



Neutral Citation: [2022] UKUT 00110 (IAC)

SMO & KSP (Civil status documentation; article 15) Iraq CG

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

At Field House

**THE IMMIGRATION ACTS**

Heard On 4 and 5 October 2021  
Promulgated on 16 March 2022

**Before**

**UPPER TRIBUNAL JUDGE PERKINS  
UPPER TRIBUNAL JUDGE BLUNDELL**

**Between**

**SMO  
KSP  
(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellants: Mr D Bazini, Mr T Hussain and Ms M Cleghorn, both of counsel, instructed by Halliday Reeves

For the Respondent: Mr C Thomann and Mr T Tabori, both of counsel, instructed by the Government Legal Department

*This decision replaces all existing country guidance on Iraq.*

**A. INDISCRIMINATE VIOLENCE IN IRAQ: ARTICLE 15(C) OF THE QUALIFICATION DIRECTIVE**

1. *There continues to be an internal armed conflict in certain parts of Iraq, involving government forces, various militia and the remnants of ISIL. Following the military defeat of ISIL at the end of 2017 and the resulting reduction in levels of direct and indirect violence, however, the intensity of that conflict is not such that, as a general matter, there are substantial grounds for believing that any civilian returned to Iraq, solely on account of his presence there, faces a real risk of being subjected to indiscriminate violence amounting to serious harm within the scope of Article 15(c) QD.*
2. *The only exception to the general conclusion above is in respect of the small mountainous area north of Baiji in Salah al-Din, which is marked on the map at Annex D. ISIL continues to exercise doctrinal control over that area and the risk of indiscriminate violence there is such as to engage Article 15(c) as a general matter.*
3. *The situation in the Formerly Contested Areas (the governorates of Anbar, Diyala, Kirkuk, Ninewah and Salah Al-Din) is complex, encompassing ethnic, political and humanitarian issues which differ by region. Whether the return of an individual to such an area would be contrary to Article 15(c) requires a fact-sensitive, "sliding scale" assessment to which the following matters are relevant.*
4. *Those with an actual or perceived association with ISIL are likely to be at enhanced risk throughout Iraq. In those areas in which ISIL retains an active presence, those who have a current personal association with local or national government or the security apparatus are likely to be at enhanced risk.*
5. *The impact of any of the personal characteristics listed immediately below must be carefully assessed against the situation in the area to which return is contemplated, with particular reference to the extent of ongoing ISIL activity and the behaviour of the security actors in control of that area. Within the framework of such an analysis, the other personal characteristics which are capable of being relevant, individually and cumulatively, to the sliding scale analysis required by Article 15(c) are as follows:*
  - (i) *Opposition to or criticism of the GOI, the KRG or local security actors;*
  - (ii) *Membership of a national, ethnic or religious group which is either in the minority in the area in question, or not in de facto control of that area;*
  - (iii) *LGBTI individuals, those not conforming to Islamic mores and wealthy or Westernised individuals;*

*(iv) Humanitarian or medical staff and those associated with Western organisations or security forces;*

*(v) Women and children without genuine family support; and*

*(vi) Individuals with disabilities.*

6. *The living conditions in Iraq as a whole, including the Formerly Contested Areas, are unlikely to give rise to a breach of Article 3 ECHR or (therefore) to necessitate subsidiary protection under Article 15(b) QD. Where it is asserted that return to a particular part of Iraq would give rise to such a breach, however, it is to be recalled that the minimum level of severity required is relative, according to the personal circumstances of the individual concerned. Any such circumstances require individualised assessment in the context of the conditions of the area in question.*

## **B. DOCUMENTATION AND FEASIBILITY OF RETURN (EXCLUDING IKR)**

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.*

8. *No Iraqi national will be returnable to Baghdad if not in possession of one of these documents.*

9. *In the light of the Court of Appeal's judgment in HF (Iraq) and Others v Secretary of State for the Home Department [2013] EWCA Civ 1276, an international protection claim made by P cannot succeed by reference to any alleged risk of harm arising from an absence of a current or expired Iraqi passport or a Laissez passer, if the Tribunal finds that P's return is not currently feasible on account of a lack of any of those documents.*

10. *Where P is returned to Iraq on a Laissez Passer or expired passport, P will be at no risk of serious harm at the point of return by reason of not having a current passport.*

## **C. CIVIL STATUS IDENTITY DOCUMENTATION**

11. *The CSID is being replaced with a new biometric Iraqi National Identity Card – the INID. As a general matter, it is necessary for an individual to have one of these two documents in order to live and travel within Iraq without encountering treatment or conditions which are contrary to Article 3 ECHR. Many of the checkpoints in the country are manned by Shia militia who are not controlled by the GOI and are unlikely to permit an individual without a CSID or an INID to pass.*

12. *In order to obtain an INID, an individual must personally attend the Civil Status Affairs ("CSA") office at which they are registered to enrol their biometrics, including fingerprints and iris scans. The CSA offices in which INID terminals have been installed are unlikely – as a result of the phased replacement of the CSID system – to issue a CSID, whether to an individual in person or to a proxy. The reducing number of CSA offices in which INID terminals have not been installed will continue to issue CSIDs to individuals and their proxies upon production of the necessary information.*
13. *Notwithstanding the phased transition to the INID within Iraq, replacement CSIDs remain available through Iraqi Consular facilities but only for those Iraqi nationals who are registered at a CSA office which has not transferred to the digital INID system. Where an appellant is able to provide the Secretary of State with the details of the specific CSA office at which he is registered, the Secretary of State is prepared to make enquiries with the Iraqi authorities in order to ascertain whether the CSA office in question has transferred to the INID system.*
14. *Whether an individual will be able to obtain a replacement CSID whilst in the UK also depends on the documents available and, critically, the availability of the volume and page reference of the entry in the Family Book in Iraq, which system continues to underpin the Civil Status Identity process. Given the importance of that information, some Iraqi citizens are likely to recall it. Others are not. Whether an individual is likely to recall that information is a question of fact, to be considered against the factual matrix of the individual case and taking account of the background evidence. The Family Book details may also be obtained from family members, although it is necessary to consider whether such relatives are on the father's or the mother's side because the registration system is patrilineal.*
15. *Once in Iraq, it remains the case that an individual is expected to attend their local CSA office in order to obtain a replacement document. All CSA offices have now re-opened, although the extent to which records have been destroyed by the conflict with ISIL is unclear, and is likely to vary significantly depending on the extent and intensity of the conflict in the area in question.*
16. *An individual returnee who is not from Baghdad is not likely to be able to obtain a replacement document there, and certainly not within a reasonable time. Neither the Central Archive nor the assistance facilities for IDPs are likely to render documentation assistance to an undocumented returnee.*
17. *A valid Iraqi passport is not recognised as acceptable proof of identity for internal travel by land.*
18. *Laissez Passers are confiscated on arrival and will not, for that reason, assist a returnee who seeks to travel from Baghdad to the IKR by air without a passport, INID or CSID. The Laissez Passer is not a recognised identity document for the purpose of internal travel by land.*

19. *There is insufficient evidence to demonstrate the existence or utility of the 'certification letter' or 'supporting letter' which is said to be issued to undocumented returnees by the authorities at Baghdad International Airport.*
20. *The 1957 Registration Document has been in use in Iraq for many years. It contains a copy of the details found in the Family Books. It is available in either an individual or family version, containing respectively the details of the requesting individual or the family record as a whole. Where an otherwise undocumented asylum seeker is in contact with their family in Iraq, they may be able to obtain the family version of the 1957 Registration Document via those family members. An otherwise undocumented asylum seeker who cannot call on the assistance of family in Iraq is unlikely to be able to obtain the individual version of the 1957 Registration Document by the use of a proxy.*
21. *The 1957 Registration Document is not a recognised identity document for the purposes of air or land travel within Iraq. Given the information recorded on the 1957 Registration Document, the fact that an individual is likely to be able to obtain one is potentially relevant to that individual's ability to obtain an INID, CSID or a passport. Whether possession of a 1957 Registration Document is likely to be of any assistance in that regard is to be considered in light of the remaining facts of the case, including their place of registration. The likelihood of an individual obtaining a 1957 Registration Document prior to their return to Iraq is not, without more, a basis for finding that the return of an otherwise undocumented individual would not be contrary to Article 3 ECHR.*
22. *The evidence in respect of the Electronic Personal Registry Record (or Electronic Registration Document) is presently unclear. It is not clear how that document is applied for or how the data it contains is gathered or provided. On the state of the evidence as it presently stands, the existence of this document and the records upon which it is based is not a material consideration in the evaluation of an Iraqi protection claim.*

#### **D. INTERNAL RELOCATION WITHIN GOI-CONTROLLED IRAQ**

23. *Where internal relocation is raised in the Iraqi context, it is necessary to consider not only the safety and reasonableness of relocation but also the feasibility of that course, in light of sponsorship and residency requirements in operation in various parts of the country. Individuals who seek to relocate within the country may not be admitted to a potential safe haven or may not be permitted to remain there.*
24. *Relocation within the Formerly Contested Areas. With the exception of the small area identified in section A, the general conditions within the Formerly Contested Areas do not engage Article 15 QD(b) or (c) or Article 3 ECHR and relocation within the Formerly Contested Areas may obviate a risk which exists in an individual's home area. Where relocation within the Formerly Contested Areas is under contemplation, however, the ethnic and political composition of the home area and the place of relocation will be particularly relevant. In particular, an individual who lived in a former ISIL stronghold for some time may fall under*

*suspicion in a place of relocation. Tribal and ethnic differences may preclude such relocation, given the significant presence and control of largely Shia militia in these areas. Even where it is safe for an individual to relocate within the Formerly Contested Areas, however, it is unlikely to be either feasible or reasonable without a prior connection to, and a support structure within, the area in question.*

25. *Relocation to Baghdad. Baghdad is generally safe for ordinary civilians but whether it is safe for a particular returnee is a question of fact in the individual case. There are no on-entry sponsorship requirements for Baghdad but there are sponsorship requirements for residency. A documented individual of working age is likely to be able to satisfy those requirements. Relocation to Baghdad is likely to be reasonable for Arab Shia and Sunni single, able-bodied men and married couples of working age without children and without specific vulnerabilities. Other individuals are likely to require external support, ie a support network of members of his or her family, extended family or tribe, who are willing and able to provide genuine support. Whether such a support network is available is to be considered with reference to the collectivist nature of Iraqi society, as considered in AAH (Iraqi Kurds – internal relocation) CG [2018] UKUT 212.*

#### **E. IRAQI KURDISH REGION**

26. *There are regular direct flights from the UK to the Iraqi Kurdish Region and returns might be to Baghdad or to that region. It is for the respondent to state whether she intends to remove to Baghdad, Erbil or Sulaymaniyah.*

#### **Kurds**

27. *For an Iraqi national returnee (P) of Kurdish origin in possession of a valid CSID or Iraqi National Identity Card (INID), the journey from Baghdad to the IKR by land is affordable and practical and can be made without a real risk of P suffering persecution, serious harm, or Article 3 ill treatment nor would any difficulties on the journey make relocation unduly harsh.*
28. *P is unable to board a domestic flight between Baghdad and the IKR without either a CSID, an INID or a valid passport. If P has one of those documents, the journey from Baghdad to the IKR by air is affordable and practical and can be made without a real risk of P suffering persecution, serious harm, or Article 3 ill treatment nor would any difficulties on the journey make relocation unduly harsh.*
29. *P will face considerable difficulty in making the journey between Baghdad and the IKR by land without a CSID or an INID. There are numerous checkpoints en route, including two checkpoints in the immediate vicinity of the airport. If P has neither a CSID nor an INID there is a real risk of P being detained at a checkpoint until such time as the security personnel are able to verify P's identity. It is not reasonable to require P to travel between Baghdad and IKR by land absent the ability of P to verify his identity at a checkpoint. This normally requires the attendance of a male family member and production of P's identity documents but*

may also be achieved by calling upon “connections” higher up in the chain of command.

30. *Once at the IKR border (land or air) P would normally be granted entry to the territory. Subject to security screening, and registering presence with the local mukhtar, P would be permitted to enter and reside in the IKR with no further legal impediments or requirements. There are no sponsorship requirements for entry or residence in any of the three IKR Governorates for Kurds.*
31. *Whether P would be at particular risk of ill-treatment during the security screening process must be assessed on a case-by-case basis. Additional factors that may increase risk include: (i) coming from a family with a known association with ISIL, (ii) coming from an area associated with ISIL and (iii) being a single male of fighting age. P is likely to be able to evidence the fact of recent arrival from the UK, which would dispel any suggestion of having arrived directly from ISIL territory.*
32. *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.*
33. *For Kurds 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.*

34. *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 or INID;*
  - (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.*

#### *Non-Kurdish Returnees*

35. *The ability of non-Kurdish returnees to relocate to the IKR is to be distinguished. There are no sponsorship requirements for entry or residence in Erbil and Sulaymaniyah, although single Arab and Turkmen citizens require regular employment in order to secure residency. Arabs from former conflict areas and Turkmen from Tal Afar are subject to sponsorship requirements to enter or reside in Dohuk. Although Erbil and Sulaymaniyah are accessible for such individuals, particular care must be taken in evaluating whether internal relocation to the IKR for a non-Kurd would be reasonable. Given the economic and humanitarian conditions in the IKR at present, an Arab with no viable support network in the IKR is likely to experience unduly harsh conditions upon relocation there.*



## DECISION AND REASONS

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## A. PROCEDURAL HISTORY

1. On 20 December 2019, this constitution of the Upper Tribunal issued a country guidance decision about Iraq entitled SMO, KSP & IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 400 (IAC). As the title of that decision suggests, it was concerned primarily (although not exclusively) with two subjects. The first was the situation on the ground in Iraq and, in particular, whether the situation in certain parts of the country was such that the return of an individual there would expose that person to a risk contrary to Article 15(c) of the Qualification Directive. We concluded, in basic summary, that the situation did not generally give rise to such a risk although a fact-specific, ‘sliding-scale’ assessment was necessary in all cases.
2. The second issue, which has featured prominently in many if not all country guidance decisions on Iraq, concerned the identity documents an individual would require in order to live and function in Iraq. A significant part of the decision was concerned with the way in which a citizen of Iraq might hope to obtain a replacement document in the event that they had lost the original. We concluded, again in basic summary, that an individual might acquire a new document in a variety of ways and that most individuals would be assisted in that task by their likely memory of the volume and page reference of their entry in Iraq’s locally-held Civil Status records, known as the ‘Family Book’.
3. The appellants SMO and KSP sought permission to appeal to the Court of Appeal against our decision. Permission to appeal was granted by Dingemans and Newey LJ on 8 December 2020. The grant of permission concerned only the second of the issues summarised above, and was focused specifically upon one sentence in [425] of the Upper Tribunal’s decision. The sentence in question referred to the likelihood of an Iraqi national recalling their volume and page number in the Family Book and was as follows: *‘Given the importance of the information, most Iraqi citizens will recall it.’* The Court of Appeal considered it arguable that this sentence was wrong in law, or that the Upper Tribunal’s conclusion on this point had been reached without proper notice to the appellants.
4. On 16 February 2021, Master Bancroft-Rimmer approved a consent order remitting the appeals of SMO and KSP to the Upper Tribunal. The appeal was allowed by consent on the ground on which permission was granted and the appeal was remitted “for determination of whether, given the importance of a Civil Status Identity Card, most Iraqi citizens will recall the volume and page reference of their entry in the Family Book.” The remaining findings were preserved “save that the Upper Tribunal is entitled to reconsider any such finding if and to the extent that it thinks it

right to do so in the light of any developments” since the issuance of the first decision.

