



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2021-000464

First-tier Tribunal No: PA/51235/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

27th February 2024

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

REZGAR OSMAN AMIN

Appellant

and

Secretary of State for the Home Department

Respondent

For the Appellant: Mr S Martin, of Jain, Neil & Ruddy, Solicitors

For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

Heard at Edinburgh on 21 February 2024

DECISION AND REASONS

1. FtT Judge Green dismissed the appellant's appeal by a decision promulgated on 26 August 2021. UT Judge Rintoul heard the appellant's appeal against that decision on 3 August 2022. Unfortunately, due to an administrative error, his decision dictated shortly after that hearing was lost, and later had to be recreated from memory. His decision, setting aside the FtT's decision and providing for that to be remade in the UT, was issued on 8 January 2024.
2. On 1 February 2024 the UT made a transfer order, enabling the appeal to be heard by a differently constituted tribunal. Hence, the matter comes before me.

3. The appellant's position on the remaking of his appeal is fully set out in written submissions. In brief, he founds upon these points:

positive and unchallenged credibility findings by the FtT regarding his *sur place* activities directed against the Iranian regime - presence at a number of demonstrations, some directly outside the Iranian Embassy in London; wearing a high visibility KDPI vest; displaying a large picture of Dr Ghassemlou, a KDPI leader assassinated by the regime;

evidence that the Iranian authorities monitor such activities;

anti-regime posts published on Facebook (evidence which was overlooked by the FtT);

risk at the "pinch point" of arrival, as described in *HB (Kurds) Iran CG [2018] UKUT 00430*; and

XX (PJAK - sur place activities-Facebook) Iran CG [2022] UKUT 00023 on risk from social media activity, in certain cases (reported subsequently to the FtT's decision).

4. He contends that in light of the findings, background evidence and case law, he is a refugee.
5. There is nothing on file from the respondent beyond the rule 24 response of error of law, which has of course been superseded.
6. Mr Mullen, standing the findings to date, did not seek to cross-examine the appellant, and accepted that he is to be taken as having acted in good faith.
7. The respondent's refusal letter dated 2 March 2021 is detailed and thorough. However, its crucial analysis, at [72 - 75], is based on the appellant having no presence on Facebook, being no more than a "face in the crowd" at events, and so not having any such profile as to attract adverse attention.
8. Mr Mullen observed that the appellant had shown no history of activism in Iran, would not be suspicious to the regime for anything prior to leaving the country, and had acted only at a relatively low level in the UK. However, he acknowledged that he has established significantly more than was accepted in the refusal letter, and that the case now stands at a level where it might be difficult to contend that there is no risk of his activity in the UK and on social media placing him "on the radar" of the regime as more than just an opportunist.
9. In that light, I was satisfied that although the refusal letter was correct in its analysis of negligible risk, based on what was accepted or established at that stage, the findings of the FtT, coupled with the social media record which was overlooked, have "moved the dial". Although marginally, the

appellant has shown a real possibility of identification and suspicion and of matters coming to light on his return which carry, on the background evidence and case law, a real risk of persecution. The case now crosses the threshold.

10. The decision of the FtT has been set aside. The appeal, as originally brought to the FtT, is allowed.
11. Parties agreed that there is no further need for anonymity.

Hugh Macleman

Judge of the Upper Tribunal
Immigration and Asylum Chamber
21 February 2024