



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

Appeal Number: PA/10927/2016

**THE IMMIGRATION ACTS**

**Heard at North Shields**

**Decision &  
Promulgated  
On 05 April 2018**

**Reasons**

**On 19 March 2018**

**Before**

**DR H H STOREY  
JUDGE OF THE UPPER TRIBUNAL**

**Between**

**[A A]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms Cleghorn of Counsel instructed by Legal Justice Solicitors

For the Respondent: Mr Diwnycz, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a national of Iran. He made a claim for asylum in April 2016 on the basis that the Iranian authorities had targeted him as a supporter of a KDPI opposition group that had been distributing leaflets. The appellant said he and his cousin [A] had been distributing leaflets on behalf of the KDPI, that [A] had been arrested and had given the appellant's name to the authorities and that as a result his (the appellant's) house had been raided. The application he made for asylum

was refused by the respondent on 22 September 2016. His appeal came before Judge Cope of the First-tier Tribunal (FtT). The judge appears to have accepted that the appellant was of Kurdish ethnicity and that he has been involved in some activities in the UK linked to the KDPI, including attendance at a demonstration in London in December 2016, a seminar in Sheffield in January 2017, and other meetings in Sheffield. However, the judge did not find that the appellant had given a credible account of suffering adverse experiences in Iran or that he had a Facebook account.

2. The grounds of appeal first of all challenge the judge's adverse credibility findings. Having considered the competing arguments I conclude that this ground is made out. The first reason is that the judge accepted that the appellant's account was both internally and externally consistent and that the "extent of the consistency is considerable" (paragraph 27). Second, the reasons why the judge nevertheless concluded the appellant was not credible lack sufficient cogency to explain why they outweighed the considerable consistency. In particular, the judge's reliance on an apparent implausibility in the appellant's account regarding his cousin's involvement with the KDPI is difficult to follow. At paragraph 30 the judge states that he finds it surprising that the appellant seemed not to have been aware of [A]'s support for the KDPI until mid-2015 when he and his cousin were about or over 21 years old. At paragraph 31 the judge finds it implausible that the appellant would "suddenly" be asked by [A] to help him. Yet there was no specific evidence suggesting [A] had been a supporter of KDPI for any length of time. Other reasons given by the judge at paragraphs 33-39 may be considered to have some force but not sufficient to outweigh the accepted considerable consistencies in the appellant's account.
3. I am not entitled to interfere with a judge's findings of fact unless vitiated by errors of law, but here the judge's findings do not satisfactorily explain why perceived difficulties as to implausibility outweighed considerable consistency. Of course, consistency is only one of the indicators decision-makers need to look at (see **KH [2017] UKUT 491 (IAC)**), but in the same decision the point is made that undue reliance on plausibility is problematic.
4. In light of the unsafe nature of the judge's adverse credibility findings in relation to the appellant's claimed experiences in Iran, I also have concerns about the judge's treatment of the appellant's sur place claim in that the judge was not even prepared to accept that he had a Facebook account, even though there was print-out evidence that appeared to go a considerable way to establishing at least that he had such an account. Further, the judge's treatment of the evidence submitted by the appellant regarding the KDPI website photographs is curiously worded. At paragraph 63 the judge stated:

"63. However it is not possible for me to go beyond this very generalised description of the printouts. This is because no translation has been provided for the non-English wording; and I

do not consider that the photographs (apart from any showing the Appellant himself) speak for themselves in the sense of being supportive of the KDPI or against the Iranian government”.

Given that the photos did include at least one appearing to feature the appellant himself attending a demonstration, it is not clear why it was not considered as evidence that the appellant supported the KDPI. Mr Diwnycz pointed out that this photo was blurred, but this is not a point on which the judge sought to rely.

5. For the above reasons I conclude that the judge materially erred in law. I see no alternative to the decision being set aside and remitted to the FtT (not before Judge Cope). No findings of fact can be preserved.

6. To summarise:

The decision of the FtT Judge is set aside for material error of law.

The case is remitted to the FtT to be heard de novo (not before Judge Cope).

7. The appellant may wish to consider submitting more specific evidence to show he had/has a Facebook account and that the photo of him as it appears in the KDPI website is not in fact blurry.

Signed:

Date: 3 April 2018



Dr H H Storey  
Judge of the Upper Tribunal