5. In the Statement of Reasons which accompanied the Consent Order, the respondent made clear her position that she did not agree that the Upper Tribunal had erred in substance in respect of “the sentence”. Without prejudice to that position, however, she accepted that fairness required that the appeals be remitted to the Upper Tribunal on the narrow point, so that the appellants could address the sustainability of the sentence and/or for more detailed reasons to be given in respect of it.
6. We held two case management hearings between the remission of the appeal from the Court of Appeal and the substantive hearing in October 2021. It was agreed between the parties during that case management process that it would be appropriate to broaden the scope of the remitted hearing beyond consideration of the correctness of ‘the sentence’.
7. It was not suggested by either side that there should be any further consideration of the Upper Tribunal’s conclusions regarding Article 15(c) of the Qualification Directive. In light of the respondent’s June 2020 Country Information and Policy Note entitled *Iraq: Internal relocation, civil documentation and returns*, however, it was agreed by the parties that the Upper Tribunal should also consider other questions concerning identity documentation and its acquisition.
8. The parties agreed, in particular, that it would be beneficial for the Upper Tribunal to consider what was said in the June 2020 CPIN about a document described therein as the ‘registration document (1957)’. Further issues which were agreed by the parties to warrant consideration by the Upper Tribunal were the continuing rollout of the INID system and the ongoing availability of the CSID; the use of a Laissez Passer and supporting letter (previously known as a certification letter) for onward travel from Baghdad International Airport; and a document described in 2021 correspondence between the British and Iraqi authorities as the Electronic Personal Registry Record (or Electronic Registration Document).
9. In order to ensure that the appellants understood the case that they had to meet, and so as to assist in the effective instruction of the appellants’ expert (Dr Rebwar Fatah), we directed during the course of the case management of the appeals that the respondent should provide a position statement on the matters above. The concise document which was filed and served in accordance with that direction provided a clear summary of the evidence upon which the respondent relied (or intended to rely) and the conclusions which the Upper Tribunal would be invited to draw from that evidence. In essence, it was to be submitted by the respondent that:

- (i) 'The sentence' was correct and the Tribunal should reach the same conclusion as regards the ability of an individual to recall or to obtain their Family Book details.
  - (ii) The 1957 Registration Document provided an additional means of obtaining a CSID or INID but it could not, of itself, be used for travel.
  - (iii) A list of provinces in which the CSID was still issued was provided. Conflicting evidence had been provided as to whether, and how, a CSID might be applied for within the UK. The position would be clarified with evidence.
  - (iv) The Electronic Registration Document was also available to Iraqis who wished to apply for an INID but could not attend a Civil Status Affairs office in order to do so.
  - (v) Contrary to the conclusions in the first decision, a Laissez Passer is valid and acceptable for onward land and air travel within Iraq. Some 80 individuals had also been issued with, and made effective use of, the supporting letter upon return to Baghdad International Airport.
10. We are grateful to counsel on both sides, and their instructing solicitors, not only for the cooperative and pragmatic way in which the scope of this remitted hearing was agreed but also for the clear focus of the expert and background material and the submissions made upon it. It is quite apparent that this focus was brought about in significant part by the clear focus in the position statement.

## **B. THE INDIVIDUAL APPELLANTS**

11. In our first decision, we summarised the facts of these appellants' cases in the following way:

[2] The first appellant was born on 1 September 1989. He entered the United Kingdom on 22 March 2016 and claimed asylum. He is from a village called Albu Mohammed in the Daquq District of Kirkuk Governorate. His account of having been targeted by ISIL and of having lost contact with his family in Iraq was rejected by the First-tier Tribunal. The FtT found that his family remained in the family home. The FtT held that there had been a significant change in circumstances in Iraq and departed from AA (Iraq), concluding that the appellant could return to his home area in safety. That conclusion was held by Upper Tribunal Judge O'Connor to be erroneous in law and was set aside, with the primary findings of fact made by the judge at first instance otherwise preserved.

[3] The second appellant was born on 1 November 1989. He entered the United Kingdom on 28 November 2005 and claimed asylum. He is from Tuz Khurmato, the main city of the Duz District in Salah al Din Governorate. His appeal against the respondent's refusal of his asylum claim was dismissed by the FtT, which rejected all aspects of his account other than his claim to have run a barbershop in Tuz Khurmato. The FtT found that there had been a significant change in Iraq since the last country guidance decision and that KSP would not be at risk on return to Salah al Din. On appeal, the latter aspect of the decision was deemed by Upper Tribunal Judge Rintoul to be unsustainable because the FtT had failed to adopt the correct approach to the existing country guidance. Judge Rintoul directed that the decision should be remade in the Upper Tribunal, based on the findings of fact made by the FtT.

12. In our first decision, we concluded that each of the two appeals should be remitted to the FtT for further findings of fact to be made, and for the FtT to apply the country guidance to the facts as found: [426]-[438] refers. It is accepted by the appellants and the respondent that this remains the proper course. Questions of documentation arise in both appeals, however, and the amended guidance we give in this decision will be of relevance to the assessment which the FtT will in due course undertake.

### C. EXPERT EVIDENCE

13. The only expert evidence before the Tribunal is from Dr Rebwar Fatah. As he (and Mr Thomann) reminded us, he has appeared as an expert witness in many Iraqi country guidance cases. We gave an account of his background and his expertise at [15]-[16] of our first decision. His expertise is not in dispute between the parties and we need say no more about him by way of introduction.
14. Given the comparatively narrow focus of the Tribunal's enquiry, Dr Fatah's report is quite concise and the following precis will suffice at this stage.
15. Asked specifically to address 'the sentence', Dr Fatah's opinion was that some Iraqis might recall their volume and page number but that it was dependent on the individual. Memorising the numbers was only of use in the event that documentation was lost, a copy had not been retained, and there were no accessible family members.
16. Dr Fatah stated that the 1957 Registration Document is issued and used for specific purposes such as trying to access a pension. The process for obtaining one from abroad would be akin to obtaining a CSID. A power of attorney would be required but could not be secured without identity documents.

17. There continues to be a shortage of INID cards in Iraq as a result of a dispute between the government and the company which produces the cards. CSIDs continue to be issued where needed due to the slow rollout of the INID.
18. There is no separate document known as the Electronic Registration Document. What had been described by the respondent was merely a copy of the details contained on the digitised Civil Status Record. Those details would not be available until such time as a person had applied for an INID and it was therefore fallacious to suggest that the Electronic Registration Document would assist in obtaining an INID or that it could stand in its place. It is unlikely that any such document is issued.
19. A Laissez Passer would not guarantee safe passage through checkpoints, whether accompanied by a 'support letter' or not. Dr Fatah was not aware of a supporting letter ever having been issued and he considered that using a document other than a CSID or INID would be likely to arouse suspicion.
20. Repatriation and redocumentation was unlikely to be a priority for the Iraqi government. Returnees were investigated by the Ministry of Interior to establish their identities. If successful, they were issued with a document and were able to leave the airport. Dr Fatah's information did not completely conform to the information provided by the Iraqi Ministry of Foreign Affairs and there was no single, clearly elaborated process for repatriation. He was not aware of any information to suggest that the Ministry of Transport would provide free onward travel to returnees to Baghdad.
21. In the interests of brevity, we have appended a summary of Dr Fatah's oral evidence at Annex A to this decision.

#### **D. SUBMISSIONS**

22. Mr Thomann and Mr Tabori had helpfully produced closing written submissions in addition to their skeleton argument. Building on the submissions in those documents, Mr Thomann submitted that the hearing had presented a much-needed opportunity for the Upper Tribunal to consider questions of redocumentation in the context of ongoing digitisation in Iraq. That digital context was particularly important in considering the majority of the matters in issue.
23. The first issue concerned the correctness of 'the sentence'. The context was provided by the Tribunal's first decision and by the earlier decision in MK (documents - relocation) Iraq CG [2012] UKUT 126 (IAC). The conclusion reached by the Upper Tribunal in the latter case was based on the general

importance of the CSID and the entry in the Family Book. AAH (Iraqi Kurds - internal relocation) Iraq CG UKUT 212 (IAC) contained only an oblique reference to the issue, as reproduced at 9(i) of the headnote to SMO. As matters presently stood, the evidential foundation for the conclusion in 'the sentence' was summarised in the respondent's closing submissions. Those details represent a unifying link to the family in a country in which family is particularly important. The Family Book details were found in other documents and were kept and used regularly.

24. It was also to be recalled that an individual's entry could be traced through those of their family members. Dr Fatah had been able to recall most of his own details and all of the original Family Book entries and the newer entry could be found from the original. Dr Fatah did not deal in his report with the ubiquity of these details in daily life or with the likelihood of remembering them. There were not a great deal of numbers to recall. All things considered, it was perfectly reasonable and proper to conclude that the number of people who would be unable to remember the Family Book volume number and page reference would be small.
25. Equally, submitted Mr Thomann, the number of people who would be unable to discover the Family Book details if they needed to do so would be small. It was accepted that there would be a small cadre of people who could not recall or obtain these details and it was for the Tribunal to reach a decision as to whether a person fell into that category. It was an intensely fact-sensitive exercise.
26. As for the 1957 Registration Document, Mr Thomann submitted that it was an additional means by which an individual might be assisted to obtain acceptable identity documentation. Dr Fatah had provided valuable context for this document and had explained that it was available in either a personal or a family version. This document could be readily obtained by a family member and being in possession of it was likely to be of considerable assistance to a person without other documentation.
27. The 1957 Registration Document had been highlighted by the Iraqi authorities because it was part of the process of digitisation. Its significance was clear from the email exchange between the Returns Liaison Unit and the Iraqi Counsellor in London: the 1957 Registration Document could be used with the Iraqi citizenship certificate in order to obtain an Iraqi passport. The 1957 Registration Document was a temporary document which could be used in the event of loss or damage of the CSID and when it was not possible to attend the local CSA office in order to obtain an INID. It was not suggested that it could be presented at checkpoints, or that it could be used for internal air travel. The document was put forward by the respondent as part of the overall process for

redocumenting an individual; it was readily available to family members and was of assistance to an otherwise undocumented individual.

28. It remained uncontroversial that attendance in person at a CSA office was required for an individual to obtain an INID. The respondent had presented a list of offices at which the CSID was still being issued and Dr Fatah had suggested that there was unlikely to be any imminent change to this as, according to his two sources in Erbil, there was a shortage of INIDs in Iraq. The list was for the government-controlled part of Iraq. There was no equivalent for the IKR.
29. The respondent submitted that the Tribunal should reconsider its previous conclusions about the Laissez Passer in light of the evidence now available. It was apparent that Dr Fatah's familiarity with the document and its use was limited to his knowledge about his sister returning on one when she had lost her passport. Onward travel using the Laissez Passer had not arisen in that context. The burden was accepted to be on the Secretary of State to persuade the Upper Tribunal to depart from the previous country guidance. What was required was evidence of a durable and evidentially well-established position. That test was perhaps more apt when the country conditions had changed, rather than further evidence having come to light. Nevertheless, it was clearly for the respondent to adduce evidence of substance to show that the Laissez Passer was of use beyond the single journey to Iraq.
30. The Laissez Passer was of particular significance, Mr Thomann submitted, when it came to people travelling on an internal flight from BIAP to the IKR. The evidence now available clearly suggested that it could be used for that purpose. The UNHCR seemed to allude to that possibility in their letter to the respondent from March 2021. Dr Fatah was not familiar with these processes and had not made enquiries at BIAP. His evidence was obviously informed by many years of experience but nothing he had said was obviously inconsistent with the relatively recent processes described. There was also evidence of the Laissez Passer being used, in conjunction with other documents, as identity for onward land travel.
31. The supporting letter had previously been described, in the first decision, as a certification letter. The additional evidence now before the Tribunal bore on the earlier conclusions. The Iraqi Ministry of Foreign Affairs had described in one translated communication to the respondent how the supporting letter had been developed by a National Work Team in Iraq. It remained the case that there was no example of this letter or any case studies of those who had used it to travel within Iraq. Mr Thomann also accepted that the communication from the Iraqi authorities did not state in terms that any returnees had actually used a supporting letter to travel internally. Specimens had been requested, as had proof of onward travel



by those holding supporting letters. The Iraqi authorities had not supplied that information in the six months which followed the request. All of that was accepted by the respondent but it was notable that the respondent's evidence chimed with the evidence given by Dr Fatah in respect of the 'do not interfere' letter which was in use at Erbil Airport. The evidence given on both sides was therefore part of the overall scheme of re-documentation and digitisation.

32. The data found in the Electronic Personal Registry Record was not congruent with that which appeared on the INID. It was more congruent with the data found on the CSID. The respondent's additional evidence envisaged a process which takes place in Iraq through a representative. This all appeared to be practical and consistent through UK eyes but it was accepted that the evidence was in a developing form and was not a matter which would justify departure from the existing country guidance on its own. The additional evidence was only filed shortly before the hearing and there had been a limited opportunity for the appellants to respond. The respondent would not dare to submit, in the circumstances, that this evidence was 'game-changing'.
33. In summary, Mr Thomann submitted that the nature of the CSID and the process for obtaining one was previously well-known. But that was no longer the landscape. There is a staged process of digitisation in Iraq and it was region-specific. There was seemingly an absence of management as regards that process of transition. The process included the use of the 1957 Registration Document, the Laissez Passer, the supporting letter and the Electronic Personal Registry Record. This altered landscape also threw into sharp focus the need for an individual to be able to reach their home area quickly and safely. It would be submitted by the appellants that a CSID or an INID was still required to cross checkpoints in Iraq. The respondent's case was that matters were no longer that simple. A fact specific assessment was instead required, taking account of the route of return, family support and the documents which would be available. Dr Fatah clearly agreed with the possible significance of family members as part of the assessment, given his repeated evidence that family members could be called upon to vouch for an individual at a checkpoint or airport and to bring their identity documents for inspection. What was required in each case was an overall evaluation of the safety and route of return.
34. Mr Bazini began his submissions by noting that the first of the issues ('the sentence') fell to be considered from a different starting point than the remaining issues. In respect of the sentence, there was prior country guidance but the conclusions in our first decision had been set aside by the Court of Appeal.

35. The view expressed at [41] of MK was the Tribunal's own and the source of it was unclear. Paragraph 91 of the same decision highlighted a danger which is frequently encountered a decade later. Judges of the FtT were not only assuming that an appellant would be able to recall their volume and page number; they were also finding that an asserted inability to recall those details was indicative of a wider lack of credibility. Dr Fatah had provided his view in response to the conclusion in MK at [13] of AA (Iraq). The Tribunal's conclusions in respect of that evidence were to be found at [174], [177] and [186].
36. It was not contentious between the parties that there would be many people who would be able to ascertain their Family Book details from a documented family member. The real issue related to those who could not call on the assistance of their family members. The situation in the FtT was unacceptable, and it could not safely be assumed that a person who said that they could not remember their Family Book details was lying, whether in relation to that question or more generally as to their claim. It was in any event a problematic exercise to test whether someone recollected information such as this. The question was likely to be highly subjective, given that some people would necessarily see and use these details more frequently than others. Contrast, on the one hand, a patriarch who regularly handled the family's documents with a farmer who travelled infrequently. It was trite that the plausibility of an account fell to be considered through the spectacles provided by the country information: Y v SSHD [2006] EWCA Civ 1223. Most Iraqis clearly did not believe that they were going to lose their home or their identity documents and it was people in that situation who might find themselves in difficulty, without a CSID or other such document.
37. The respondent had set out her stall as regards the 1957 Registration Document at [6] of the position paper. It was not suggested that it was a document which could be used for travel or that it would enable an Iraqi to access healthcare or food from the Public Distribution System. The respondent's case was that this document provided some assistance to an individual who needed to obtain a CSID or INID but very few places continued to issue the CSID. Most returnees would need to obtain an INID and would have to travel to their local CSA office in order to enrol their biometrics. The purpose of this document was not immediately apparent, as Dr Fatah had said. It might ultimately simplify the process of obtaining an INID but it would not assist the returnee in travelling to the CSA office. It is, at most, a supporting and additional document.
38. Mr Bazini submitted that it was important to recall that it was necessary to have an identity document in order to grant a power of attorney, and the respondent's case was to be considered in that context. The case advanced by the respondent in respect of the 1957 Registration Document fell short

by a considerable margin of justifying departure from the existing country guidance. The Annex to the CPIN referred to a document which purportedly emanated from the Iraqi authorities but it was not on headed paper and gave no indication of the author. Nor was it dated. Ultimately, it was clear that a person required the same information in order to obtain a 1957 Registration Document as they did for a CSID. As Dr Fatah had explained, it was a document used for specific purposes, such as accessing a pension.

39. The rollout of the INID system continued and it was highly unlikely that an individual could obtain a CSID from the UK. There were only three areas in which the CSID is still issued. The information from the Iraqi Embassy was contrary to the conclusions previously reached by the Tribunal and was unreliable. The respondent was plainly conscious of the difficulties with this evidence and the clarification she had understandably sought had not been forthcoming. There were difficulties with the INID rollout in Erbil and the reality on the ground depended on the Iraqi authorities and the German company which was providing the biometric cards themselves. There was a funding issue and if digitisation was so important, the funds would have been found to complete the task.
40. Mr Bazini expressed concern at the idea that the Tribunal might make reference in its decision to the list of areas in which CSIDs were still being issued. That list would obviously be subject to change and its publication in a country guidance decision risked protection claims being decided on an erroneous basis. It was reasonable to expect it to be updated regularly. It would not be in the spirit of the 1951 Convention for the respondent to fail to do so. It was well established by decisions such as Singh & Ors v Belgium (33210/11) that there was a burden on the respondent in certain circumstances and this should be one such situation. There was even a possibility that the individual areas which had made the transfer to the INID system would transfer back to issuing CSIDs, such were the problems with the new system. It was open to the Tribunal to direct that the respondent should find out whether an individual's home area used the CSID or INID system. The Secretary of State would presumably wish to assist the Tribunal to reach the correct conclusion in this respect.
41. Mr Thomann interjected at this point to state that he did not anticipate that the respondent would be averse to making such an enquiry in an individual case, in the same way as she had in these appeals. There might obviously be forensic difficulty in the event that the respondent suggested but was unable to prove whether a particular place relied on the CSID system. Equally, there would be difficulties if the respondent stated that she would make enquiries but failed to do so. These problems were appreciated but the respondent was willing in principle to make enquiries.

