



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: PA/04274/2016

THE IMMIGRATION ACTS

**Heard at Manchester Piccadilly
On 28 June 2017**

**Decision & Reasons Promulgated
On 7 July 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE BIRRELL

Between

KARWAN AMINI

(ANONYMITY DIRECTION NOT MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Sachdev of Bury Law Centre

For the Respondent: Mr G Harrison Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having considered all the circumstances and evidence I do not consider it necessary to make an anonymity direction.
2. The Appellant was born on 23 September 1995 and is a national of Iran.

3. In order to avoid confusion, the parties are referred to as they were in the First-tier Tribunal.
4. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Gladstone promulgated on 27 October 2016 which dismissed the Appellant's appeal against the decision of the Respondent dated 16 April 2016 to refuse the Appellants protection claim made on 20 November 2015.
5. The refusal letter gave a number of reasons which were in essence that it was not accepted that the Appellant had engaged in activities on behalf of the KDP or that he was of interest to Etalaat.

The Judge's Decision

6. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge Gladstone ("the Judge") dismissed the appeal on all grounds.
7. Grounds of appeal were lodged arguing: that the Judge failed to have regard to the material evidence before her; failed to give adequate reasons for her findings and there was procedural unfairness in failing to identify an issue that required clarification.
8. On 23 November 2016 First-tier Tribunal Judge Baker refused permission to appeal. The application was renewed and on 27 January 2017 Upper Tribunal Judge Pitt gave permission.
9. At the hearing I heard submissions from Ms Sachdev on behalf of the Appellant that :
 - (a) She relied on the grounds of appeal and the grant of permission.
 - (b) In relation to the first ground she argued that the Judge should have taken into account the totality of the background material and recognised that the names KDP and KDPI were 'easily mistakable.'
 - (c) The Appellants answers showed that he was aware of the history of the KDP and that there had been a split in the party and the Judge failed to recognise this.
 - (d) Contrary to the Judges finding the Appellant had demonstrated considerable knowledge of the KDP.
 - (e) In finding that the suggestion that RA's family may have reported him was incredible the Judge ignores the fact that the Appellant himself considered this unlikely.

- (f) In finding that it was incredible the security forces did not find him when he hid at his sister's house this fails to engage with the background material that the Iranian security forces are not fully effective or perfect.
- (g) In assessing the Appellants sur place activities the Judge failed to consider whether showed that he was anti regime given the Iranian Governments lack of tolerance for any Kurdish activities.
- (h) Ground 2 argued that the Judge failed to make adequate findings at paragraph 100-101 to justify her conclusion that if RA had been arrested he would have named HK rather than the Appellant as there was no evidence that RA and HK knew each other and the Appellant would not know if HK had been named.
- (i) In relation to Ground 3 having identified 6 issues that required clarification at the start of the proceedings it was procedurally unfair to make an adverse finding in relation to how the Appellant knew that RA had been executed after he left Iran.

10. On behalf of the Respondent Mr Harrison submitted that :

- (a) He relied on the Rule 24 notice.
- (b) The conclusions reached by the Judge were open to her on the evidence.
- (c) She was entitled to conclude that there was confusion in the Appellants claim in respect of who he supported.
- (d) This was simply a disagreement with an outcome adverse to the Appellant.

The Law

11. Errors of legislative interpretation, failure to follow binding authority or to distinguish it with adequate reasons, ignoring material considerations by taking into account immaterial considerations, reaching irrational conclusions on facts or evaluation or giving legally inadequate reasons for the decision and procedural unfairness, constitute errors of law.

12. It is not an arguable error of law for an Immigration Judge to give too little weight or too much weight to a factor, unless irrationality is alleged. Nor is it an error of law for an Immigration Judge to fail to deal with every factual issue under argument. Disagreement with an Immigrations Judge's factual conclusions, his appraisal of the evidence or assessment of credibility, or his evaluation of risk does not give rise to an error of law. Unless an Immigration Judge's assessment of proportionality is arguable as being completely wrong, there is no error of law, nor is it an error of law for an Immigration Judge not to have regard to evidence

of events arising after his decision or for him to have taken no account of evidence that was not before him. Rationality is a very high threshold and a conclusion is not irrational just because some alternative explanation has been rejected or can be said to be possible. Nor is it necessary to consider every possible alternative inference consistent with truthfulness because an Immigration judge concludes that the story told is untrue. If a point of evidence of significance has been ignored or misunderstood, that is a failure to take into account a material consideration.

