in Manchester to look after the older children. The Upper Tribunal is grateful to the advocates for their assistance in relation to this appeal.
14. Dealing with the individual issues, the first of which is whether the appellant will be re-documented, I accept that in light of the fact there is evidence of the appellant's CSID it is likely she will be able to prove to the Iraqi authorities in the UK both her personal identity and nationality. I accept the situation in relation to identity documents in Iraq has changed in that the appellant will need to be in her home area to obtain a new Iraqi identity document, as a result of the need for her to provide biometric information such as iris scans.
15. I find on the evidence that it has been made out the appellant will be able to return to Baghdad. I find, however, that it has not been made out that the appellant will be able to secure a new Iraqi identity document in Baghdad placing her and the family in a difficult position where such is required to enable the family to access resources, secure employment, and enrol the children in school, as noted at [34] of the skeleton argument.
16. I do not find it has been established that the appellant has a support network in Baghdad who will be able to assist in obtaining accommodation or providing support until the family are able to re-establish themselves. I find there is arguable merit in the contention that the appellant's husband whose previous occupation was as a taxi

driver, will experience considerable difficulty as a result of not speaking Arabic and not being familiar with Baghdad, irrespective of the problems experienced at the roadblocks, in being able to find such work and support his family.

- 17. I find there is arguable merit in the contention that as the family are unable to speak Arabic they would have to live in the Kurdish settled areas in Baghdad where there is a real risk, if traditional beliefs prevail, of FGM being performed upon the girls. The issue of the presence of the appellant’s brother in the Iraqi military forces and his connection with the Kurdish areas of Baghdad is raised and, if it had been made out, will clearly be an additional risk factor in light of his opposition to the appellant generally as recorded in the evidence.
- 18. There is also the issue of sectarian violence in Baghdad in relation to which there is a real risk if encountered by the militia of an opposing sect, being unable to speak Arabic and without adequate protection from family or otherwise in Baghdad, that the family will suffer ill treatment as set out in SMO.
- 19. The skeleton argument sets out the factors to be considered when assessing the reasonableness of internal relocation. I find the appellant has discharged the burden of proof upon her to lower standard applicable in an appeal of this nature to show that the protective factors required to enable this family to be able to live in Baghdad safely do not exist on the facts.
- 20. I find it has not been made out that it is reasonable in all the circumstances for the appellant and her family to internally relocate to Baghdad, the place identified by the Secretary of State to which they will be returned, or elsewhere outside the IKR.
- 21. As it is accepted there is a real risk of harm in their home area, from which there is no sufficiency of protection, and in light of it being established that the proposed relocation will be unreasonable/unduly harsh on the facts, I allow the appeal.

**Decision**

**22. I remake the decision as follows. This appeal is allowed.**

Anonymity.

23. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....  
Upper Tribunal Judge Hanson

Dated the 20 November 2020