42. Mr Bazini noted that the FtT would be aware of these difficulties but was grateful for Mr Thomann's acceptance that the proper course would be for the respondent to make the necessary enquiries.
43. In Mr Bazini's submission, it was extraordinary that the respondent adduced such flimsy evidence to rely on the Electronic Personal Registry Record. The emails and other documentary evidence adduced came nowhere near the threshold required to provide a foundation for country guidance. The first mention of the document came about in an email from May 2021. It was described as the Electronic Personal Registry Record or the Electronic Registration Document and it was not clear why the nomenclature differed. Dr Fatah was not clear about the document and it was not obvious how it was obtained. No one knew what should be provided in order to obtain it, or whether it could be obtained in the UK. It was even unclear what database lay behind it. The Tribunal needed a proper explanation of all of these questions and none had been provided. Notwithstanding the provision of further emails on the Friday before the hearing, there was still insufficient evidence. It appeared to be the case that some regions would refuse to issue an Electronic Personal Registry Record if the individual already had an INID.
44. The respondent attached significance to the suggestion that a Laissez Passer and a supporting letter might suffice for internal travel by land (or air). She had still not been able to obtain a copy of a supporting letter, despite the observations made by the Upper Tribunal in the first decision about what was then called a certification letter. The October 2020 letter upon which the respondent placed significant reliance was directed principally to returnees who had committed criminal offences. There was nothing from the respondent to explain the discussions which had taken place. The terms of reference were not set out. The suggestion that this process had been ongoing for seven years came out of the blue and nothing was known about the 80 individuals who were said to have been issued with these documents.
45. In the appellants' submission, it was notable that the international agencies with a presence on the ground made no reference to the combination of Laissez Passer and supporting letter sufficing to cross checkpoints. The supporting letter was not described anywhere else. The assertion by the Iraqi authorities that all checkpoints were under government control was risible. There was a letter from the British Consul General in Erbil dated 1 April 2021 but it begged more questions than it answered, including what was meant by the term 'accepted for return' in the response from the Kurdish authorities. There was a subsequent acceptance in the respondent's evidence that the response from the KRG authorities 'wasn't great' and she had been desperate thereafter to obtain

better evidence, which had not been forthcoming. The 'do not interfere' letter of which Dr Fatah had spoken was specific to Erbil.

46. The correspondence with Iraqi Airways represented little more, Mr Bazini submitted, than the respondent clutching at straws. The Laissez Passer stated on its face that it was valid for one voyage only but the respondent sought to rely on a contrary assertion by a manager based on the Edgware Road. Even supposing the individual could travel onwards to Erbil using a Laissez Passer, the other evidence was clear that they could not then use the document in order to clear checkpoints. The circumstances in which an individual might be able to retain the document were also unclear.
47. Mr Bazini submitted that the respondent's intention was clear. She was unable to effect an enforced return to the IKR. She could not expect those without adequate documentation to travel by land. She therefore sought to submit, without any adequate evidence, that a Kurdish returnee could travel to the IKR by air using a Laissez Passer. The conclusions reached in the first decision continued to be valid insofar as that submission had been rejected.
48. In sum, Mr Bazini accepted that a fact-specific assessment was required in order to determine whether an individual without a CSID or INID could return safely. None of the documents described in the respondent's evidence made any real difference to that assessment, however, as none would allow an individual to live in Baghdad or to travel onwards.
49. By way of a final observation, Mr Bazini noted that his juniors had experienced problems in the FtT because judges had been too willing, in his submission, to depart from existing country guidance. In the event that the respondent sought to persuade a judge that they should depart from country guidance, there was an obligation upon her to ensure that the evidential foundation upon which she based that submission was a solid one. Whilst he accepted that similar points had been made in reported decisions of the Court of Appeal and the Upper Tribunal, he submitted that the point should be made again.
50. We reserved our decision after hearing these submissions.

## **E. ANALYSIS**

51. When we first heard these appeals in the summer of 2019, the evidence which was available showed that the digital INID system was rolling out at pace across Iraq. As we sought to explain in our first decision, that had a particular consequence for returnees who were accepted to have neither a CSID nor an INID. The default position, for a person who was registered at a CSA office which had 'gone digital' and installed INID

terminals, was that they would be required to attend that office in person in order to enrol their biometrics and to be issued with an INID: [388].

52. Notwithstanding that phased transition to the INID system within Iraq, the evidence which was available to us led us to the conclusion that replacement CSIDs might still be available to certain Iraqi nationals through consular facilities: [383] of the first decision refers. We concluded, in line with previous country guidance decisions including AA (Iraq), that an individual who sought a replacement CSID from within the UK would need to provide certain documents and/or information in support of an application.
53. The most important information is the volume and page reference in the Family Book, as retained at the Civil Status Affairs office at which the individual's family is registered. The machinations of that system were considered in our first decision and in previous country guidance decisions and need not be rehearsed again here. For reasons we gave at [391] of our first decision, we considered that the number of people who did not know and could not ascertain their volume and page reference would be quite small. These conclusions were summarised at [13] of the judicial headnote:

*Notwithstanding the phased transition to the INID within Iraq, replacement CSIDs remain available through Iraqi Consular facilities. Whether an individual will be able to obtain a replacement CSID whilst in the UK depends on the documents available and, critically, the availability of the volume and page reference of the entry in the Family Book in Iraq, which system continues to underpin the Civil Status Identity process. Given the importance of that information, most Iraqi citizens will recall it. That information may also be obtained from family members, although it is necessary to consider whether such relatives are on the father's or the mother's side because the registration system is patrilineal.*

54. It was the third sentence in that paragraph which led to the success of the appeal in the Court of Appeal and which we are shortly to reconsider. Before we do so, however, we should consider the correctness of the first two sentences, upon which we also received focused evidence and submissions.

#### *The Ongoing Availability of the CSID*

55. The body of evidence which previously led us to conclude that CSIDs were still available from Iraqi Consular facilities included a CPIN from February 2019. In the June 2020 CPIN, however, the respondent altered her position in that respect. At [2.6.15] of that document, she referred to information obtained from the Iraqi Embassy in April 2020. The Embassy had informed the respondent's Returns Logistics department that they were advising their nationals to apply for a 1957 Registration Document

rather than a CSID. At [26.16], therefore, the respondent concluded that it was 'highly unlikely that an individual would be able to obtain a CSID from the Iraqi Embassy while in the UK'.

56. Two months later, in a further communication with the Returns Logistics department, the Iraqi Embassy qualified their statement from April. In this email, the Iraqi authorities stated that it remained possible for an individual to apply for a CSID 'if their province is one that has not yet operated in issuing INID for its citizens.' This statement is in line with the conclusions reached at [389] of our first decision, as summarised at [16] of the headnote. Given the conflict between the statements made in April and June 2020, however, the respondent sought clarification.
57. That clarification was provided by the Legal Section of the Iraqi Embassy in a further email dated 23 July 2021. As this is the last word from the Iraqi authorities on this particular question, we consider it necessary to reproduce the email in full:

This is the situation with documents before the new system was introduced:-

All Iraqi citizens were able to apply through our missions [sic] applications for renewals or replacements of their CSID.

- For renewals, citizens were required to bring the old one and start a new application through the embassy, or alternatively through a power of attorney and their representative.
- For CSID replacement of lost ones, citizens were required to bring a copy of their CSID or at least the details of the family book and any Iraqi proof of identity (passport current or expired, any documents) or they can alternatively do power of attorney to a representative.

The situation with the new system (INID):-

The new system requires citizens to attend physically to Iraq to issue their INID and so, our missions cannot begin the process of issuing INID's, even through representative, as it is essential that citizens must attend in person to Iraq and apply for INID.

In the case of Iraqi citizens who are unable to travel to Iraq for this purpose and their CSID is invalid or lost, they can apply for ERD by a representative through a power of attorney.

58. As counsel for the appellants noted at [16]-[19] of their skeleton argument, the picture which emerges from these communications is not entirely clear. The earlier evidence suggested that CSIDs were no longer issued through the Iraqi Embassy, whereas the later evidence suggests that only

those who are registered in an area in which the INID terminals have not been installed can be issued with a replacement CSID whilst in the UK.

59. For his part, Dr Fatah confirmed orally and in his written report that CSIDs continue to be issued and that there has been a shortage of INID cards. He shed no real light on the question of whether CSIDs might still be available from the UK.
60. We consider it more likely than not that CSIDs continue to be available through the Iraqi Embassy in the UK but only for individuals who are registered at a Civil Status Affairs office which has not transferred to the digital INID system. The English in the emails from the Iraqi Embassy is imperfect and it is not clear whether no CSIDs have been issued from consular facilities since the INID system was introduced or whether CSIDs continue to be available for those who could apply for a CSID at their local Civil Status Affairs office. We are nevertheless satisfied that the latter interpretation is the only rational one which can be drawn from the exchanges when they are considered as a whole. The logic which underpins that conclusion is as follows.
61. The process for applying for a CSID whilst in the UK was examined at [173]-[177] of AA (Iraq) and it was clear, even at that stage, that the Embassy did not issue the document itself; it would act as an intermediary by sending the completed application for a CSID to the General Directorate for Travel and Nationality – Directorate of Civil Status. (We note the reference to the embassy operating a ‘post box service’ for the Ministry of Interior in the April 2020 communication between the British and Iraqi authorities.) It is logical to conclude that the facility is only available in the UK if it would be available to the same person in Iraq. If an individual is registered at a place where the INID has been rolled out, therefore, they would not be able to apply for a CSID in Iraq or in the UK. If the INID has not been rolled out in their place of registration, they could apply for a CSID in Iraq (in person or by proxy) or from the UK, using the intermediary facility provided by the Embassy.
62. In our first decision, we made reference to the documents which would be required to apply for a CSID. We saw no reason to depart from the list at [25] of AAH, although we noted that, in the event of missing documents, ‘it might nevertheless be possible to obtain a replacement CSID and the key piece of information which is required is the family’s volume and page reference in the civil register’: [390] of our first decision refers, replicating the conclusions drawn at [28] of AAH. We have not been invited by either side to depart from these conclusions.
63. That leads us to consider the respondent’s evidence about the areas in which the CSID continues to be issued. We say ‘the respondent’s evidence’ because the appellants were unable to gainsay the respondent’s



assertions in this regard, and Dr Fatah was content to accept that he had no basis on which to do so.

64. In an email from the Iraq Embassy to the respondent's Returns Logistics Department dated 12 July 2021, the Iraqi authorities stated that the CSID system was still in use in certain parts of Kirkuk, Basrah and Mosul. The places identified were as follows:

*Kirkuk:* Hawija, Reyad, Alzaab, Al Abassy and Shoaan

*Basrah:* Alhartha

*Mosul:* all departments except Hammam Alalil, Kayara, Tal Afar, Alqosh, Tall Kayf (right and left side), Bartella, Al Hamadaniyyah, Zummar and Rabiaa.

65. We consider Mr Bazini to have been correct to express some concern about the publication of this list in a country guidance decision. It was provided in July 2021 for a hearing in October and we do not know, frankly, whether any of the CSA offices listed here have now installed the INID system. A judge who is required to consider whether an individual might obtain a CSID from within the UK is naturally going to turn to this list but would not, without more, know whether a person from Hawija, for example, might at the date of hearing be required to apply for an INID rather than a CSID.
66. We note also that the respondent has adduced no evidence about the specific locations which continue to issue CSIDs in the IKR. Dr Fatah stated that the CSID continues to be issued there and he made reference to the shortage of INID cards from the European supplier as a result of delayed payments by the Iraqi authorities. He was unable to shed any light on the specific offices in the IKR which continue to use the old system, but he knew that there were particular shortages in Erbil. We note that his evidence in that respect chimes to an extent with what is said at 5.6.2 of the June 2020 CPIN, to the effect that 11 Civil Status offices out of 43 in Erbil were issuing the INID by November 2018. At that stage, only 180,000 of Erbil's population of 2 million people had received an INID.
67. We are grateful to Mr Thomann for his practical and pragmatic interjection on this subject, which obviates the need for us to consider potentially difficult questions about the incidence of the burden of proof in this respect. Mr Thomann accepted that it is the respondent who is more likely to be able to ascertain whether a given CSA office still issues the CSID and he stated that she would be prepared to make enquiries with the Iraqi authorities where the question arises in an appeal. We would observe that it will be necessary for an appellant to provide a clear indication of their place of registration before the respondent can be

expected to make such an enquiry. Page 24 of the respondent's June 2020 CPIN sheds light on the degree of detail required before any such enquiry could be expected. There is an extensive network of Civil Status offices across Iraq, with each district (sub-governorate) or sub-district having a local Civil Status office, comprising in the region of 300 offices in total. An individual who expects the respondent to confirm whether INIDs or CSIDs are issued in his place of registration must first provide the specific place of registration.

*The Likelihood of Recalling (or Obtaining) Family Book Details*

68. Having revisited the first two sentences of [13] of the country guidance, we turn to the sentence which prompted the parties to agree that the appeal should be remitted to the Upper Tribunal. To recap, our conclusion was that, given the importance of the volume and page reference in the Family Book, most Iraqi citizens would recall those details. As we understand it, the principal ground of appeal against that conclusion was that it was reached in a procedurally unfair manner, since it had not been squarely addressed in the evidence or submissions before us. We have now received evidence from Dr Fatah and detailed submissions from counsel on the point.

69. Mr Bazini and Mr Thomann helpfully reminded us of what had been said on this subject in previous country guidance decisions. The conclusion of the Upper Tribunal in MK (Iraq) was very similar to that which we reached in our first decision. At [41], the Upper Tribunal found that:

*Given the importance of the CSID, we consider it is most unlikely that a person would not have memorised the number of their card or the book number and page number of the family record in the local office, and would hence be able to access the information that would enable a new card to be issued.*

70. That conclusion was repeated when the Upper Tribunal came, at [91], to consider the claim of that particular appellant.

71. Dr Fatah was referred to these conclusions when he gave evidence before the Upper Tribunal again in AA (Article 15(c)) Iraq CG [2015] UKUT 544 (IAC). At [13], he was recorded to disagree with this conclusion in MK (Iraq), although he accepted that some people would remember the details. He reasoned that "Iraqi nationals do not need to recall such details because they have to produce the actual identity document when they wish to rely upon it."

72. That was Dr Fatah's evidence but there was no express analysis of the point by the Upper Tribunal in AA (Iraq). We asked Mr Bazini to direct us to the conclusions reached on this evidence and he took us to [174], [177]

and [186] of AA (Iraq). The most that is said in those paragraphs, however, is that, for a person without a passport, “their ability to obtain a CSID may depend on whether they know the page and volume number of the book holding their information (and that of their family members)”.

73. The conclusion we reached in our first decision having been set aside, there is no extant country guidance on this particular point. We agree with Mr Bazini, therefore, that we are at liberty to consider the point for ourselves, rather than seeking to ascertain whether there is sufficient evidence to displace country guidance which is already in place, in accordance with the approach set out at [208]-[211] of our first decision.
74. The high point of the respondent’s case in this respect remains the evidence which we cited at [391] of our first decision. That was a report from the British Embassy in Baghdad, quoted in the February 2019 CPIN document, in which it was stated that “[a]ll Iraqi nationals will know or be able to easily obtain this information”. We found it entirely unsurprising that it was asserted that Iraqi nationals would know this information, given the significance to the individual throughout their life and the recurring presence of those details on other documents. At [392], however, we accepted that there would be those who could plausibly claim not to know the Family Book details. We went on to accept the second assertion made in the letter from the Embassy (that the Family Book details could be easily obtained), given the collectivist nature of Iraqi society and the way in which it is possible to ‘trace back’ one’s own entry in the Family Book from that of a family member.
75. Dr Fatah’s written and oral evidence on this point was not materially different from that which he gave in AA (Iraq), as recorded above. He did not accept Mr Thomann’s suggestion that these details would tend to ‘stick in the mind’ as a result of their importance. He thought that there would be some who would be more likely than others to remember these details, and he gave the example of a father who regularly handled his family’s documents as being someone who might more readily recall the details. He noted that Iraqis had no reason to commit the details to memory, since they would produce the document when required.
76. Having explained that it is usually sufficient to produce an identity document, Dr Fatah assisted us in relation to the transactions during which an individual’s Family Book details might need to be produced or copied onto a form from the CSID or other document. He thought that this would occur upon entering into a contract, such as a house purchase, or in order to enrol a child at school. The details would not be copied out when using the healthcare system or the PDS, for example.

