



**Upper Tribunal  
(Immigration and Asylum Chamber)  
Number: PA/02433/2017**

**Appeal**

**THE IMMIGRATION ACTS**

**Heard at North Shields  
Promulgated  
On 24<sup>th</sup> November 2017  
December 2017**

**Decision**

**On 19<sup>th</sup>**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE FARRELLY**

**Between**

**MR.B.M.H  
(ANONYMITY DIRECTION MADE)**

Appellan  
t

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms Adams, Counsel, instructed by Halliday Reeves  
Law Firm

For the Respondent: Mr Mills, Home Office Presenting Officer

**DETERMINATION AND REASONS**

Introduction

1. The appellant has been given permission to appeal the decision of First-tier Judge Doyle who dismissed his claim for protection made on the basis of political opinion.

2. The appellant is in Iranian of Kurdish ethnicity. He claimed that he was a member of the Revolutionary Union of Kurdistan and experienced difficulties from the authorities when he refused to act as an informer. Frustrated at being detained overnight he burnt the Iranian flag and this was filmed by his friend on his mobile. The phone developed problems and he left it in to be repaired whereupon the film was disclosed to the authorities who charged him with anti regime activities. A warrant was issued but he managed to flee.
3. In making his claim the appellant was able to produce the video clip from his phone of him burning a flag. He also produced a number of documents to support his claim of membership of the Revolutionary Union. He also claimed to have carried out political activity within the United Kingdom which would place him at risk.

### The First tier Tribunal

4. First-tier Tribunal Judge Doyle did not find the appellant credible. He concluded his activities in the United Kingdom were limited and would not bring him to the attention of the Iranian regime. The documents produced could not be relied upon.
5. The judge made a number of adverse credibility findings. The judge referred to inconsistencies between the appellant's screening where he referred to people observing him burning a flag and his witness statement in advance of the substantive interview and at interview. In the latter, he said the burning of the flag occurred when only he and a friend were present in an orchard. The judge referred to the absence of reliable evidence that any flag burning became public.
6. At paragraph 14 (j) the judge records that in the appellant's asylum interview and his statement he said he was a member of the Patriotic Revolutionaries of Kurdistan and interview at question 42 he said he was a member of the Revolutionary Union of Kurdistan. The judge commented that neither was mentioned at screening and this was a significant omission as his political affiliation was the foundation of his ultimate claim. The judge also commented at para 14(j) `...It is also a significant inconsistency because, although the appellant's claim is to be a member of one political party, he mentions membership of two separate political parties `.
7. The judge deals with different dates being given for when he joined. There was reference to translation issues with the judge concluding the date he claimed he joined was 5 January 2015.
8. In his interview he was asked about the party. The judge concluded the answers given were vague and lacking in credibility. For instance, he said he only knew three people who supported the party.

9. The judge commented on his claim that he was involved in hiding CDs; memory cards; and pieces of paper received from Iran and Iraq. The judge pointed out the appellant said he was illiterate and because of this did not know the content of the materials. The judge found this difficult to reconcile with the ability to organise materials effectively.
10. Regarding the documentation produced, the judge referred to the principle in Tanveer Ahmed -v- SSHD [2002] UKIAT 00439. He commented on spelling mistakes in the two letters produce in support of the appellant's membership. In both letters 'revolutionaries' is misspelt; with 'c' as the second letter instead of 'e'. Both letters contain a stamp describing the party as 'Revolutionares (sic) Union of Kurdistan'. An e-mail exchange was produced claiming the spelling mistakes in the letters were to prevent forgeries. No explanation was given as to the mistakes on the official stamp. The judge did not find the explanation adequate and concluded at best the letters were of neutral evidential weight.
11. Regarding activity in the United Kingdom an article was produced showing a photograph of the appellant and a friend. The judge concluded his activity would not attract the attention of the Iranian regime.
12. The judge also refers to section 8 factors and delay in claiming asylum until he arrived in the United Kingdom. This included travel through Europe and a 10 1/2 month stay in France where he was fingerprinted.

### The Upper Tribunal

13. Permission to appeal was granted on the basis it was arguable that the judge mistakenly referred to the appellant claiming he was involved with two political parties. In fact he only claimed membership of one. Reference had been made by the judge to the lack of subsequent correction to the absence of reference any political party at screening. However, this omission had been corrected by the appellant in a statement of the 1<sup>st</sup> December. Furthermore, the judge had alluded to the appellant's lack of education as inconsistent with his claimed activity for the party. However, it was noted that in the appellant's witness statement he said that he simply hide things rather than prepared materials
14. The respondent lodged a rule 24 response opposing the appeal. Irrespective of any error as to whether it was a political party or parties, the adverse credibility findings were sustainable. For instance, there had been no challenge to the evidence about who was present when the flag was burnt or the appellant's lack of knowledge of the political party.

