



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA095482016

**THE IMMIGRATION ACTS**

Heard at Glasgow  
on 29 August 2017

Decision and Reasons Promulgated  
on 31 August 2017

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

DANA HASSANI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

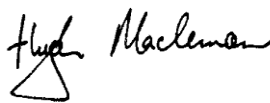
Respondent

For the Appellant: Mr S Martin, of Jain, Neil & Ruddy, Solicitors  
For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant appeals against a decision by First-tier Tribunal Judge David C Clapham SSC, promulgated on 20 April 2017, dismissing his appeal against refusal of asylum.
2. The decision runs to 10 pages. The grounds of appeal to the UT, which run to 7 pages, might have been more succinct. Their essential points are these:
  - (1). The Judge, having accepted the appellant's involvement with environmental organisations perceived as anti-regime, erred by finding that irrelevant to the claim. That association gave him an anti-regime profile and increased the risk of scrutiny on return.
  - (2). The finding that the appellant had no connection with PJAK was irrational. The regime saw environmental organisations as a front for PJAK. It was reasonably likely that the regime would see the appellant as a PJAK sympathiser.
  - (3). The Judge applied too high a standard of proof when rejecting the appellant's account of an Ettela'at raid on his home, because his account of previous detention and torture had not been rejected, and too great a burden had been placed upon him to establish his claim.

- (4). The Judge did not give the appellant fair notice of his point that if a significant number of the Ettela'at had attended at his home, they would have covered the exits, and he would have been unable to flee. It was plausible that the appellant might have fled through a rear exit.
  - (5). The Judge gave inadequate reasons for rejecting the appellant's evidence of escaping.
  - (6). The Judge gave inadequate weight to documentary evidence [not specified in the ground] which materially supported his claim.
3. Mrs O'Brien said that there was a difficulty with the decision, which made a finding at ¶57 of an adverse interest on the part of the authorities due to the appellant's involvement with environmental groups. That should have led the Judge to consider whether there might be anything on record to give rise to a problem on return. In that context, a finding should also have been made on whether the appellant left Iran unlawfully, but that was absent.
  4. Parties agreed that the "adverse interest" finding left it unclear whether the account of arrest, detention and torture was accepted, and that this was a matter of importance.
  5. There was some debate on whether any factual findings should be "preserved", but that could cut both ways, and might lead to a difficult and artificial exercise of remaking. The outcome was agreed as follows.
  6. The decision of the FtT is **set aside**. None of its findings are to stand, other than as a record of what was said at the hearing.
  7. The nature of the case is such that it is appropriate in terms of section 12(2)(b)(i) of the 2007 Act and of Practice Statement 7.2 to **remit the case to the FtT** for an entirely fresh hearing.
  8. The member(s) of the FtT chosen to consider the case are not to include Judge David C Clapham SSC.
  9. No anonymity direction has been requested or made.



29 August 2017  
Upper Tribunal Judge Macleman