



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

Appeal Number: PA/09807/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 28 November 2018**

**Decision & Reasons
Promulgated
On 10 January 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**SROOSH MOHAMMADI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Howard, instructed by Fountain Solicitors

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Sroosh Mohammadi, was born on 21 March 1996 and is a male citizen of Iran. He appealed against the decision of the respondent dated 6 September 2016 refusing him international protection. The First-tier Tribunal (Judge Chohan) in a decision promulgated on 5 February 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. Judge Chohan has provided reasons why the appellant was not a genuine supporter of the KDPI but why his account of past events in Iran was not

credible. Those findings have not been challenged by the appellant on appeal to the Upper Tribunal. The appellant challenges the judge's assessment of his *sur place* activities in the United Kingdom (see *BA (Demonstrators in Britain – risk on return) Iran CG [2011] UKUT 36 (IAC)*):

- “1 Given the large numbers of those who demonstrate here and the publicity which demonstrators receive, for example on Facebook, combined with the inability of the Iranian Government to monitor all returnees who have been involved in demonstrations here, regard must be had to the level of involvement of the individual here as well as any political activity which the individual might have been involved in Iran before seeking asylum in Britain.
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 - (a) Iranians returning to Iran are screened on arrival. A returnee who meets the profile of an activist may be detained while searches of documentation are made. Students, particularly those who have known political profiles are likely to be questioned as well as those who have exited illegally.
 - (b) There is not a real risk of persecution for those who have exited Iran illegally or are merely returning from Britain. The conclusions of the Tribunal in the country guidance case of SB (risk on return -illegal exit) Iran CG [2009] UKAIT 00053 are followed and endorsed.
 - (c) There is no evidence of the use of facial recognition technology at the Imam Khomeini International airport, but there are a number of officials who may be able to recognize up to 200 faces at any one time. The procedures used by security at the airport are haphazard. It is therefore possible that those whom the regime might wish to question would not come to the attention of the regime on arrival. If, however, information is known about their activities abroad, they might well be picked up for questioning and/or transferred to a special court near the airport in Tehran after they have returned home.
- 3 It is important to consider the level of political involvement before considering the likelihood of the individual coming to the attention of the authorities and the priority that the Iranian regime would give to tracing him. It is only after considering those factors that the issue of whether or not there is a real risk of his facing persecution on return can be assessed.
- 4 The following are relevant factors to be considered when assessing risk on return having regard to *sur place* activities:
 - (i) Nature of *sur place* activity**
 - Theme of demonstrations – what do the demonstrators want (e.g. reform of the regime through to its violent overthrow); how will they be characterised by the regime?
 - Role in demonstrations and political profile – can the person be described as a leader; mobiliser (e.g. addressing the crowd), organiser (e.g. leading the chanting); or simply a member of the crowd; if the latter is he active or passive (e.g. does he carry a banner); what is his motive, and is this

relevant to the profile he will have in the eyes of the regime>

- Extent of participation – has the person attended one or two demonstrations or is he a regular participant?
- Publicity attracted – has a demonstration attracted media coverage in the United Kingdom or the home country; nature of that publicity (quality of images; outlets where stories appear etc)?

(ii) Identification risk

- Surveillance of demonstrators – assuming the regime aims to identify demonstrators against it how does it do so, through, filming them, having agents who mingle in the crowd, reviewing images/recordings of demonstrations etc?
- Regime’s capacity to identify individuals – does the regime have advanced technology (e.g. for facial recognition); does it allocate human resources to fit names to faces in the crowd?

(iii) Factors triggering inquiry/action on return

- Profile – is the person known as a committed opponent or someone with a significant political profile; does he fall within a category which the regime regards as especially objectionable?
- Immigration history – how did the person leave the country (illegally; type of visa); where has the person been when abroad; is the timing and method of return more likely to lead to inquiry and/or being detained for more than a short period and ill-treated (overstayer; forced return)?

(iv) Consequences of identification

- Is there differentiation between demonstrators depending on the level of their political profile adverse to the regime?

(v) Identification risk on return

- Matching identification to person – if a person is identified is that information systematically stored and used; are border posts geared to the task?”

3. At [17], the First-tier Tribunal judge wrote: “I do find that the appellant was attending the demonstrations in order to enhance his protection claim and nothing more. As such, I find the appellant’s sur place activities are of a very low level which would not put him at any risk on return to Iran.” There are two findings here: first, that the appellant’s motives for demonstrating were not “genuine” and, secondly, that the appellant has such a low profile within the demonstrations that he would not be at risk. The judge granting permission correctly observed that genuineness of motive was irrelevant; all that matters is whether the appellant’s activities would expose him to risk on return. I do not consider that the judge’s error is material. The judge’s conclusion that the appellant has such low profile in the demonstrations (not being an activist or member of the KDPI)

and would not be identified as a participant in the demonstrations on return to Iran was plainly open to him. I agree with Mr McVeety's submission that there is no evidence that the Iranian authorities have facial recognition technology which would enable them to recognise the appellant from photographs. Even if they were able to do so, there is no evidence that such information would be available to those interrogating returnees in Tehran Airport. There is also no evidence that the appellant would be asked specifically to tell his interrogators whether he had attended demonstrations in the United Kingdom. Although the judge had not referred specifically to *BA*, I find that the facts, as he found them, do not indicate that the appellant would be at risk on return to Iran both by reference to *BA* and also background material which was before the Tribunal.

4. It is also pleaded by the appellant that he would be at risk on return to Iran merely on account of being Kurdish. The judge deals with that aspect of the claim at [18]. I cannot find that he has erred in law either as asserted in the grounds or at all. I find that the judge's conclusion ("there is nothing to suggest that the appellant has been or is a man of profile within the KDPI. The appellant was one demonstrator amongst many.") effectively disposed of that aspect of the appeal.

Notice of Decision

5. This appeal is dismissed.
6. No anonymity direction is made.

Signed

Date 1 December 2018

Upper Tribunal Judge Lane

TO THE RESPONDENT FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 1 December 2018

Upper Tribunal Judge Lane