13. In relation to adequacy of reasons in MK (duty to give reasons) Pakistan [2013] UKUT 00641 (IAC), it was held that (i) It was axiomatic that a determination disclosed clearly the reasons for a tribunal's decision. (ii) If a tribunal found oral evidence to be implausible, incredible or unreliable or a document to be worth no weight whatsoever, it was necessary to say so in the determination and for such findings to be supported by reasons. A bare statement that a witness was not believed or that a document was afforded no weight was unlikely to satisfy the requirement to give reasons.

Finding on Material Error

14. Having heard those submissions I reached the conclusion that the Tribunal made no material errors of law.
15. It is a trite observation that a judge need not address in detail every single argument advanced before her, nor consider in isolation every single piece of evidence. She must weigh all of the evidence before her, and give clear reasons for her conclusions such that the parties, and in particular the losing party, can understand the reasons for her decision.
16. In what is an extremely detailed decision the Judge set out the case as advanced by the Appellant at every stage of the proceedings though his screening interview (paragraphs 14-17, Statement of 27.1.16 (paragraphs 18-21) asylum interview (paragraphs 22-37) and statement of 4.2.16 (paragraphs 38-41), his rebuttal statement of 5.10.16(paragraphs 49-57) together with the oral evidence given in the proceedings (paragraphs 65-84)
17. The Judge made a number of findings in respect of the Appellants claim supported by detailed, well-reasoned explanations for her conclusions and it is clear that none of those reasons were determinative of her decision and that she

took all of them into account in the round before reaching her conclusion. The challenged findings are therefore among a number of findings that she made.

18. The Judge specifically addresses at 92-99 the challenge that the Appellants claim was undermined by the fact that it is recorded that he supported the KDP1 in the screening interview and initially in the WS of 27.1.16 but the KDP in the AI and his lack of knowledge of the KDP. Any suggestion that the Judge did not appreciate that there were two different parties with an intertwined history is unsustainable from any fair reading of the whole decision. The Judge was therefore entitled to note and give weight to the fact that at two places in the SI he referred to his support for the KDPI and to take into account that his witness statement of 27.1.2016 referred to him being 'a supporter of the KDPI (and the I was crossed out and initialled to read KDP) but this was not recorded in the record.' She was entitled to conclude that this was an odd way of clarifying the issue.
19. The Judge was also entitled to take into account that the knowledge he displayed related more to the KDPI and its historic leadership rather than the current KDP leadership and in general terms why he would give when asked information that was more relevant to the party he did not support rather than the one he did. She was also entitled to question why the Appellant and other members of the KDP spray painted slogans attributed to the leadership of the KDPI. She found at paragraph 98 that there was a lack of clarity in the evidence as to who the Appellant supported and I am satisfied that she reached this conclusion based on a clear understanding of the background material.
20. The Judge was also entitled to find at paragraph 96 on the basis of the Appellants evidence that he was paid to help the party rather than being a supporter.
21. In relation to the findings made at paragraphs 100-101 given that the Appellant lived in a village rather than a town or a city I am satisfied that it was open to the Judge at paragraph 100 to conclude that given the Appellant knew RA and HK and all were members of and working clandestinely for the KDP it was reasonably likely that they would know each other. The findings made at 101 were explained based on the oral and written evidence and well reasoned.

22. In relation to the argument that there was procedural unfairness I am satisfied that the Judge in an effort to narrow the issues identified 6 matters which on a preliminary view required additional clarification as part of her assessment of the case but this did not preclude her from making an adverse finding in relation to other issues particularly given that it was one of a number of findings she made.

23. I remind myself of what was said in Shizad (sufficiency of reasons: set aside) Afghanistan [2013] UKUT 85 (IAC) about the requirement for sufficient reasons to be given in a decision in headnote (1) : *“Although there is a legal duty to give a brief explanation of the conclusions on the central issue on which an appeal is determined, those reasons need not be extensive if the decision as a whole makes sense, having regard to the material accepted by the judge.”*

CONCLUSION

24. I therefore found that no errors of law have been established and that the Judge’s determination should stand.

DECISION

25. The appeal is dismissed.

Signed

Date 5.7.2017

Deputy Upper Tribunal Judge Birrell