



August 2005

ILR for Iraqis refused asylum between 1st October 2000 and 20th March 2003

In the case of *Bakhtear Rashid v SSHD*¹, the High Court and Court of Appeal have found that the Home Office was wrong to refuse indefinite leave to remain (ILR) to an Iraqi asylum seeker on the grounds that he could relocate to the Kurdish Autonomous Zone (KAZ). This landmark judgement could see a number of refused Iraqi asylum seekers entitled to ILR.

Who may benefit?

This judgement means that some individuals, whose applications for asylum were refused, may now qualify for ILR providing all the following conditions apply to them:

- S/he is a national of Iraq
- Before s/he left Iraq, his/her home was in the part of Iraq controlled by the Saddam regime at the time the application for asylum was refused
- S/he was first refused asylum by the Home Office before 21st March 2003
- The Home Office refusal letter stated that the applicant could relocate to KAZ
- S/he has not been granted ILR

Both the High Court and the Court of Appeal found that the Home Office had a policy between 1st October 2000 and 20th March 2003 that relocation to the KAZ from government-controlled Iraq was not a reason to refuse asylum. The Home Office was wrong not to apply this policy to Mr. Rashid.

Iraqi asylum seekers, who fulfill the criteria above, and who were refused asylum or had their appeals dismissed may be able to benefit from this decision. This argument can also be used where the person's appeal was finally dismissed whether or not they raised an argument about internal flight. Mr. Rashid won his case even though his appeal had been dismissed.

People who were refused asylum but granted limited leave to remain, such as exceptional or discretionary leave may also use this argument.

What to do:

People who think they could benefit from this ruling should write to the Home Office and ask for indefinite leave to remain, referring to the Rashid case and explaining why it applies to them. Where possible, these requests should be made through legal representatives and should be made as soon as possible.

If the Home Office refuses the request, or fails to deal with it within a reasonable period of time, the person concerned should ask a legal representative for advice on claiming judicial review of the Home Office.

¹ See the High Court judgement of 22 October 2004 at <http://www.bailii.org/ew/cases/EWHC/Admin/2004/2465.html> and see the Court of Appeal judgment of 16 June 2005 at <http://www.bailii.org/ew/cases/EWCA/Civ/2005/744.html>