



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

Appeal Number: PA/08177/2018

THE IMMIGRATION ACTS

**Heard at Birmingham
On 18 November 2019**

**Decision & Reasons
Promulgated
On 20 November 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

KHIDER [M]

(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Toora

For the Respondent: Ms Aboni, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born on 3 October 1996 and is a male citizen of Iran. He claims to be involved with the Kurdish Democratic Party of Iran (KDPI) and that he would face a real risk of persecution upon return as a consequence. The Secretary of State, by a decision dated 6 June 2018, refused the appellant's claim for international protection. The appellant appealed to the First-tier Tribunal which, in a decision promulgated on 8 January 2019, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. I find that the decision of the First-tier Tribunal should be set aside. My reasons for setting it aside are as follows. First, I find that the judge has carried out an inadequate analysis of the appellant's claims to be at risk by reason of having attended demonstrations in London and Birmingham and also having an account on Facebook on which posts hostile to the Iranian government regime may have been made. I stress that I have no difficulty accepting the judge's findings which led him to conclude that the appellant is not an active supporter of the KDPI. Those findings shall not be revisited. However, as regards the demonstrations/Facebook, the judge wrote no more than this:

26. As far as the appellants *sur place* activities are concerned, there is no evidence that his attendance at demonstrations in London or Birmingham on occasions will come to the attention of the authorities and there was no adequate evidence that merely because he would be a failed asylum seeker this would unduly worry those authorities. The appellant also claims to have a Facebook existence but, although the authorities may monitor Facebook and other cyber involvements of opponents, I do not consider that the appellant would be identified as a possible threat based upon my finding that he was not involved with the KDPI.
3. The judge has not gone so far as to find that the appellant did not have any 'existence on Facebook' but rather that, because he is not, as he claims, a supporter of the KDPI, the authorities in Iran would have no interest in him notwithstanding what may appear on his Facebook account. That conclusion is not supported by the relevant country guidance, in particular *HB (Kurds) Iran* CG [2018] 430 (IAC). The judge has not considered whether the authorities interrogating him on return to Iran are likely to ask to see his Facebook account, how the appellant may respond if they do, whether the appellant may take steps to delete his Facebook account before returning to Iran, what affects deletion may have upon previous posts and how the authorities may respond should they link posts on the appellant's Facebook account to the appellant in the context of the appellant having no other opposition political profile. The judge's finding that the appellant is not involved with the KDPI, though itself sound, was not enough to enable him to pass over the possibility that the Facebook postings may expose the appellant to real risk on return.
4. I set aside the decision. The judge's findings that the appellant is neither a supporter nor does he have any political profile with the KDPI shall stand. The only issue which remains to be determined is whether the appellant will be exposed to a real risk of persecution on return to Iran on account of

his *sur place* activities in the United Kingdom, including any participation on Facebook.

Notice of Decision

The decision of the First-tier Tribunal is set aside. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision at or following a hearing.

Signed

Date 18 November 2019

Upper Tribunal Judge Lane