



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

Appeal Number: PA/04050/2016

THE IMMIGRATION ACTS

Heard at Glasgow

**Decision & Reasons
Promulgated**

On 27 September 2017

On 9 November 2017

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL DEANS

Between

[K R]

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr A Caskie, Advocate, instructed by Latta & Co,
Solicitors

For the Respondent: Mr M Matthews, Senior Home Office Presenting
Officer

DECISION AND REASONS

1. This is an appeal against a decision by Judge of the First-tier Tribunal Green dismissing an appeal against the refusal of protection.
2. The appellant is an Iranian Kurd who claims to have a fear of persecution in Iran because of his involvement with KDPI.
3. The Judge of the First Tier Tribunal accepted that the appellant was an active member of the KDPI and had made posts on Facebook expressing support for the KDPI. The appellant had attended one demonstration in London.

4. Permission to appeal was granted by the Upper Tribunal on the basis that the judge did not refer to AB & Others (internet activity – state of evidence) [2015] UKUT 257 and did not consider the questioning about his Facebook account the appellant might face at the airport on return. The appellant was not required to delete the entries on Facebook or lie about his beliefs. It was arguable that the judge erred in failing to consider properly the risk at the point of return having regard to the facts as found.
5. At the hearing before me Mr Matthews indicated that having regard to the findings made, including the appellant's support for the KDPI, and to Home Office policy, it was difficult for him to proceed. Mr Caskie indicated that he relied upon the positive findings made by the judge at sub-paragraphs 16(i) and (ii) of the decision relating to involvement with KDPI and Facebook activity.
6. The parties agree that the judge erred in law by failing to assess properly the risk on return at the airport in Iran. It is further agreed that the appellant's political beliefs and his having expressed these on Facebook give rise to a real risk of persecution. On this basis I find the Judge of the First Tier Tribunal erred in law. I set aside the decision and re-make it by allowing the appeal on protection grounds.

Conclusions

7. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.
8. I set aside the decision.
9. I re-make the decision by allowing the appeal.

Anonymity

10. The Judge of the First-tier Tribunal made an anonymity direction. As the appeal is allowed I do not consider it necessary or appropriate to continue this direction. Accordingly I make no anonymity direction.

Fee award

(N.B. This is not part of the decision}

As no fee has been paid or is payable I make no fee award.

Deputy Judge of the Upper Tribunal Deans
2017

6th October