



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

Appeal Number: PA/02003/2018

THE IMMIGRATION ACTS

Heard at Bradford

On 1 May 2019

**Decision & Reasons
Promulgated
On 7 May 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**BAHZAD [H]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Marwaha

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

DECISION AND REASONS

1. By a decision promulgated on 4 March 2019, I found that the First-tier Tribunal had erred in law such that its decision fell to be set aside. My reasons for reaching that decision were as follows:

“1. The appellant is a male citizen of Iraq who was born on 1 May 1995. He came to the United Kingdom in November 2016 and claimed asylum. By a decision dated 26 January 2018, the appellant was refused asylum and he appealed to the First-tier Tribunal which, in a decision promulgated on 21 March 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. At the initial hearing in the Upper Tribunal, both representatives agreed that the judge had erred in law for the reasons articulated in the grounds of appeal at [23-32]. These grounds deal exclusively with the availability of internal flight to the Independent Kurdish Region (IKR). Inter alia, the judge wrongly believed that the appellant's home village is in the IKR, which the parties informed me it does not.

3. I set aside the decision of the judge. The appellant no longer seeks protection as a refugee as his representative acknowledged (see decision, [62]). The only issue which remains to be decided is protection by way of humanitarian protection on Article 15 grounds because internal flight within Iraq would be impossible or unduly harsh. I shall remake the decision following a resumed hearing in Bradford on a date to be fixed. The availability of Ms Frantzis will be considered when fixing the date of the resumed hearing.

Notice of Decision

4. The decision of the First-tier Tribunal is set aside. The findings of fact are preserved save for those findings concerning the availability of internal flight within Iraq. The Upper Tribunal shall remake the decision following a resumed hearing at Bradford on a date to be fixed. (2 hours). If the parties seek to rely upon fresh evidence, they may do so provided they send copies of such evidence to each other and to the Upper Tribunal no later than 10 days before the resumed hearing."

2. At the resumed hearing on 1 May 2019, the appellant attended but did not give evidence. His counsel, Ms Marwaha, helpfully provided a skeleton argument. Mr Diwnycz, who appeared for the Secretary of State, did not seek to dispute the appellant's evidence that he has no family support in Iraq (both his parents are dead), he has no documentation which would enable him to obtain a CSID and there is no one in any part of Iraq who would vouch for him with a view to his obtaining a CSID. I find that those facts are established and, applying the country guidance currently existing of *AA (Iraq)* [2017] EWCA Civ 944, I am satisfied that, upon return to Baghdad, the appellant, without any necessary documents other than the emergency travel document which would have been issued to him to enable his journey to Iraq, would be exposed to a real risk of destitution, amounting to serious harm. Consequently, I allow his appeal on humanitarian protection grounds.

Notice of Decision

The appellant's appeal against the decision of the respondent dated 26 January 2018 is allowed on humanitarian protection grounds.

Signed

Date 1 May 2019

Upper Tribunal Judge Lane