77. We accept Dr Fatah's evidence in this regard. We also accept the evidence he gave in relation to his own Family Book details, which was that he was able to recall his original entry but not his more recent one. And we accept his evidence (being evidence of fact, which he is entitled to give for the reason given in Kennedy v Cordia (Services) LLP [2016] UKSC 6; [2016] 1 WLR 597) that he had spoken to a dozen Iraqi friends the evening before the hearing, none of whom could recall their Family Book details.
78. On further reflection, there can be no doubt that the report from the British Embassy overstated the position insofar as it was asserted that *all* Iraqi nationals would recall their Family Book details. Mr Thomann did not seek to pursue such a submission before us in 2019 or in 2021. In fact, the respondent's position was not far divorced from that of the appellants. Both counsel accepted that some would remember these details and others would not. Mr Bazini suggested that it was undesirable for us to express a view on how likely it would be for an individual to remember these details. We do not agree, and in our view, the position is as follows.
79. In the case of certain Iraqi citizens, it would be extremely surprising if they were to assert that they are unable to recall their Family Book details. The CSID or INID is very likely to be carried by anyone who moves around in Iraq, such is the frequency with which checkpoints are encountered. The evidence has been consistent in that respect for many years, and a recent statement to similar effect, from the European Asylum Support Office, might be found at [5.2.2] of the June 2020 CPIN:
- Civil documentation is necessary for movement in and around Iraq and passage through security checkpoints. Several sources state that individuals without valid identity documentation have restricted freedom of movement and may be at risk of being arrested.
80. Amongst other information which is listed at [5.4.4] of the CPIN, the CSID contains the Family Book details, which will be seen by an individual who is constantly removing and replacing the document from a bag, wallet or pocket.
81. As Dr Fatah confirmed when it was suggested to him by Mr Thomann, the Family Book details amount to a few short numbers. In the case of the volume number, it is likely to be a maximum of four digits. The numbers have a special significance to the family, given that they define your identity, as Dr Fatah put it, and because the volume number relates directly to the individual's place of origin. On any proper view, it would stretch credulity to suggest that a businessman with a family who travels throughout Iraq buying and selling property would be unable to remember these details, particularly if he has only left Iraq recently. Such an individual would produce his own card and that of his family members regularly; he would be required to produce the Family Book details in his

property dealings and he might well struggle to persuade a tribunal of fact that he did not have the numbers at his fingertips.

82. In the case of other Iraqi citizens, it might be equally surprising if they *were* able to recall their Family Book details. Mr Bazini's example of the single, young farmer who never had any need to travel outside his village is a good one, with respect, as such a person would be unlikely to need to carry or to produce his identity documents at checkpoints or in any dealings with officialdom.
83. Turning to the question of whether an individual who is unable to *recall* their Family Book details would be able to *obtain* those details, we find no reason to depart from the views previously expressed. Given the interconnected nature of the Family Book records, it is highly likely that an individual who is in contact with family members in Iraq would be able to learn their own Family Book details from their family members. Given the patrilineal nature of the record keeping, that would particularly be the case if the individual asylum-seeker is in contact with male members of the family. As Dr Fatah explained, the ingenuity of the Civil Status system in Iraq is the way in which extraneous documents and events are methodically cross-referenced in the Family Book entry. Where an individual is married and begins their own page in another book, for example, each book will contain a reference to the entry in the other and the various family entries can be 'traced back' in this way. This system has been explored in previous country guidance decisions and is well-documented in various sources, as is clear from 5.1.2 of the June 2020 CPIN.
84. Ultimately, therefore, we accept the submission that the requisite analysis is likely to be intensely fact-sensitive. A tribunal of fact need not accept a mere assertion that an individual is unable to recall their Family Book details. A judge considering such an assertion might properly have regard to the individual's age, the frequency with which they will have been required to produce or enter their Family Book details, and any dealings they might have had with officialdom during which those details would have been given, whether in respect of the individual in question or their family members. An assertion that a person cannot recall their Family Book details is to be considered, just like any other assertion made in a protection claim, through the spectacles provided by the country evidence before the tribunal of fact: Y v SSHD [2006] EWCA Civ 1223 refers, at [25]-[26].
85. Despite the concerns expressed by Mr Bazini's juniors, we do not accept that it is inappropriate for a tribunal of fact to find that an individual is not reasonably likely to have told the truth in asserting that he cannot recall his Family Book details. That is a legitimate line of enquiry, leading to a

legitimate finding of fact on the lower standard of proof. In the event that an individual is found to have lied in that respect, the lie might or might not be found to be of wider significance: MA (Somalia) & Ors v SSHD [2010] UKSC 49; [2011] Imm AR 292. We do not accept that the reasoning to that effect at [91] of MK (Iraq) was inherently problematic, or that a similar process of reasoning in more recent decisions is necessarily objectionable.

*The Laissez Passer and the Supporting Letter*

86. Nearly a decade has passed since the respondent first advanced the contention that an Iraqi citizen might travel onwards from Baghdad International Airport using a Laissez Passer. It was suggested in the 7 April 2012 letter from the British Embassy in Baghdad that a valid or expired passport or a Laissez Passer would be 'sufficient in the first instance to pass through checkpoints'. One of the two experts in MK (Iraq) was dismissive of that suggestion, as recorded at [31]. The Tribunal remarked that it was 'unclear what is meant by a Laissez Passer travel document', at [38] and [92]
87. Whilst the Laissez Passer featured in the subsequent country guidance case of HM & Ors (Article 15(c)) Iraq CG [2012] UKUT 409 (IAC), its use as a document for internal travel within Iraq was not considered. In AA (Iraq), Dr Fatah gave evidence that a Laissez Passer was not a recognised form of identity document which would enable a person to move around Iraq or to travel onward to the IKR: [12] and [25]. There was no analysis of that evidence, seemingly as a result of the conclusion at [203], that relocation to Baghdad would generally be safe and reasonable for those not originating from that city.
88. In AAH, Dr Fatah gave evidence that a Laissez Passer would be confiscated upon arrival and it was noted that the Australian Department of Foreign Affairs and Trade ("DFAT") had confirmed in June 2017 that the documents were not valid for internal travel: [35]. He added that one could certainly not board an internal flight with a Laissez Passer, which were not valid for onward travel: [37]. That evidence was accepted by the Tribunal at [112].
89. We concluded in our first decision that the Laissez Passer is a single use document, valid for the flight from the UK to Iraq and likely to be confiscated upon arrival: [376]. In that conclusion, we agreed with and endorsed what had been said in AAH (Iraq). In respect of the certification letter (as the supporting letter was then called), we doubted that it existed: [377]. In the event that we were wrong in those conclusions, we went on to consider how an individual was likely to fare at a checkpoint outside Baghdad with both of these documents. At [378]-[380], we concluded that these documents would not be considered an acceptable form of

identification by the various disparate groups in charge of the checkpoints outside Baghdad. We also concluded at [380] that the likelihood of a Laissez Passer being confiscated upon arrival meant that it would be of no assistance in facilitating onward travel by air.

90. The respondent now invites us to depart from that guidance. In order to do so, she must cross the threshold considered at [208]-[211] of our first decision, and in AAR (OLF-MB confirmed) Ethiopia (CG) [2022] UKUT 1 (IAC). We are not considering a situation which is said to have changed but a situation in which a party adduces more evidence which is said to bear on an issue previously resolved against her. Whilst the analysis in EM (Zimbabwe) CG [2011] UKUT 98 (IAC) is not directly on point, therefore, we accept Mr Thomann's submission that it is for the respondent to establish very strong grounds, supported by cogent evidence, to persuade us to depart from the existing country guidance. That test was articulated by Stanley Burnton LJ (with whom Gross and Maurice Kay LJ agreed) at [47] of SG (Iraq) v SSHD [2012] EWCA Civ 940; [2012] Imm AR 953 and recently restated at [26] of MS Zimbabwe v SSHD [2021] EWCA Civ 941.
91. Having considered the evidence as a whole, we have no real hesitation in concluding that the respondent falls short of meeting that test by some margin.
92. In respect of the Laissez Passer, the evidence which is said to justify a departure from the extant country guidance is as follows. There is a copy of a Laissez Passer, an email (5 February 2020) from Iraq Airways to the Home Office, a letter (October 2020) from the Iraqi Ministry of Foreign Affairs to the Home Office, a letter (1 April 2021) from the British Consul General to the Home Office, and a communication (May 2021) from the UNHCR to the Home Office.
93. As we did in our first decision, we deal separately with the questions of travel by land and air. At [36] of the respondent's closing submissions, Mr Thomann and Mr Tabori make a characteristically measured submission in which they accept Dr Fatah's scepticism regarding the use of the Laissez Passer for onward land travel. It is difficult to see how any other submission could realistically have been made. We explained at [378] of our first decision that we were unable to accept that the Laissez Passer (and the certification letter) would be an acceptable form of identification at every checkpoint outside Baghdad. The reason for that conclusion was quite straightforward. The evidence showed at that stage that a variety of armed actors controlled the checkpoints in Iraq and there was every reason to think that they would be looking for – and would only accept – a recognised form of identity document, most likely either the CSID or the

INID. That conclusion appears to be accepted by the respondent at [2.6.32] of the June 2020 CPIN, in which caseworkers are advised that:

... those who return to Baghdad without a CSID and who would be required to travel internally to a CSA office in another area of Iraq to obtain one (or an INID) **would** be at risk of encountering treatment or conditions which are contrary to Article 3 of the ECHR.

94. In respect of land travel, however, the respondent's *'Response to an information request; Iraq: Onward travel from Baghdad; evidence bundle'* also contains a copy of a letter which is said to originate from the Iraqi Ministry of Foreign Affairs to the Home Office's Returns Logistics Department, dated October 2020. We say 'said to originate' because, as Mr Bazini noted, the original document is not on letter-headed paper and is not signed. Be that as it may, the translated version of the letter states at p4 that:

There are not any checkpoints which are not under the control of the central authority or the Iraqi army. All checkpoints are absolutely under the control of the central government or the local governments.

For someone who has completed their sentence for offences unrelated to immigration, the Supporting Letter and the Laissez Passer are adequate and sufficient to have them return home safely with our supervision until they have finally arrived amongst their family and people. There are clear instructions in place for all checkpoints and stations to adopt the laissez passer and the supporting letter for asylum seekers who have returned home.

95. As Dr Fatah once again suggested, this is merely political puff which runs counter to the consistent background evidence which was before us in 2019. It remains the case that a variety of armed actors are in control of the checkpoints between Baghdad and the more remote parts of Iraq and it is fanciful to suggest that these checkpoints are all under central control. As we explained in our first decision (with reference to the evidence given by Dr Fatah and a range of other background material), it is clearly the case that a significant proportion of those checkpoints are manned by Popular Mobilisation Forces, who might properly be thought to have a greater allegiance to Iran rather than Iraq (see [19], [146], [199] and [242]-[243] in particular).
96. The remainder of the October 2020 communication suffers from the same defect. Claims are made which were as surprising to the Tribunal as they were to Dr Fatah. It is asserted, for example, that the Iraqi authorities would provide a vehicle, free of charge, in order to convey a returnee from Baghdad International Airport to their place of residence. Dr Fatah simply stated that this was not the Iraq he knows. Given the absence of any other background material in support of this assertion, we think his scepticism



was well-founded. Despite the clear requests by the respondent's staff for statistics and evidence to support the claims made in this correspondence, including evidence in respect of the 80 individuals who are said to have benefited from these arrangements, none has been forthcoming. When considered as a whole and in the context of the remaining evidence, we consider this particular letter to be deserving of very little weight.

97. There is, in sum, no proper basis upon which to depart from the conclusions previously reached in respect of the Laissez Passer. Even assuming that an individual was allowed to leave Baghdad International Airport with a Laissez Passer, we do not consider that it would assist them in their onward journey by land. There is at the very least a reasonable degree of likelihood that a person in possession of only a Laissez Passer would not be permitted to pass through a checkpoint on the way to their home area.
98. Nor do we see any cogent evidence presented by the respondent which would justify a departure from our conclusions in respect of the supporting letter. In our first decision, particularly at [352]-[361], we traced the correspondence between the Iraqi and British authorities in relation to the document which was then called a certification letter. At [377], we noted that no certification letter had been produced before us and, like Dr Fatah, we doubted that it even existed.
99. Despite her best endeavours, the respondent has not been able to elicit a copy of a supporting letter from the Iraqi authorities. There have been further communications between the two countries in which the existence and efficacy of this elusive document has been discussed but it is deeply concerning that no specimen has been produced in the face of repeated requests by the Home Office. In the October 2020 communication (which, as noted above, is not on headed paper and is unsigned), it is again suggested that the supporting letter 'is issued from the Police Centre at the Airport, signed by the representative of the Interior Ministry within the Work Team located at the airport'. The process is said to have been in place since 2014 and the Iraqi authorities are said to have 'had a good experience with the United Kingdom as we successfully received 80 Iraqi nationals who originate from various governorates in Iraq'. As Mr Bazini submitted, it is concerning that so little is known about a process which has supposedly been in place for seven years and which has benefitted returnees from the United Kingdom. If that is so, why have the Iraqi authorities consistently failed to produce a specimen letter and why are there no anonymised case studies of the individual returnees who are said to have benefitted?
100. In frank recognition of these difficulties, the respondent relied on Dr Fatah's evidence that he had learned of the authorities at Erbil airport

issuing something which he had heard described as a 'do not interfere' letter. In his report, he stated that the document indicated that the returnee had been through an official investigation process and that they were free to resettle in Iraq. The document was valid for a certain period of time until Iraqi documentation had been obtained. Mr Thomann asked Dr Fatah a number of questions about this, in answer to which he emphasised that what he had been told was specific to Kurdistan and that he had never heard of a comparable process in government-controlled Iraq. Nor, it seems, have any of the international actors on the ground in Baghdad. In the circumstances, we decline to draw any inference from the process which Dr Fatah described in Erbil. If there was such a thing as a supporting letter which was issued at Baghdad International Airport to those without acceptable documentation, we consider that a specimen of that document would have been provided and that we would have been told something about those who have previously relied on it for onward travel. As it stands, we have no specimen and the only evidence of this document existing in government-controlled Iraq is from the Iraqi authorities themselves. There is, in sum, no cogent evidence which justifies departure from the conclusions we reached in our first decision.

101. Lest we are wrong in that conclusion, we should state clearly that we do not accept that an individual who attempted to travel with a supporting letter (whether accompanied by a Laissez Passer or not) would be able to pass through checkpoints in government-controlled Iraq with that document. Even if the document is signed by the police and a representative of the Ministry of the Interior, we do not consider that it would represent an acceptable form of identification document to the ill-trained militiamen in control of the various PMF checkpoints, particularly in the Formerly Contested Areas.
102. The second and more significant limb of the respondent's argument in relation to the Laissez Passer is that it might allow an individual to travel by air to Erbil or Sulaymaniyah, thereby avoiding the checkpoint-based difficulties we have considered above. In their closing written submissions, Mr Thomann and Mr Tabori describe the respondent's evidence in this respect as 'significantly more robust'.
103. The starting point must, to our mind, be the form of words on the Laissez Passer itself. A redacted specimen document appears at Annex B to this decision. It is described on its face as a 'One Way Laissez-Passer' and the second page states that it is 'Valid for One Voyage'. The third page contains the details of the holder. The fourth page contains a space for the insertion of 'Countries of which this Laissez Passer is valid'. On the specimen we have, the words 'Valid to travel to Iraq only' have been inserted in manuscript. The document seemingly has no set validity

period. The version we have was issued on 30 April 2021 and the validity is stated on page four to be until 29 October 2021.

104. The respondent relies on an email from Iraq Airways to the Home Office dated 5 February 2020. The email, sent by the General Manager of Iraqi Airways GSA in the UK, states materially as follows:

Iraqi nationals are able to travel internally from Bagdad to destinations such as Erbil, Sulaymaniyah and other areas of Iraq using a Laissez Passer issued by the Iraq Embassy. Furthermore, any travel documents issued by Iraqi Embassy in UK are valid for the passenger to board our flights with no problem at all. Iraqi Airways are the Iraq national carrier and obliged to accept any passenger holding the said documents.

The Laissez Passer document alone is sufficient for travel for the passenger to board our flights with no other supported documents. The Laissez Passer issued by Iraqi Embassy is an official document and enough for any holder to board our flight.

105. The October 2020 letter from the Iraqi authorities to the respondent also states that undocumented returnees are 'allowed to keep the [Laissez Passer] ... as a document aiding the supporting letter'. The respondent also relies on a letter from the British Consul General in Erbil dated 1 April 2021. This records that the Consul General's team had spoken informally with the Head of Immigration at Erbil International Airport in December 2020. Their understanding of what emerged during that conversation was recorded as follows:

Both airports are accepting laissez-passer (LP) issued by the Iraqi embassy in London;

The LP is a valid identity document for both land and air travel. The airport in Baghdad is not removing the LP from the forced [sic] asylum seeker (FAS) if their final destination is not Baghdad (ie they need to fly-travel to another province within the country); FAS will only be accepted into Erbil and Sulaymaniyah via air if they are travelling to provinces with the Kurdistan region or Mosul and Kirkuk. But land transportation should not present the same issue.

106. The Consul General's letter ends with his noting that he had been asked to validate this information formally with the Kurdish authorities. He had received a reply but it did not answer the questions posed and, although his team was 'reasonably confident about their understanding of the situation', it could not be regarded as definitive without formal written validation. Having considered the response from the Kurdish Minister for Interior dated 16 March 2021, we understand why this caveat was entered by the Consul General; the letter from the Kurdish authorities does nothing to confirm the information in the extract above.