15. Ms Adams in her grounds for permission contended that First-tier Judge Doyle fundamentally misunderstood the appellant's claim. In particular, the judge stated he claimed to have joined two separate parties on two separate dates whereas the claim made was that he was a member of one political party and the difference in dates arose due to a mistake in translation. At hearing she submitted that this mistake on the part of the judge undermined his ability to reach sound conclusions.
16. First-tier Judge Doyle had been influenced by the appellant's comments at 4.1 of his screening that he feared return because he had burnt the Iranian flag and had not referred to membership of a political party. However, she said he had explained this in his statement of the 1st December 2016, stating that he had been tired when screened, having only just arrived. The judge had commented that in his statement he had not addressed the failure to mention a political party at 4.1.
17. She also takes issue with the judge's perception of inconsistency between the claimed lack of education and his activities for the party. She contended that the judge had failed to consider the appellant's evidence properly. His reference to 'preparing the materials' meant transporting them by hiding them amongst vegetables and that he had consistently stated he was unaware of their content.
18. Finally, she takes issue with the way the judge dealt with the documentary evidence and the spelling errors. The appellant had provided an e-mail exchange which provided an explanation.
19. She submitted these issues combined together meant that the decision was unsafe.
20. In response, the presenting officer referred to the other credibility issues taken by the judge which had not been challenged. It was possible that the judge was mistaken as to whether the appellant claimed he was involved in one or two parties but there were sufficient remaining inconsistencies to justify rejection of the claim. Notably, at screening there was no reference to involvement with any political party. This was a reasonable point for the judge to take. Similarly, the spelling mistakes in the documents produced entitled the judge to reject them. There are other fundamental credibility issues, such as the implausibility of the appellant filming himself whilst carrying out an incriminating matter and then giving this to third parties.
21. In response, Ms Adams said that her challenge was that the judge incorrectly said the appellant never subsequently explained not mentioning a political party at screening. The issue was not the delay in mentioning this. Furthermore, she pointed out the judge did not reject the documentary evidence but did not attach weight to it.

## Consideration

22. The respondent did not believe the claim made. It was not accepted the appellant was a member of a political party or of any interest to the Iranian authorities. Credibility was central to the appeal.
23. The refusal letter refers to the translation of the party as the Patriotic Revolutionary of Kurdistan or the Revolutionary Union of Kurdistan. There was a discrepancy as to when he said he joined, being either 5 January 2015 or 6 July 2014. The grounds of appeal referred to the appellant being a member of the Patriotic Revolutionary of Kurdistan which he joined in January 2015 and the Revolutionary Union of Kurdistan which he joined on 6 July 2014. At paragraph 10 under the heading 'The appellant's claim' Judge Doyle records that the appellant claims he is a member of the Revolutionary Union of Kurdistan which he joined in 2014 and that he worked for a secret branch within the party. At para 14 (a) the judge refers to the appellant claiming to have joined the Revolutionary Union of Kurdistan in July 2014 and the Patriotic Revolutionary of Kurdistan in January 2015. It now is the case that the appellant is stating he was only involved with one political party. Given the use of different names, different joining times and the mention of an inner party it is perfectly understandable how the judge at paragraph 14 (j) refers to two parties. Elsewhere, he refers to the party in the singular. If the judge misunderstood this aspect of the claim then it is my conclusion this was not a material error.
24. The judge accepted the appellant had consistently given the date he joined as 5 January 2015. The judge does take the point taken in the appellant's substantive interview that he did not mention any membership of a political party at his initial screening. I appreciate the appellant gave the explanation subsequently in his statement of December 2016 that he was tired having only recently arrived.
25. At paragraph 14(f) the judge comments that whilst he may have been tired he would have had the chance to seek advice and comment afterwards. It is true that the appellant did give an explanation in his subsequent statement. However, the references in the appellant's statement of the 1<sup>st</sup> December 2016 do not correspond with the screening interview references. The judge at para 14(e) does refer to the statement of 1<sup>st</sup> December and the appellant's comments about 4.1 which are not on the point of the omission. In fact in the statement an incorrect reference is made to paragraph 5.5, instead of 4.1 with the explanation he was tired and did not understand the question. It may be because of this incorrect referencing the judge missed this. It is the responsibility of the person preparing the statement to make sure it can be readily understood. I do not find the judge's comment that the appellant did

not correct the position amounts to a material error. The judge makes a point that his claimed involvement was the very foundation of his claim. The appellant at first instance did not refer to any political party. His explanation is several months later.

26. The decision must be looked at as a whole. Having read the decision I am in agreement with the presenting officer that there were sufficient issues going to the appellant's credibility to support the judge's conclusion.
27. The appellant at screening claimed he was seen burning a flag and people witnessed this. This suggests there were a number of people watching him whereas the account he ultimately gave was that it was only himself and his friend in an orchard. This change of account is commented upon by the judge at paragraph 14(h). Following from this, the judge comments that there was an absence of reliable evidence that any private protest on his part would have come to the attention of the authorities.
28. Not only was there no mention of a political party at screening but the appellant gave vague answers about the party. He said he had not attended meetings or rallies and only knew three people who supported the party. The judge makes a legitimate point taken from the refusal letter about his claimed role and his lack of education. Whilst the appellant may be illiterate some awareness of what was involved in the material could be expected.
29. The judge comments on the documentation provided. The points made are sustainable. The same applies in respect of his activities in this country.
30. As part of the general credibility assessment the judge refers to the appellant's delay in claiming asylum. This is correctly positioned after the claim itself has been assessed.
31. Having considered all these arguments I find no material error of law demonstrated on the grounds advanced.
32. At hearing Ms Adams sought to introduce a further claim in relation to the risk for the appellant for having left Iran illegally. The presenting officer objected. Permission had not been granted on this and I see no merit in relation to the point. The judge did not find the appellant to be a member of a Kurdish political party and the potential risk as a failed asylum seeker has been considered by the judge. In summary, I find Judge Doyle's decision to be comprehensive, clear, and ultimately, sustainable. If there are errors they are minor and can be explained by the way the appeal was presented.

## Decision.

The decision of First-tier Tribunal Judge Doyle dismissing the appellant's appeal on all grounds shall stand. No material error of law has been established.

**Deputy Judge Farrelly of the Upper Tribunal**