107. The respondent also made contact with the UNHCR and asked five questions about travel documents. In their response, the UNHCR underlined the primacy of the CSID as the preferred form of ID for internal travel. It went on to state:

Iraqi authorities at border entry points, including in the Kurdistan Region of Iraq, recognise an Iraqi Laissez Passer as an official document valid for travel to and entry into Iraq.

It should be noted that the LP is considered a transit document intended to facilitate the individual reaching his/her country of origin. Returnees in possession of a LP issued by an Iraqi Embassy will thus be able to use the document to enter Iraq via its international borders once only. As such, after completing entry procedures border authorities whether in the KR-I or other parts of Iraq will confiscate this document given it is intended for single use. Where the person requires the LP for onward internal travel, whether by land or by air, s/he will need to request its release from the authorities at the initial port of entry, indicating the extent of his/her need for the document. Its release will be at the discretion of the authorities.

In the event that a returnee succeeds in retaining possession of their LP and attempts to rely on it to facilitate onward internal travel by land, there is a high degree of likelihood that s/he may face difficulties crossing checkpoints if they are not also in possession of another valid form of ID [...] given that many of the staff manning the checkpoints will be unfamiliar with the LP document. Authorities at airports are more likely to be familiar with LPs and as such more likely to accept it in case of onward travel by air and in the event a returnee succeeds in retaining possession of their LP.

108. Dr Fatah had little information about the use of Laissez Passers. He recounted the example of his sister returning to Iraq using one of these documents after she had lost her passport, just as he had in 2019: [371] and [376] of our first decision refer. He remained of the view that the authorities would be likely to confiscate a Laissez Passer after the passenger had completed their journey into Iraq and he was not aware of anyone having used a Laissez Passer in order to book internal travel within Iraq. He also expressed some surprise at the idea that an internal flight could be booked using a Laissez Passer, although he had no information to contradict what was said by the airline. He had not made any enquiries with the airport in Baghdad
109. Mr Bazini submitted that the evidence was insufficient to justify departure from the existing country guidance. We agree, for the following reasons. There is a spectrum of evidence on the question of whether a person might retain their Laissez Passer for onward travel. At one end of that spectrum

is the evidence we cited at [376] of our first decision, from the reputable Australian Department of Foreign Affairs and Trade. In October 2018, DFAT's opinion was that a Laissez Passer *would* be confiscated upon arrival. In the middle of the spectrum is the evidence from the UNHCR, which suggests that there is a discretion vested in the border officials, whereby they are permitted to allow a traveller to retain their Laissez Passer if they provide adequate justification for doing so (although we note that this opinion is expressed in the abstract, without the UNHCR suggesting that it was aware of any cases in which this had happened). At the other end of the spectrum, there is the unverified understanding of the Consul General in Erbil, who stated that the Laissez Passer is not removed from a returnee; the statement in the October 2020 letter from the Iraqi authorities that asylum seekers who return to Baghdad 'are allowed to keep the Laissez Passer'; and the letter from Iraqi Airways which suggests that internal air travel from GOI to IKR using a Laissez Passer is always 'sufficient for travel', without more.

110. We therefore accept Mr Bazini's submission that the respondent's evidence does not all point in the same direction. It is also notable that the respondent has adduced an email from the Chief of Staff to Her Majesty's Ambassador to Iraq, dated 6 July 2020. That email records a meeting between the outgoing Ambassador to Iraq and the Iraqi Minister of Interior in April this year. The email continues:

The Minister did not feel that there would be an issue with internal travel, but immediately called his officials to clarify the process. After discussing it with them he explained that for individuals without other forms of ID, while it would be usual practice to remove the laissez faire passport [sic] on arrival, the Iraqi authorities would then contact that individual's family to come and collect them. Families typically would bring identification documents and the individual would be able to return to their homes with them. He did not feel there would be an issue with individuals returning to their families.

111. In an email of the same date, a member of the respondent's Country Information and Policy Team sought further assistance from a colleague in the Foreign, Commonwealth and Development Office, asking for 'some official confirmation of the anecdotal information' previously supplied, noting that it was required for these proceedings and that the 'KRG's response previously wasn't great'. With some justification, Mr Bazini referred to this email as evidence of the respondent's desperation to shore up her case.
112. We also note the absence of a single concrete example from the Iraqi authorities of an individual making the onward journey from Baghdad to Erbil or Sulaymaniyah using a Laissez Passer, despite the fact that this was

expressly requested (presumably as a result of what we said at [383] of our first decision) by the British authorities in an email to the Iraqi Embassy on 23 April 2021. Equally, it is notable that Iraqi Airways failed, in the email to which we have already referred, to provide a response to the respondent's clear request (on 31 January 2020) for statistics on the number of Iraqis who had travelled internally using a Laissez Passer.

113. As matters stand, therefore, the respondent's evidence does not speak with one voice about the likely reaction of the Iraqi authorities to an individual who returns to Baghdad with a Laissez Passer. Given the differing conclusions reached in the various documents before us, and given the tendency on the part of the Iraqi authorities to make political statements in this context, we find that the respondent falls considerably short of adducing evidence of the required cogency to persuade us to depart from the extant country guidance. We conclude, therefore, in agreement with Dr Fatah, that a Laissez Passer is most likely to be confiscated upon arrival at Baghdad International Airport and that it is unlikely to be of use to an individual who seeks to board an internal flight thereafter.
114. In summary, therefore, we do not consider the respondent to have adduced sufficiently cogent evidence to persuade us to depart from the extant country guidance. That guidance will be maintained insofar as it concluded that a Laissez Passer is of no assistance for onward travel in Iraq and insofar as it concluded that there was insufficient evidence to establish that returnees are issued with a supporting letter at Baghdad Airport.

#### *The 1957 Registration Document*

115. It is fair to observe that the reference to the 1957 Registration Document in the June 2020 CPIN came as something of a surprise to those who have followed the course of country guidance decisions on Iraq. The CSID, the Laissez Passer and the supporting or certification letter have all featured in the background material, in one form or another, for some time. That cannot be said of the 1957 Registration Document and we do not know of, and were not referred to, any other background material originating from outside the UK in which this document is described or considered.
116. It is a hallmark of this case that the respondent's evidence is presented in a piecemeal and unorthodox fashion. As will already be apparent, much of the evidence upon which she relies consists of email and other exchanges between British and Iraqi officials. There are no witness statements made by these officials. There are minutes of one meeting which took place on 4 September of an unspecified year. The remaining minutes which have been adduced are almost entirely redacted. There is no correspondence

from the Government of Iraq on headed paper. Whilst there is reference to litigation in the correspondence, it is far from clear that the Iraqi authorities were apprised of the specific task facing the Tribunal or the precedential nature of the litigation. The Tribunal is nevertheless invited to sift through this correspondence and to issue country guidance which will affect the protection claims of all those who seek international protection from Iraq. This is particularly so in relation to the 1957 Registration Document.

117. The June 2020 CPIN contains reference to the 1957 Registration Document at 2.6.15. What is reproduced under that paragraph is apparently a communication from an unnamed Iraqi official from an unspecified date in April 2020. That communication is then reproduced at Annex I of the CPIN. In response to the question about CSIDs (the answer to which has already featured in our earlier analysis) the Iraqi authorities stated:

CSID cards are being phased out and replaced by INID (Iraq National Identification) cards. It is not currently possible to apply for an INID card outside of Iraq. As a result, the Iraqi embassy in London are advising their nationals in the UK to apply instead for a 'Registration Document (1957)' which they can use to apply for other documents such as passports or an INID card once they have returned to Iraq.

The registration document (1957) must be applied for on the applicant's behalf by a nominated representative in Iraq. In order to start the application, the individual requiring documentation would normally provide at least one copy of a national identity document (see above list Q1, FAS) and complete a power of attorney (to nominate a representative in Iraq) at the Iraqi embassy along with the embassy issued application forms. If they have no copies of identity documents they also would need to complete a British power of attorney validated by the FCO and provide parents names, place and date of birth to their nominated representative in Iraq.

Once issued the nominated representative will send the registration document (1957) to the applicant in the UK. The process takes 1-2 months.

The HO cannot apply for documentation other than Laissez Passers on someone's behalf but the embassy is willing to check to see if the individual already holds documents and provide copies if necessary.

118. There were further exchanges between the British and Iraqi authorities after this first mention of the document. Counsellor Wael Alrobaaie of the Iraqi Embassy in London featured in those exchanges, as he did in many of those considered in our first decision.
119. There was a series of emails between the counsellor and the respondent's Returns Logistics team on 8 April 2020. There was a conversation between

the two sides on 7 April 2020. So much is clear from the first of the emails. No record of that conversation has been adduced. At 0901 in the morning of 8 April 2020, however, the officer in the Returns Logistics team asked Counsellor Alrobaaie to 'confirm the document Iraqi nationals are being advised to apply for from the UK is called a '1957 Civil Registration Document'? He then asked whether 'this is also known as a Iraq Citizenship ID or Iraq Residency card'.

120. Counsellor Alrobaaie's response was comparatively lengthy and need not be set out in its entirety. As well as confirming that Iraqi passports could be issued by the Iraqi authorities in the UK (and in Amman and Dubai), and that the INID could only be issued to those who enrolled their biometrics in Iraq, he said the following about the 1957 Registration Document (which we have reproduced verbatim):

The Registration Document 1957 is temporarily document to be used as alternative document in the event of loss or damage to the CSID or when a long period has passed since its issuance and it is not possible to attend Iraq to get the Iraqi National card.

(...)

The Registration Document 1957 is used as alternative document for the purpose of issuing the passport and it is a temporary solution for Iraqis abroad, but the embassy does not issue this document, we issue the power of attorney to the applicant and he send it to his representative in Iraq in order to apply for his registration document 1957 and then the representative can send the original copy of the registration document 1957 to the applicant abroad in order to use it with embassy.

121. Later that day, two further questions, both of which related to the INID, were then posed to Counsellor Alrobaaie by email. His response, which was also sent on 8 April 2020, contained the following:

Any Iraqi passport can be issued according to the applicant's Iraqi documents (CSID or Iraqi National card and Iraqi citizenship certificate), the 1957 registration document will be used an alternative solution instead of the CSID, and the applicant can use his 1957 registration document with his Iraqi citizenship certificate to issue the Iraqi passport. This is also the procedures in Iraq.

(...)

When they apply for a passport and they have an old CSID, the Passports Department will provide them with the support letter to use it with their local departments to issue the 1957 document and they will apply for the passport and submit the 1957 document.



Generally speaking the CSID is valid and recognized in all other transactions and applications with the Iraqi Departments regardless of the issuance date except for the case mentioned above to issue the passport. So in some cases the 1957 document is presented as an alternative to the old CSID in order to issue the passport from inside or outside Iraq.

122. In a subsequent email exchange in May 2021 (seemingly in preparation for this hearing), another counsellor from the Iraqi Embassy attempted to clarify some confusion about the 1957 Registration Document and its relationship to the Electronic Registration Document, to which we will turn below. Whilst promising to 'discuss in detail the difference between registration documents in our next meeting', the counsellor confirmed that the Electronic Registration Document 'is unrelated to the 1957 document'.
123. On 22 July 2021, the Iraqi Embassy responded to three further questions from the respondent. The first question related to the 1957 Registration Document, the second and third to the Electronic Registration Document. The first question was as to 'the exact mechanism by which returnees can use the 1957 registration document [RD] to apply for other documents such as passports or an INID card once they have returned to Iraq'. The Embassy's (verbatim) response to that question was:

The returnee can use the 1957 document as a prove of identity when they arrive however to apply for other documents such as INID or passport they don't need this document. They can simply go to the ID department (where the family book exists) and ask to issue the INID then the passport.

124. Despite its comparatively recent arrival as a feature in the evidence, we are satisfied that the 1957 Registration Document does exist, and that it has existed for some time. It is essentially nothing more than an official copy of the relevant entry in the Family Book, and it is clear from the background material that this facility has been available for some time. We note, in particular, Landinfo's confirmation in 2015 that 'any Iraqi could obtain a copy of their page in the family registry', as cited at 5.1.6 of the June 2020 CPIN.
125. Dr Fatah was familiar with the document, although he had not previously seen the version he was initially shown by Mr Thomann. During the course of his evidence, the reason for that became apparent. Dr Fatah had previously seen a version of the 1957 Registration Document which he called the 'family version'. This includes the names of all of the family members who are included on the family's page in the Family Book. (The reference to the year 1957 is explicable by reference to the major census which took place in that year, and the need for the family to have an entry in the register at that point, failing which they would not be considered to be Iraqi, as Dr Fatah explained.) Also available is the individual version of

the Family Book record, which contains only the details of the requesting individual.

126. Dr Fatah explained that the family version of the 1957 Registration Document is in common use in Iraq. It is used, for example, when an individual requires a document to demonstrate the composition of their family. He gave the specific example of an individual who sought to establish his entitlement to a pension. Dr Fatah was surprised at the assertion that the 1957 Registration Document might be of any assistance to an otherwise undocumented individual. The real dispute between the parties is therefore not as to the existence of this document; it is as to its utility.
127. The respondent has accepted throughout that the 1957 Registration Document cannot be used for travel, whether by land or air. She maintains that the 1957 Registration Document provides an additional means, before return to Iraq, of obtaining a passport and an additional means of accelerating the re-documentation process (both INID and CSID) on return to Iraq: closing submissions, at [18] and [24]. The appellants contend, however, that the 1957 Registration Document is of limited assistance to an otherwise undocumented individual. We consider Mr Bazini to be substantially correct in that submission.
128. The distinction between the family version and the individual version of the 1957 Registration Document is not one which is considered in any of the correspondence we have detailed above. There are clearly two different versions of the document, however, and we accept what we were told by Dr Fatah about the family version being the more commonly used. In modern-day Iraq there might be a variety of reasons why a member of a household would wish to be in possession of a document which shows the composition of their family, as recorded in the all-important Family Book.
129. We think that the distinction between the two versions of the document is an important one. The family version of the 1957 Registration Document might be requested by any member of the family, who would need to attend the relevant Civil Status office, provide proof of their identity and the details of their Family Book entry. On provision of that information, they would be able to obtain the family version of the 1957 Registration Document. That would contain their own details and those of any other family member who is entered into the same record in the Family Book. We accept that that document would be of assistance to an individual in the UK who sought to apply for an Iraqi passport. According to Dr Alrobaaie's email of 8 April 2020, a person with a 1957 Registration Certificate and an Iraqi Nationality Certificate could be issued with a passport by the Embassy in London. We have no reason to doubt that.

130. An undocumented person in the UK who has no contactable family members in Iraq would have to make arrangements to obtain the individual version of the 1957 Registration Document, since there would be no family member who could request the family version. An individual in this position would have to secure a representative in Iraq and would have to give them power of attorney. We have no reason to doubt Dr Fatah's wholly logical evidence that the Iraqi authorities will only grant a power of attorney upon production of an acceptable form of identity document, which would most likely be a passport, CSID or INID (although we note Dr Fatah's evidence, at [71] of his report, that an original CSID and an Iraqi Nationality Certificate, in addition to other documents, are required by the Iraqi Embassy in the USA). Where the individual is undocumented, therefore, that is not a realistic option. They could in principle arrange a power of attorney to be granted in the UK and that would, in accordance with the emails from the Iraqi authorities, be acceptable to them for the purpose of appointing a representative who could apply for a 1957 Registration Document. Again, however, it is difficult to see how an individual without acceptable proof of identity in this country could hope to grant power of attorney to a person in Iraq. For a truly undocumented individual without contactable family members in Iraq, therefore, the likelihood of obtaining an individual 1957 Registration Document is remote.
131. Dr Fatah made another point orally and at [69] of his report. He could not understand why a person who had been unable to secure a CSID from the UK would be any more likely to secure a 1957 Registration Document. With respect to Dr Fatah, to make that point is to overlook two considerations. Firstly, in the vast majority of cases, an Iraqi asylum-seeker will have made no attempt to secure a CSID and the fact that they do not hold a CSID sheds little if any light on their ability to secure a 1957 Registration Document. Secondly, many undocumented individuals in the UK could not hope to obtain a CSID in this country, or on return to Iraq, because the CSA office at which they are registered only issues the INID.
132. In order to investigate the utility of the 1957 Registration Document, however, let us suppose that an otherwise undocumented individual is able to obtain either an individual or a family version of that document. It is not suggested by the respondent that it can be used for travel in Iraq, whether by land or by air. The document might be of assistance in the UK as part of an application for a passport. But the passport is not a document which is likely to be accepted as a form of identification at all checkpoints in Iraq. That was the conclusion we reached at [380] in our first decision and we have not been invited to revisit it. The passport might obviously be used to facilitate onwards travel by air but we doubt that makes a material difference to a person who has no other documents

and no family in Iraq. Such a person would need to make the journey from Baghdad, Erbil or Sulaymaniyah to their home area, and would need to provide an acceptable form of identification document in order to pass through checkpoints. Neither the 1957 Registration Document itself nor the passport would fulfil that requirement.

133. It is not altogether straightforward to conceive of a situation in which a 1957 Registration Document might be of significant assistance to an undocumented individual seeking to remedy that predicament. Where that person is registered at a CSA office which still issues the CSID, a person who could obtain a 1957 Registration Document through their family would, as Dr Fatah suggested, probably bypass that procedure altogether and seek to have a CSID issued instead.
134. Where an undocumented individual is registered at a CSA office which has transferred to the digital INID system, they would be required to attend the office in person to enrol biometrics as part of their INID application. In the event that they had been able to obtain a 1957 Registration Document, it would serve as confirmation of their Family Book details but that would be of little assistance if they were without other identification which would enable them to travel to the CSA office.
135. The most that can be said, in our judgment, is that an undocumented individual's likely ability to obtain a 1957 Registration Document might, depending on the facts of the individual case, be of some relevance to their ability to obtain a recognised form of identity document. The type of case in which it might offer some assistance is possibly as follows.
136. An undocumented individual from Baghdad has documented family there with whom he is in contact. His local CSA office has transferred to the digital INID system. His family would, at his request, be able to secure the family version of the 1957 Registration Document from that office. They would not be able to secure a CSID for him because the CSA has installed INID terminals and they could not secure an INID for him because he is required to attend in person. On return, he would have to travel only a short distance and would not be required to cross any checkpoints, notwithstanding the two checkpoints which were said in AAH (Iraq) to be in the immediate vicinity of the airport. He could attend the CSA office with his family and the family version of the 1957 Registration Document in order to apply for an INID and he could be supported by family in Baghdad whilst his application was processed. Even in these circumstances, we query whether the 1957 Registration Document adds anything of substance to the equation because the CSA office would be able to identify the relevant page in the Family Book from the identity documents of the family members. We are not able to discount the possibility that it might assist in the application, however, as it provides

the officer considering the INID application with a single reference document containing a number of the details required for the INID.

137. Ultimately, therefore, the utility of the 1957 Registration Document is comparatively limited. It has for some years been a part of the landscape and it might properly be considered as part of the range of options available to an otherwise undocumented individual. It is not a solution in itself to the difficulties that individual would encounter on return to Iraq. The likelihood of an individual obtaining a 1957 Registration Document prior to their return to Iraq is not, without more, a basis for finding that the return of an otherwise undocumented individual would not be contrary to Article 3 ECHR.

*The Electronic Personal Registry Record (or Electronic Registration Document)*

138. There is very little evidence before us about this document. It bears the title 'Electronic Personal Registry Record' but, as we shall see, the limited correspondence between the British and Iraqi authorities refers to it as the Electronic Registration Document'. It is not mentioned in the June 2020 CPIN and it is only mentioned in two of the documents disclosed by the respondent.

139. The first of those communications is from the Iraqi Embassy to the respondent's Returns Logistics department and is dated 10 June 2021. The Embassy was asked in an earlier email to explain the nature and purpose of the 'Electronic Registration Document' which had been attached to one of their previous emails. The response was as follows:

This document is offered to Iraqis who wish to apply for INID and cannot attend in person to Iraq and present their biometrics that is essential for its issuance. It contains all the Iraqi citizens civil information and offers them an alternative way to prove Iraqi civil status for applying for Iraqi documents such as a passport or INID. This is unrelated to the 1957 document. I will discuss in detail the difference between registration documents in our next meeting.

140. In a subsequent email from the same counsellor at the Embassy, dated 23 July 2021, there is a single sentence which mentions this document:

In the case of Iraqi citizens who are unable to travel to Iraq for this purpose and their CSID is invalid or lost, they can apply for ERD by a representative through a power of attorney.

141. Dr Fatah was unfamiliar with this document. He suggested that it might be a printed version of the details held on the INID database. Mr Thomann suggested that this was incorrect, since the INID card contains different fields. He noted, amongst other things, that there is a field for

the individual's blood group on the INID but not on the EPRR. Dr Fatah maintained his view that the EPRR came into existence at the time that an individual entered the INID system. He was unable to see another point at which the details might be enrolled.

142. In his submissions, Mr Thomann noted (correctly in our view) that the information on the EPRR was more congruent with the data in the Family Book than with that found on the INID. In his written and oral submissions, he went on to accept that the evidence in respect of the EPRR is in a developing form and that it would be premature to invite the Tribunal to reach any 'game-changing' conclusions in reliance upon it, not least because the more recent evidence was only disclosed to the appellants shortly before the hearing.
143. We consider these concessions to have been properly made by the respondent. As Mr Bazini submitted, the evidence in respect of the EPRR is very scant. It is not clear whether it reflects the entries in the Family Book or the INID system. If it is the former, it is not clear why this system seemingly replicates the 1957 Registration Document system, which has been in place for years. If it is the latter, it is not clear why this document is thought to be beneficial to a person who has already enrolled their biometrics and been issued with an INID. We have not been told whether the document can be applied for in the UK or Iraq, or both. We do not know what needs to be provided in support of an application for this document. Frankly, it is far from clear how the existence of this document is presently thought to add anything at all to the Tribunal's deliberations. We say 'presently' because we accept Mr Thomann's submission that more might yet be revealed and there might come a point when a 'game-changing' submission might be made about the document.

## **F. COUNTRY GUIDANCE**

144. Drawing these threads together, we consider that section C of the country guidance issued in our first decision requires revision to reflect the conclusions we have reached above. For ease of reference, we set out the country guidance in full, including the amended section C:

### **A. INDISCRIMINATE VIOLENCE IN IRAQ: ARTICLE 15(C) OF THE QUALIFICATION DIRECTIVE**

1. There continues to be an internal armed conflict in certain parts of Iraq, involving government forces, various militia and the remnants of ISIL. Following the military defeat of ISIL at the end of 2017 and the resulting reduction in levels of direct and indirect violence, however, the intensity of that conflict is not such that, as a general matter, there are substantial grounds for believing that any civilian returned to Iraq, solely on account of his presence there, faces a real risk of being

subjected to indiscriminate violence amounting to serious harm within the scope of Article 15(c) QD.

2. The only exception to the general conclusion above is in respect of the small mountainous area north of Baiji in Salah al-Din, which is marked on the map at Annex D. ISIL continues to exercise doctrinal control over that area and the risk of indiscriminate violence there is such as to engage Article 15(c) as a general matter.
3. The situation in the Formerly Contested Areas (the governorates of Anbar, Diyala, Kirkuk, Ninewah and Salah Al-Din) is complex, encompassing ethnic, political and humanitarian issues which differ by region. Whether the return of an individual to such an area would be contrary to Article 15(c) requires a fact-sensitive, “sliding scale” assessment to which the following matters are relevant.
4. Those with an actual or perceived association with ISIL are likely to be at enhanced risk throughout Iraq. In those areas in which ISIL retains an active presence, those who have a current personal association with local or national government or the security apparatus are likely to be at enhanced risk.
5. The impact of any of the personal characteristics listed immediately below must be carefully assessed against the situation in the area to which return is contemplated, with particular reference to the extent of ongoing ISIL activity and the behaviour of the security actors in control of that area. Within the framework of such an analysis, the other personal characteristics which are capable of being relevant, individually and cumulatively, to the sliding scale analysis required by Article 15(c) are as follows:
  - (i) Opposition to or criticism of the GOI, the KRG or local security actors;
  - (ii) Membership of a national, ethnic or religious group which is either in the minority in the area in question, or not in de facto control of that area;
  - (iii) LGBTI individuals, those not conforming to Islamic mores and wealthy or Westernised individuals;
  - (iv) Humanitarian or medical staff and those associated with Western organisations or security forces;
  - (v) Women and children without genuine family support; and

(vi) Individuals with disabilities.

6. The living conditions in Iraq as a whole, including the Formerly Contested Areas, are unlikely to give rise to a breach of Article 3 ECHR or (therefore) to necessitate subsidiary protection under Article 15(b) QD. Where it is asserted that return to a particular part of Iraq would give rise to such a breach, however, it is to be recalled that the minimum level of severity required is relative, according to the personal circumstances of the individual concerned. Any such circumstances require individualised assessment in the context of the conditions of the area in question.

#### **B. DOCUMENTATION AND FEASIBILITY OF RETURN (EXCLUDING IKR)**

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.
8. No Iraqi national will be returnable to Baghdad if not in possession of one of these documents.
9. In the light of the Court of Appeal's judgment in HF (Iraq) and Others v Secretary of State for the Home Department [2013] EWCA Civ 1276, an international protection claim made by P cannot succeed by reference to any alleged risk of harm arising from an absence of a current or expired Iraqi passport or a Laissez passer, if the Tribunal finds that P's return is not currently feasible on account of a lack of any of those documents.
10. Where P is returned to Iraq on a Laissez Passer or expired passport, P will be at no risk of serious harm at the point of return by reason of not having a current passport.

#### **C. CIVIL STATUS IDENTITY DOCUMENTATION**

11. The CSID is being replaced with a new biometric Iraqi National Identity Card – the INID. As a general matter, it is necessary for an individual to have one of these two documents in order to live and travel within Iraq without encountering treatment or conditions which are contrary to Article 3 ECHR. Many of the checkpoints in the country are manned by Shia militia who are not controlled by the GOI and are unlikely to permit an individual without a CSID or an INID to pass.



12. In order to obtain an INID, an individual must personally attend the Civil Status Affairs (“CSA”) office at which they are registered to enrol their biometrics, including fingerprints and iris scans. The CSA offices in which INID terminals have been installed are unlikely – as a result of the phased replacement of the CSID system – to issue a CSID, whether to an individual in person or to a proxy. The reducing number of CSA offices in which INID terminals have not been installed will continue to issue CSIDs to individuals and their proxies upon production of the necessary information.
13. Notwithstanding the phased transition to the INID within Iraq, replacement CSIDs remain available through Iraqi Consular facilities but only for those Iraqi nationals who are registered at a CSA office which has not transferred to the digital INID system. Where an appellant is able to provide the Secretary of State with the details of the specific CSA office at which he is registered, the Secretary of State is prepared to make enquiries with the Iraqi authorities in order to ascertain whether the CSA office in question has transferred to the INID system.
14. Whether an individual will be able to obtain a replacement CSID whilst in the UK also depends on the documents available and, critically, the availability of the volume and page reference of the entry in the Family Book in Iraq, which system continues to underpin the Civil Status Identity process. Given the importance of that information, some Iraqi citizens are likely to recall it. Others are not. Whether an individual is likely to recall that information is a question of fact, to be considered against the factual matrix of the individual case and taking account of the background evidence. The Family Book details may also be obtained from family members, although it is necessary to consider whether such relatives are on the father’s or the mother’s side because the registration system is patrilineal.
15. Once in Iraq, it remains the case that an individual is expected to attend their local CSA office in order to obtain a replacement document. All CSA offices have now re-opened, although the extent to which records have been destroyed by the conflict with ISIL is unclear, and is likely to vary significantly depending on the extent and intensity of the conflict in the area in question.
16. An individual returnee who is not from Baghdad is not likely to be able to obtain a replacement document there, and certainly not within a reasonable time. Neither the Central Archive nor the assistance facilities for IDPs are likely to render documentation assistance to an undocumented returnee.

17. A valid Iraqi passport is not recognised as acceptable proof of identity for internal travel by land.
18. Laissez Passers are confiscated on arrival and will not, for that reason, assist a returnee who seeks to travel from Baghdad to the IKR by air without a passport, INID or CSID. The Laissez Passer is not a recognised identity document for the purpose of internal travel by land.
19. There is insufficient evidence to demonstrate the existence or utility of the 'certification letter' or 'supporting letter' which is said to be issued to undocumented returnees by the authorities at Baghdad International Airport.
20. The 1957 Registration Document has been in use in Iraq for many years. It contains a copy of the details found in the Family Books. It is available in either an individual or family version, containing respectively the details of the requesting individual or the family record as a whole. Where an otherwise undocumented asylum seeker is in contact with their family in Iraq, they may be able to obtain the family version of the 1957 Registration Document via those family members. An otherwise undocumented asylum seeker who cannot call on the assistance of family in Iraq is unlikely to be able to obtain the individual version of the 1957 Registration Document by the use of a proxy.
21. The 1957 Registration Document is not a recognised identity document for the purposes of air or land travel within Iraq. Given the information recorded on the 1957 Registration Document, the fact that an individual is likely to be able to obtain one is potentially relevant to that individual's ability to obtain an INID, CSID or a passport. Whether possession of a 1957 Registration Document is likely to be of any assistance in that regard is to be considered in light of the remaining facts of the case, including their place of registration. The likelihood of an individual obtaining a 1957 Registration Document prior to their return to Iraq is not, without more, a basis for finding that the return of an otherwise undocumented individual would not be contrary to Article 3 ECHR.
22. The evidence in respect of the Electronic Personal Registry Record (or Electronic Registration Document) is presently unclear. It is not clear how that document is applied for or how the data it contains is gathered or provided. On the state of the evidence as it presently stands, the existence of this document and the records upon which it is based is not a material consideration in the evaluation of an Iraqi protection claim.

#### **D. INTERNAL RELOCATION WITHIN GOI-CONTROLLED IRAQ**

23. Where internal relocation is raised in the Iraqi context, it is necessary to consider not only the safety and reasonableness of relocation but also the feasibility of that course, in light of sponsorship and residency requirements in operation in various parts of the country. Individuals who seek to relocate within the country may not be admitted to a potential safe haven or may not be permitted to remain there.
24. Relocation within the Formerly Contested Areas. With the exception of the small area identified in section A, the general conditions within the Formerly Contested Areas do not engage Article 15 QD(b) or (c) or Article 3 ECHR and relocation within the Formerly Contested Areas may obviate a risk which exists in an individual's home area. Where relocation within the Formerly Contested Areas is under contemplation, however, the ethnic and political composition of the home area and the place of relocation will be particularly relevant. In particular, an individual who lived in a former ISIL stronghold for some time may fall under suspicion in a place of relocation. Tribal and ethnic differences may preclude such relocation, given the significant presence and control of largely Shia militia in these areas. Even where it is safe for an individual to relocate within the Formerly Contested Areas, however, it is unlikely to be either feasible or reasonable without a prior connection to, and a support structure within, the area in question.
25. Relocation to Baghdad. Baghdad is generally safe for ordinary civilians but whether it is safe for a particular returnee is a question of fact in the individual case. There are no on-entry sponsorship requirements for Baghdad but there are sponsorship requirements for residency. A documented individual of working age is likely to be able to satisfy those requirements. Relocation to Baghdad is likely to be reasonable for Arab Shia and Sunni single, able-bodied men and married couples of working age without children and without specific vulnerabilities. Other individuals are likely to require external support, ie a support network of members of his or her family, extended family or tribe, who are willing and able to provide genuine support. Whether such a support network is available is to be considered with reference to the collectivist nature of Iraqi society, as considered in AAH (Iraqi Kurds - internal relocation) CG [2018] UKUT 212.

#### **E. IRAQI KURDISH REGION**

26. There are regular direct flights from the UK to the Iraqi Kurdish Region and returns might be to Baghdad or to that region. It is for the

respondent to state whether she intends to remove to Baghdad, Erbil or Sulaymaniyah.

*Kurds*

27. For an Iraqi national returnee (P) of Kurdish origin in possession of a valid CSID or Iraqi National Identity Card (INID), the journey from Baghdad to the IKR by land is affordable and practical and can be made without a real risk of P suffering persecution, serious harm, or Article 3 ill treatment nor would any difficulties on the journey make relocation unduly harsh.
28. P is unable to board a domestic flight between Baghdad and the IKR without either a CSID, an INID or a valid passport. If P has one of those documents, the journey from Baghdad to the IKR by air is affordable and practical and can be made without a real risk of P suffering persecution, serious harm, or Article 3 ill treatment nor would any difficulties on the journey make relocation unduly harsh.
29. P will face considerable difficulty in making the journey between Baghdad and the IKR by land without a CSID or an INID. There are numerous checkpoints en route, including two checkpoints in the immediate vicinity of the airport. If P has neither a CSID nor an INID there is a real risk of P being detained at a checkpoint until such time as the security personnel are able to verify P's identity. It is not reasonable to require P to travel between Baghdad and IKR by land absent the ability of P to verify his identity at a checkpoint. This normally requires the attendance of a male family member and production of P's identity documents but may also be achieved by calling upon "connections" higher up in the chain of command.
30. Once at the IKR border (land or air) P would normally be granted entry to the territory. Subject to security screening, and registering presence with the local mukhtar, P would be permitted to enter and reside in the IKR with no further legal impediments or requirements. There are no sponsorship requirements for entry or residence in any of the three IKR Governorates for Kurds.
31. Whether P would be at particular risk of ill-treatment during the security screening process must be assessed on a case-by-case basis. Additional factors that may increase risk include: (i) coming from a family with a known association with ISIL, (ii) coming from an area associated with ISIL and (iii) being a single male of fighting age. P is likely to be able to evidence the fact of recent arrival from the UK, which would dispel any suggestion of having arrived directly from ISIL territory.

32. 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.
33. For Kurds 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.
34. 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 or INID;

- (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.

*Non-Kurdish Returnees*

35. The ability of non-Kurdish returnees to relocate to the IKR is to be distinguished. There are no sponsorship requirements for entry or residence in Erbil and Sulaymaniyah, although single Arab and Turkmen citizens require regular employment in order to secure residency. Arabs from former conflict areas and Turkmen from Tal Afar are subject to sponsorship requirements to enter or reside in Dohuk. Although Erbil and Sulaymaniyah are accessible for such individuals, particular care must be taken in evaluating whether internal relocation to the IKR for a non-Kurd would be reasonable. Given the economic and humanitarian conditions in the IKR at present, an Arab with no viable support network in the IKR is likely to experience unduly harsh conditions upon relocation there.

**G. DISPOSAL**

145. Whilst this hearing provided an opportunity to reconsider the correctness of ‘the sentence’ and to consider other issues about documentation in Iraqi protection claims, we were not invited to depart from the conclusions we reached in respect of the individual appellants, at [426]-[438] of our first decision. Their appeals will accordingly be remitted to the First-tier Tribunal, to be considered in light of the country guidance as it now stands.

**H. POSTSCRIPT**

146. As we have recorded above, we were invited by Mr Bazini to restate the law on departure from country guidance. We were somewhat surprised by that request. The proper approach is stated in countless authorities of the Upper Tribunal and the Court of Appeal, including those which we cited at [208]-[211] of our first decision and, more recently, AAR (OLF - MB confirmed) Ethiopia CG [2022] UKUT 1 (IAC). Whether a judge is

invited by the respondent or by an appellant to depart from a country guidance decision, she must only do so where that departure is justified by very strong grounds supported by cogent evidence. In the absence of evidence of the required cogency, the country guidance must be followed.

147. Mr Bazini said that he was prompted to make that submission by the experience of his juniors, who were concerned that there was a tendency on the part of judges of the FtT to depart too readily from country guidance at the request of the respondent. We have seen no evidence in support of that contention and we decline to consider it any further, other than to restate the Court of Appeal's endorsement of the Immigration Appeal Tribunal's conclusion that 'any failure to apply a CG decision unless there was good reason, explicitly stated, for not doing so would constitute an error of law in that a material consideration had been ignored or legally inadequate reasons for the decision had been given.': R (Iran) & Ors v SSHD [2005] EWCA Civ 982; [2005] Imm AR 535, at [27].
148. The submission made by Mr Bazini has caused us to reflect on the way in which the respondent's June 2020 CPIN is presented, however, and we think it necessary to express some concern about it. In doing so, we recognise that those who compile such background reports are required to draw together a vast amount of disparate and often contradictory background material and to attempt, impartially, to identify the consistent threads within that material. It is a difficult task.
149. We are concerned that the way in which the June 2020 CPIN is set out is liable to mislead, or at least to confuse. At paragraph [2.4], there is a sub-heading 'Legal context'. The development of the country guidance is then charted, with a particular focus on SMO. The summary of the country guidance which then follows is sub-divided into helpful sections setting out, for example, what was said by the Upper Tribunal about Laissez Passers or undocumented individuals. This section is of considerable assistance in navigating what is, on any view, a lengthy decision which followed a number of other lengthy decisions.
150. At section 3 of the CPIN there begins a new section entitled 'Country Information', which begins, at [3.1.1], with an instruction in the following terms:
- Read the determination and the annexes for further information about the evidence issued in the Country Guidance case of SMO, KSP and IM (Article 15(c); identity documents) CG Iraq [2019] UKUT 400 (IAC).
151. As far as we have been able to discern, that is the last mention of the country guidance decisions in the body of this document. The country information which is presented in the ensuing thirty pages is therefore

presented without any indication that much of it has been considered and ruled upon in country guidance decisions. In some respects, that is likely to result in difficulty. We give three examples of the sort of difficulty which might arise.

152. At p25 of the CPIN, there is a long section about the Central Archive in Baghdad. At 5.1.11, there is a quote from a 2012 source that ‘even if a family lost all of their documents, they can obtain copies from the Central Archives’. That assertion was considered and rejected in SMO, and [15] of the headnote to that decision mirrored the conclusion in previous country guidance cases that the Central Archive is unlikely to render documentation assistance to an undocumented returnee.
153. At 6.1 of the CPIN, there is reference to a 2014 letter from the British Embassy in Baghdad in which it was stated that there were well-established procedures whereby those not in possession of their civil documents could obtain replacements. That statement is not qualified or clarified by reference to the analysis in SMO and other decisions about the difficulties which undocumented individuals might face in obtaining replacements.
154. At 6.3.11 of the CPIN, there is a section about the assistance which IDPs might receive from the Protection Assistance Centres in obtaining replacement documents. There is no reference in that section, however, to the conclusions we reached in SMO about that assistance, including the delays inherent in the system and the likelihood that their focus was on IDPs, not returnees.
155. The absence of reference to the extant country guidance in these thirty pages of the CPIN is liable to present a decision maker with an inaccurate picture. Much of the source material which is set out has been considered in country guidance decisions and it is potentially misleading to present it without reference to what has been said about it in those decisions. We do not suggest for a moment that it was the intention of the author(s) to mislead or even to obscure the conclusions reached in the country guidance decisions but the structure of the document and the absence of cross-referencing to relevant sections of the country guidance decisions certainly gives rise to a risk that the reader will be misled. We hope that the respondent will take steps to address that concern insofar as it applies to this CPIN and any others which might suffer from the same problem.

### **Notice of Decision**

The appeals are allowed and remitted to the First-tier Tribunal for further findings of fact to be made.



**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

*M.J.Blundell*

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

## ANNEX A - Dr Fatah's Oral Evidence

1. Mr Bazini had no questions for Dr Fatah.
2. In cross-examination, he was asked firstly about his interlocutors in Iraq. He confirmed that he had spoken to the Director General of Citizenship and Residency in the IKR and an official from the Department of Cooperation and Follow-up under the Ministry of Interior. He had talked to various other individuals, including generals, former judges and lawyers. These were people who were no longer in 'decision positions' but they were aware of the situation. He had not made reference to these specific sources in his report.
3. Dr Fatah had not spoken to anyone at the airport in Baghdad or anyone in the ministries. Nor had he spoken to the Iraqi Embassy in London in connection with this report, although he had been in touch in connection with an earlier report. He had not spoken to Iraqi Airways. He drew on his two Kurdish sources and his general experience over 60 years. He was able to state his knowledge of the country.
4. Dr Fatah was asked about the volume numbers in the Family Books. He confirmed that the volume number may be linked to the geographical area from which the individual originates. The page number was representative of the order in which the family was recorded. The numbers were not abstract, therefore, and he had spoken about the Family Books in other country guidance cases. There was cross-referencing throughout the books; you could not get lost. An individual with a new page would be able to trace back to their family's original page and there would be links, to death certificates, for example. The unifying link would be to the parents and every family event would be logged in the book.
5. Births, deaths and marriages would be recorded in the Family Book and a child who wished to attend school would need to have a record. The volume and page reference would be on a death certificate and a CSID. A birth certificate issued by a hospital would bear the Family Book details for the parents of the child. A marriage certificate would also bear the Family Book details for the parents of the bride and groom, and this would assist in opening a new entry for the married couple.
6. Asked about the sort of transactions during which the Family Book details would have to be given, Dr Fatah stated that the CSID was used for travel. It would be customary to produce these details when entering a contract for the purchase of a house, for example. Where a record of these details was to be kept (in the case of a marriage, for example) it would be for the clerk to record the relevant details on the form. They would also take a copy of the identity document. Mr Thomann suggested to Dr Fatah that the volume and page reference would tend to 'stick in the mind' as a result of its significance and the frequency with which it was required. Dr Fatah stated that it was 'more psychological' than had been suggested. He was not able to remember his most recent entry. He had asked twelve people, none of whom could remember. He could not speak for everyone

and it was not appropriate to generalise. He suspected that fathers might remember more than others because they generally took care of the family documents. If you go through a checkpoint, they would require a CSID. It contains many details including the name of the office which issued it, the name of the individual's mother and other such details. It is quite a sophisticated document and it defines who you are. In the case of a married woman, it would give the place of the husband's registration. Dr Fatah based his statements on his experience. He did not accept that an individual would be likely to memorise their Family Book details so that they had a 'route back'; the person would know where they were born and where they were registered (which might be two different locations) and they would know their roots in that way. If an individual was unable to recall the volume and the page reference, they would be likely to be able to find a cross reference, particularly with the assistance of a mukhtar. If someone was displaced and lost their documents they might be able to secure new documentation with the assistance of a mukhtar in their local area but the position was different for an individual as compared to a person in an IDP camp containing thousands of people. IDPs in camps give full details and are interviewed extensively by officials so as to provide a pragmatic solution to the 'massive problem' of undocumented IDPs. The situation for an individual was not comparable to that of the IDPs.

7. Dr Fatah agreed that an Iraqi citizen without a CSID had a number of possibilities for locating the relevant details. They might recall their volume and page number or be able to find it on another document or they could ask a family member so that their details could be traced back through the register. Mr Thomann suggested that the number of people who could not obtain the Family Book details in this way would be small. Dr Fatah agreed, in the case of those within Iraq but said that it would be different for asylum seekers who had lost contact with their family members.
8. Answering clarificatory questions from the Tribunal, Dr Fatah stated that an individual would have to produce their CSID if they entered a business contract or took out a loan. There is no concept of insurance in Iraq and medical services would be paid for in cash. A student would need to provide CSID details to enrol at school or university. The Public Distribution System required the head of the family to produce cards for the whole family, as he had said in 2012. The food system is important and the elections turn on it. The place of registration related to where the family had first been registered in 1957 (when the system began). The volume number on the CSID would be marked with an 'm' where the person was the child of the individual with the original entry in the Family Book. His own volume number was accordingly XXXXy. Dr Fatah agreed that there was not very much to remember. The CSID would have to be available at all checkpoints, although they would not always ask to see it. The Family Book details would not be written down regularly by an individual but they would be on their CSID. You could spot a fake CSID card from the absence of letterpress numbers.
9. In questions arising from our own, Mr Thomann asked Dr Fatah whether, in light of a Landinfo report, he was aware that hospitals might need to see a CSID. He could not recall having heard of that. He was sure that one would be needed for buying a house but not sure if one would be needed for buying a car. It would

be needed to access a bank account but not many people had a bank account in Iraq.

10. Mr Thomann asked Dr Fatah questions about the 1957 Registration Document. He did not initially recognise the document which was presented to him but then thought that it was a copy of the civil register. He was aware that these were available as individual records but there were also family records. He had not previously seen an individual one; the family one was more popular and he had seen it on many occasions. Dr Fatah confirmed that a second document in the respondent's bundle was the family version. It was often requested by government departments as it showed the composition of the family. The copy in the respondent's bundle had been issued in a town outside Sulmaniyah. At the top of the document it stated that it was a copy of the civil register. The document could be used for different purposes, such as securing a pension. In Iraq it was called 'Copy of the Family Record'. It represented the page in the civil register.
11. Mr Thomann suggested to Dr Fatah that the 1957 Registration Document might 'fill a gap' in the event that someone did not have a CSID or INID. Dr Fatah stated that he had never in his life seen anyone at a checkpoint with a document of this nature. The document is not an identity document and those manning a checkpoint would ask for a proper identity document in the event that it was presented to them. In any event, a person would have to have a CSID or INID in order to obtain a 1957 Registration Document. Mr Thomann explained that no one was suggesting that the 1957 Registration Document could be used for travelling but that it might be used to renew a passport if a person did not have a CSID. Dr Fatah could not understand this suggestion. A person who was able to obtain a 1957 Registration Document would already have a CSID.
12. Mr Thomann suggested that the 1957 Registration Document might be of assistance to a person who had an expired CSID. Dr Fatah could not understand, in those circumstances, how the individual would obtain a 1957 Registration Document. Mr Thomann persisted, suggesting that the individual might be able to obtain a 1957 Registration Document with the type of information which would otherwise be required to get a CSID or an INID. Dr Fatah stated that an individual would still require an acceptable form of identity document in order to get a 1957 Registration Document. They could not secure a power of attorney without a CSID or INID. If the Iraqi Embassy stated that a British power of attorney was acceptable, he was in no position to dispute that. In order to obtain an Iraqi power of attorney, however, a CSID or INID would be required. Dr Fatah did not accept that only one of the documents listed by the respondent was necessary; his daughter's birth certificate did not prove that she was Iraqi. In order to get an IRC, he thought that many documents would be required but, again, he was not in a position to disagree with the Embassy. It was always to be recalled that the Embassy was part of the Department of Foreign Affairs, whereas these were questions of documentation and fell under a separate department.
13. Dr Fatah accepted that he had made no specific enquiries about the means by which a 1957 Registration Document might be obtained. He considered the question unfair, though. Although he might not have made specific enquiries before the hearing, he knew about the document, the existence of which went

back to 1957. He thought that it was a simple document which could be obtained with a CSID and he did not understand its relevance in the context under consideration.

14. Answering clarificatory questions from the Tribunal, Dr Fatah stated that the primary purpose of the 1957 Registration Document was to demonstrate the composition of, and any changes in, the family. It was for pensions and such things. A person who was able to obtain such a document would already be well documented and the mention of it in this context was bemusing. Whilst it was correct to assert that a person with family in Iraq should be able to obtain a 1957 Registration Document, the same was true of a CSID. Given that the CSID was no longer issued throughout Iraq, it could be of some use in those circumstances. The 1957 Registration Document would be obtained from the Civil Status Department and could be obtained by a family member with a CSID.
15. Mr Thomann asked Dr Fatah questions about the rollout of the INID. Dr Fatah was in no position, he said, to dispute the list of places (in Kirkuk, Basrah and Mosul) in which the CSID was still being issued. He had been told about the shortages of INIDs by an interlocutor and it was as a result of that shortage that the CSIDs continued to be issued. CSIDs continued to be issued in Erbil for that reason. It remained the case that an applicant for an INID was required to travel to the CSA office with their documents. Dr Fatah thought that the process for acquiring an INID might be simpler than was suggested by the respondent. A form was filled in, the CSID or INC was presented. Fingerprints and iris scans were taken.
16. Mr Thomann asked Dr Fatah about the situation of a person who returned to Iraq without a CSID. If they had their father or brother's CSID and a 1957 Registration Document, that would establish who they were, he suggested. Dr Fatah suggested that the individual's father or brother would need to go with them, maybe the mukhtar as well. It might be necessary for two witnesses to go to court. There was a procedure.
17. Mr Thomann asked Dr Fatah about the Laissez Passer. He accepted that Iraqi Airways were bound to accept the document if returning a person to Iraq. He queried why a person would need a Laissez Passer to take an internal flight; they would usually use a CSID. As far as he was aware, a Laissez Passer was for a single trip to Iraq. It is confiscated upon landing. An internal flight could not be booked from the UK and he queried whether an internal flight could be booked using a Laissez Passer. He was aware of a couple of cases of people returning on Laissez Passers, one of whom was his sister, who had lost her passport. If the airline said that a Laissez Passer could be used to book an internal flight, he was not really familiar and he could not contradict what was said. He travelled internally using his CSID. He did not know if the situation was monitored.
18. Dr Fatah said that he had never heard of a support letter. Mr Thomann suggested that it was to assist undocumented individuals, who would be allowed to go on their way with a Laissez Passer and a support letter. Dr Fatah was not 'really aware' of these letters. He was not aware of any working group which assists returnees. He knew that there was a group which assisted IDPs but he was not aware of any such group for failed asylum seekers. He was not familiar

with any process by which a failed asylum seeker arriving at Baghdad International Airport would be given a letter to ease his passage through checkpoints.

19. Mr Thomann asked Dr Fatah about the issuance of a document which he had described in his report as a 'do not interfere' document. He said that he had been told that if someone landed at the airport in Erbil and told the truth about his origins during an interview, he might be given such a document. The officials would check his dialect and might ask him to call his relatives. If they were satisfied then the returnee might be given a letter which stated, Arab to Arab, that he should not be interfered with. The letter would have a timescale within which the person must obtain an identity document. Dr Fatah was not aware of any difficulties regarding the use of such a document in the Kurdish region. He was aware of this process in Erbil but he was not aware of any such process in the government-controlled part of Iraq, which he considered to be different. Mr Thomann pointed out that it had been said by the Iraqi authorities that this process had been used in 80 or so cases. Dr Fatah was not aware of these cases but he was not in a position to dispute it. He remained unfamiliar with the idea of people travelling through checkpoints with a letter and not an identity document.
20. Dr Fatah was not convinced that a Laissez Passer could be used to book an internal flight within Iraq. He had seen a version of a Laissez Passer in the past, although it was not as colourful as the one to which his attention was directed by Mr Thomann. He was doubtful that the authorities would facilitate onward travel in any way. He had discussed this with the airport authorities in Erbil, who had said that there was some confusion and that for security reasons, they were not able to offer an onward taxi service for returnees. Asked by Dr Fatah about the assertion in the respondent's evidence that all checkpoints were under centralised control, Dr Fatah was dismissive. What was painted was a very organised picture of Iraq but the reality was not like that. The checkpoints were controlled by different groups in different places. Their backgrounds were not checked by the police. It was too much to suggest that there was a central team in Iraq which organised onward travel for returnees. Dr Fatah accepted that his interlocutor was in Kurdistan and that his description of processes related to Kurdistan. Erbil was more organised than Baghdad, he said. He had 20 years' experience as an expert on Iraq as a whole, however, and it was wrong to suggest that he needed to have actual experiences in order to speak with certainty.
21. Asked about the Electronic Personal Registry Record, Dr Fatah confirmed the statement in his report that he was not aware of Electronic Registration Documents. He thought that it was likely to be connected to the INID system. He still used his CSID and was not aware of this system. He thought that anyone who had the new card would be on the database from which this record was taken. It was not to be confused with the 1957 records. Dr Fatah agreed that one of the other documents in the respondent's bundle was an INID card; it contained a family number, which was not a feature of the CSID. Dr Fatah was asked to compare and contrast the information on the Electronic Personal Registry Record with that which appeared on the INID. He thought that there was additional information on the reverse of the INID. He accepted that the national number did not appear on the INID, whereas it did appear on the

Electronic Personal Registry Record. He also accepted that blood group appeared on the INID, whereas it was absent from the Electronic Personal Registry Record. Further, he accepted that there was no field for religion on the INID, whereas it did appear on the Electronic Personal Registry Record.

22. Returning to the Electronic Personal Registry Record after the short adjournment, Dr Fatah noted that there was a twelve digit number on the INID, although it did not state that it was the national number. Dr Fatah remained of the opinion that the Electronic Personal Registry Record was based on the records collected at the time that the individual enrolled their biometrics for the INID. He did accept, however, that the INID had no field for 'orphan status', 'religion' or 'distinguishing marks'. Mr Thomann therefore suggested to Dr Fatah that it was unlikely that the two documents were related as he had suggested. Dr Fatah protested that he was not fighting a corner. The Electronic Personal Registry Record had much more information than the card. He noted that there was no reference to fingerprints or iris scans on either document, although it was well established that the INID contained these biometrics. The two numbers which had not previously been used showed that the two systems had the same base.
23. Mr Thomann put to Dr Fatah that the personal record was actually not a transcript of the INID records. He accepted that the two documents contained different elements; they were not 'one to one'. He maintained that the Electronic Personal Registry Record was not simply based on the CSID. It was more likely that it was based on the INID records. He thought it likely that the identity document relied on the information on the civil register. It was not controversial that the information on the INID could not be taken from the registry record, since the Electronic Personal Registry Record did not contain a person's blood group, for example. Nor was there a date of issue or date of expiry on the Electronic Personal Registry Record. Dr Fatah opined that the date of issue would be the date on which the INID was issued, not the date on which the details were entered on the system.
24. Dr Fatah was asked to consider communications between the respondent and the Iraqi authorities and it was suggested to him that the purpose of the Electronic Personal Registry Record was to assist those who did not have a CSID or INID. Dr Fatah was not familiar with this idea. He had been involved in every CG case since 2004. He had spoken about the Central Archive in the past and he was not aware of any other electronic records. It was now suggested that a person who had no chance of getting an INID could benefit from an Electronic Personal Registry Record. He was not familiar with the process of digitisation. Nor did he believe that the Iraqi Embassy would understand it. They did not have a clue, he added. He suggested that the respondent should have put her questions to the national records in Baghdad. Mr Thomann suggested that one hypothesis was that the civil register was transcribed so as to become part of the Electronic Personal Registry Record. Dr Fatah did not accept that; the family number and the national number did not exist in the civil register.
25. Mr Thomann suggested that Dr Fatah's opinion in this respect was merely guesswork, and that it was demonstrably wrong. The correct deduction was actually that the Electronic Personal Registry Record had been created to address the difficulty which resulted from the fact that a person's physical presence was

required in order to enrol for an INID. Dr Fatah thought that this was incorrect. He did not think that the Iraqi authorities would put such a measure in place for a handful of asylum seekers who had documentation problems. If the embassy suggested otherwise, that was merely words. The Embassy was merely making a political statement; what would be more helpful would be an indication of how many people had actually used this claimed facility.

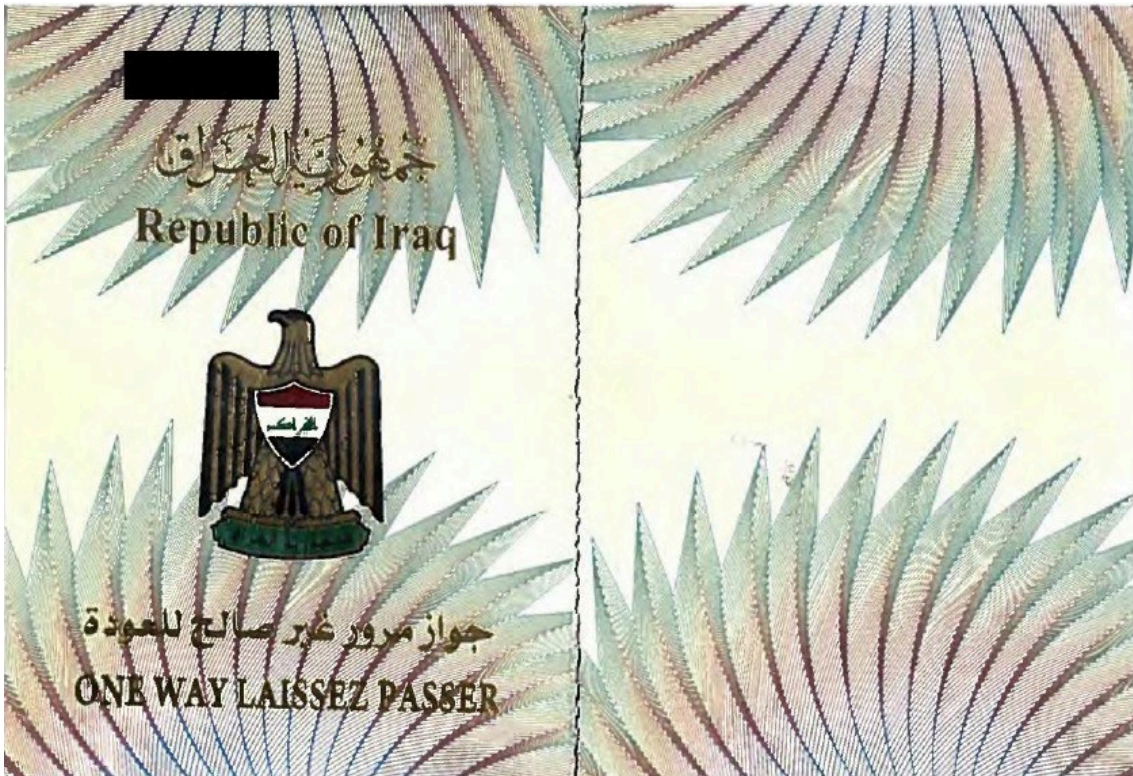
26. Dr Fatah agreed that one of the critical points in considering any question of redocumentation was how long it would take to obtain a replacement document. In considering that question, he accepted that family support during that period was a relevant consideration. Another consideration was the security situation in the area in question and the number of checkpoints en route to that area from BIAP. Also relevant was the likely composition of any security forces manning those checkpoints. Another relevant consideration was whether the individual knew or had access to their volume and page reference and /or whether they could obtain a 1957 Registration Document or an Electronic Personal Registry Record. In the latter connection, Dr Fatah stated that he had made his point. He remained of the opinion that the Electronic Personal Registry Record was derived from the INID system. Asked about the alternative possibility (that there were two separate systems), Dr Fatah's view was that matters were not as straightforward as the respondent suggested. He noted that there was no information about the 80 individuals who had supposedly benefited from this system. He was confused by the proliferation of different systems supposedly in place in Iraq and he was concerned that the Iraq authorities were trying to hide behind a smokescreen. He felt that it was nothing more than politics. He accepted that the country was moving from a paper system to an electronic system of identity but he still used his CSID. If a person had a copy of their CSID and a person to assist them in Iraq, they should be able to get a replacement identity document.
27. Re-examined by Mr Bazini, Dr Fatah stated that the Laissez Passer is not an identity document like the CSID or INC. He was not able to speak about every checkpoint but it was possible that a Laissez Passer would not be recognised by a militiaman as an acceptable identity document at a checkpoint. The normal procedure was that an individual would not be able to pass without an acceptable form of ID but the militia might allow you to phone your family. The situation was comparable to the UK; certain types of identity document would be acceptable at the Post Office, for example, and others would not be. In Iraq you would be detained until you could prove who you were.
28. Dr Fatah underlined the importance of ethnic allegiances. An individual called Ali (a Shia name) might be able to negotiate his way through checkpoints whereas an individual called Ummer (a Sunni name) might be in more difficulty. Similarly, a person who spoke no Arabic would be more likely to be in difficulty than a person who was fluent. Equally, the level of scrutiny at each checkpoint might vary by the day or the hour. There were regular security briefings and those manning the checkpoints might, depending on the content of the briefing, be more likely to scrutinise particular people or groups. Dr Fatah was not aware of anyone who had travelled internally to the IKR using a Laissez Passer. Nor was he aware of anyone having returned voluntarily to the IKR using a Laissez Passer. He had written about the 'do not interfere' document in his report but he



was not aware of the type of person to whom it was issued. He did not know whether it had been issued to voluntary returnees or enforced returnees. All that he had been told was that they were issued to people who spoke Kurdish and were able to establish that they were from that region. The document gave a status akin to being on bail. The document would be of no use to a person outside the IKR. On reflection, Dr Fatah thought that it would probably only be valid for the areas governed by the authority which issued the document. The PUK would not recognise a KDP document, and vice versa.

29. As for the 'support letter', Dr Fatah thought it surprising that it was suggested that it had been used successfully since 2014. It had to be accepted that Iraq was governed in a fragmented way and that there were many authorities in control. He questioned what was meant by the assertion that the government of Iraq was in control of the checkpoints. The KDP was essentially tribal. They could assert their authority but not as far as Sulaymaniyah. A power conferred in Baghdad might hold no sway with the Shia militia in another part of the country. The militia were not a security or a defence force. There were many different groups, some of which had links to Iran. It was they who had been responsible for the bombing of the embassy in Erbil. It was fallacious to suggest that one letter could take you from Baghdad around the country. It was merely a political statement to assert that all checkpoints were under the control of the government. That was not the Iraq he knew. There were many different groups in power in the country. And the election would divide matters still further. A politician was bound to say that the country was unified.
30. Dr Fatah's view was that the Electronic Personal Registry Record was unrelated to the 1957 Registration Document. Any Iraqi national had to have an entry in the Family Books. The importance of it was such that people travelled back to Iraq in 1957 in order to be included. If he had missed the registration, he could not be Iraqi and his children could not be Iraqi. Mr Bazini invited Dr Fatah to assume for the sake of argument that there was such a thing as an Electronic Personal Registry Record. On the basis of that assumption, he asked what information would have to be provided in order to obtain such a document. Dr Fatah could not understand why such hypotheses were necessary. The CSID system was on paper but it was very organised. The new system just looked good. Nobody would recognise the Electronic Personal Registry Record. He had a contact who was very high up in the security sector in the IKR. He had handed him a British passport, only to be met with the response 'Haven't you got something Kurdish?' It was incidents such as that which kept these supposed new developments in perspective. Getting an identity document should not be a complicated matter if you are an Iraqi national, Dr Fatah added.

ANNEX B - Laissez Passer



0	<p>This laissez passer contains 16 pages REPUBLIC OF IRAQ ONE WAY LAISSEZ-PASSER</p>	<p>يشتمل هذا الجواز على ١٦ صفحة جمهورية العراق جواز مرور غير صالح للعودة</p>
	<p>رقم الجواز No. of Laissez Passer</p>	<p>رقم الجواز</p>
	<p>اسم حامله Name of bearer</p>	<p>اسم حامله</p>
	<p>اسم الزوج Name of the Mate</p>	<p>اسم الزوج</p>
	<p>عدد الأولاد No. of children</p>	<p>عدد الأولاد</p>
	<p>الجنسية التي يدعى بها Nationality claimed by bearer</p>	<p>الجنسية التي يدعى بها</p>
	<p>Valid for One Voyage only during six months</p>	<p>نافذة لسفرة واحدة فقط خلال ستة اشهر</p>

Handwritten text: عراقى Iraqi

Red circular stamps: CONSUL GENERAL OF THE REPUBLIC OF IRAQ, EMBASSY OF THE REPUBLIC OF IRAQ

0 [REDACTED] 1-2

MODERN COLOURED PHOTOGRAPH

MATE الزوج BEARER لحامل الجواز

توقيع حامله أو بصمته  
ابهامه الأيسر

توقيع حامله أو بصمته  
ابهامه الأيسر

Signature of wife or his / her  
left thumb print

Signature of wife or his / her  
left thumb print

FLE رسم

2-2

DESCRIPTION - أوصاف

MATE الزوج BEARER لحامل الجواز

التحفة Profession

محل الولادة وتاريخها Place and date of birth

محل الإقامة الدائمة Domicile

الطول Height

لون العينين Color of eyes

لون الشعر Color of hair

العلامات الفارقة Visible distinguishing marks

CHILDREN الأولاد

Sex الجنس	Date of birth تاريخ الولادة	Name الاسم
1		1
2		2
3		3
4		4
5		5

[REDACTED]

OBSERVATIONS - الملحوظات

[REDACTED]

4-4

Countries of which this laissez passer is valid الأقطار التي يجوز الدخول إليها بهذا الجواز

Valid to travel to Iraq only

صالح للسفر فقط العراق

The validity of this laissez passer expires ينتهي العمل بهذا الجواز

29/10/2021 c.c.1/10/2021

Not to be renewed under any passer expires ولا يحدد في أي حال من الأحوال

Issued at London صدر في

The 30th في اليوم

Of April من شهر

Residence Officer ضابط الإقامة

**ANNEX C – List of Sources (by date)**

<b>Date</b>	<b>Title</b>	<b>Author/Source</b>
	Example Documents, comprising 1957 Registration Documents, Electronic Registration Documents, Family Book excerpt, INID card, Laissez Passers	
Sep 2018	Country Policy and Information Note, Iraq: Internal relocation, civil documentation and returns	Home Office
? Sep 2019	Minutes of Meeting of Home Office Delegation to Iraq	Home Office
19 Sep 2019	PUK says top official blocked	Rudaw
31 Jan 2020	Letter from Home Office to GSA Office of Iraqi Airways in UK	Home Office
5 Feb 2020	Email chain, Home Office and Iraq Airways concerning Laissez Passer	Home Office
8 Apr 2020	Email chain Iraqi Embassy UK and Home Office concerning identity documents	Home Office
? Apr 2020	Information from Home Office’s Returns Logistics Department	Home Office
May 2020	Country Policy and Information Note, Iraq: Security and Humanitarian Situation	Home Office
Jun 2020	Country Policy and Information Note, Iraq: Internal relocation, civil documentation and returns	Home Office
14 Dec 2020	Email Iraq Embassy to Home Office concerning 1957 documents	Home Office
? Dec 2020	Open letter, British Consulate General Erbil requesting information about internal travel	Home Office
31 Dec 2020	Country Information concerning displaced people in Iraq	Internal Displacement Monitoring Centre
Jun 2020	Country Policy and Information Note, Iraq: Internal relocation, civil documentation and returns	Home Office
14 Jul 2020	Peshmerga in Kifri	Kirkuknow
2021	Iraq Ministry of Foreign Affairs report on “Pass Doc”	Iraqi Foreign Ministry
2021	Requirements for Regulating Public and Private Agencies	Embassy of the Republic of Iraq
16 Mar 2021	Letter Iraq Minister of Interior to Home Office concerning internal travel documents	Home Office
1 Apr 2021	Letter from British Consulate-General in Erbil to Home Office concerning utility of Laissez Passer	Home Office
May 2021	Response to an Information Request Iraq Onward Travel from Baghdad	Home Office
21 May 2021	Email chain Iraqi Embassy and Home Office concerning travel documents	Home Office
10 June 2021	Email chain Iraqi Embassy and Home Office	Home Office

	concerning replacement of CSID with INID	
22 Jun 2021	Official's son played a part in resolving....	Rudaw
6 Jul 2021	Email chain British Embassy Iraq and Home Office concerning documents for internal travel	Home Office
12 Jul 2021	Email Iraqi Embassy and Home Office concerning continuing issue of CSID cards	Home Office
10 Sep 2021	Expert Report Dr R Fatah	Middle East Consultancy Services
13 Sep 2021	Security Chaos in Sulaimani	Human Rights Watch