



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

Appeal Number: PA/02891/2019

**THE IMMIGRATION ACTS**

**Heard at Manchester Civil Justice  
Centre  
On 6<sup>th</sup> August 2019**

**Decision & Reasons Promulgated  
On 22<sup>nd</sup> August 2019**

**Before**

**Upper Tribunal Judge Chalkley**

**Between**

**M S G  
(ANONYMITY DIRECTION MADE)**

**and**

Appellant

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

Respondent

**Representation:**

*For the Appellant: Ms Bashow, Counsel instructed by Broudie Jackson & Canter*

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

**DECISION AND REASONS**

1. The appellant is female and was born on 25<sup>th</sup> December 1997. She is a citizen of Iran. The respondent issued to the appellant a Notice of Refusal of Leave to Enter, after refusing an asylum claim. This contained removal directions for the appellant's removal to Iran. The appellant appealed the decision to the First-tier Tribunal. Her appeal was heard by First-tier Tribunal Judge Herwald in Manchester on 30<sup>th</sup> April, 2019.

2. The appellant originally arrived in the United Kingdom at the end of November 2010 for the purpose of studying for a Master's in Business Administration at Sheffield University, until 2013. She then returned to Iran in 2014. She claims that on her return she was arrested at the airport, taken to a separate room for questioning and questioned by one man who was a different person to the one who took her into the room and asked about everything in her life; why she had chosen the particular university; why she had chosen to come to the United Kingdom; why she had chosen that degree and asked her about her parents, what they did and where they worked. She described the questioning as aggressive and detailed. However, after some twenty minutes she was released.
3. The appellant then applied to study for a PhD at Lincoln University in "Responsible Management". The degree was funded by the university and involved working with an organisation called PRME, a UN supporting initiative. The appellant returned to Iran in 2016, on a two week family visit and on this occasion when she returned to Iran she faced no difficulties.
4. It was the appellant's claim that during her course of study for her PhD she received e-mails from the Ministry of Science and Education questioning her about the betterment of the country (presumably as a result of her studies). She never replied to them. She deleted them and could not produce any in evidence.
5. The appellant returned to Iran again in November 2017. At some stage before the end of 2016, the appellant's leave was curtailed by the Secretary of State, because the university had written to the Secretary of State advising that the appellant had not been attending her studies. In November 2017, she went back to Iran having made applications for permission to remain in the United Kingdom but then having withdrawn them. She returned to Iran in November 2017, because she had a problem with her eye. She claims that at the airport she was stopped by the authorities and asked similar questions to the questions she was asked previously. Some of the questions focussed on her research. She said she felt more intimidated because she had started on a new project funded by a British university. Again, she said that the questioning lasted about twenty minutes. She said she was convinced that she was being watched because of her activities outside Iran.
6. At the beginning of August 2018, the appellant joined what she described as being an eco-tourism project in Iran. She was to work as a freelancer consultant. She had planned some expeditions to undertake field studies, but claims that she had to leave Iran before she could start work on the project. On or about 7<sup>th</sup> December 2018, she claims to have received a handwritten letter delivered to her parents' home. Her parents were handed a letter, the appellant thought, by somebody from the Revolutionary Guards. It appears that before the First Tier Tribunal Judge she conceded that she did not actually know who had delivered the letter,

but two cars had come to the house and one man was in plain clothes and the other was in a military uniform, according to her parents.

7. Her parents told her that she was required to report to an Office on 13<sup>th</sup> December, 2018, but she never returned to her parents' house and left her laptop at home. She bought a ticket from Iran to England and left the country using her own passport. She asked her parents to send the letter, which she thought was from the Revolutionary Guards and they said they posted it, but it had gone to a previous address in London. They did not keep a copy and she was not able to produce a copy. The appellant claimed that on 13<sup>th</sup> December 2018 authorities visited her home, removed her laptop and her father for questioning. He was released almost immediately and as far as the appellant was aware there were no further visits to her home.
8. The judge dismissed the appeal and in doing so made findings after having examined background material. One of the challenges to his determination was that whilst he has considered the background material, he has ignored relevant country evidence which suggests that the situation in Iran for academics returning from abroad, and particularly in places like Britain, has worsened in recent years. The judge noted that evidence of persecution against academics, and in particular foreign academics, goes back as far as 2007/2008. Indeed, several of the background articles included within the country bundle date from that time. The appellant had, however, used her own passport and passed through normal channels in 2014 and claimed to have been questioned for around twenty minutes, but was then released.
9. The judge noted that after the end of that visit she used her own passport again to pass through the airport and return to the United Kingdom without any difficulties. He noted that she had no problems in Iran because of any studies in the United Kingdom or elsewhere, between her return to Iran in November, 2017 and more than a year later when she claims the authorities delivered a letter to her requiring her to go and report. She confirmed she had no idea why the authorities would wait from 2014 until 2018.
10. The appellant was, however, asked to explain on oath why she made an application for leave to remain which was made in the United Kingdom and then withdraw it, and she gave what he describes as being, "*a convoluted and unsatisfactory response*". He did not accept that she did not know anything about asylum.
11. The judge recorded that there was no evidence to support the appellant's claims. The e-mails she claimed to have received she claims that she deleted and there was no apparent ability to reconstitute them. She had no confirmation of any offer of employment in Iran and no evidence of further visits by the authorities to her home since December, 2018. There was no suggestion that the appellant exiled Iran illegally. However, at one

report in the appellant's bundle an Australian academic was contained "as she was leaving Iran". The judge believed that if the appellant was truly wanted by the authorities she would not have been able to leave Iran using her own passport and he was not satisfied that the appellant was in any difficulty as a result of her imputed political opinion or otherwise and he dismissed the appeal.

12. As I indicated, the first ground on which leave was granted suggested that the judge ignored relevant country information that showed the situation in Iran had worsened. Counsel suggested that the judge had only looked at some of the evidence and not assessed the claim properly in the context of background evidence, which she urged me to note, showed that in recent times the authorities have become more concerned with those people who are academics who have studied abroad. So that, were the appellant to return to Iran today, the authorities would be keenly interested in her as someone who had studied abroad and who they perceive might be a spy for Western Governments or agencies
13. So far as the second challenge is concerned, Counsel said that this showed that the judge has ignored the alternative case that the appellant is at risk on return because of her profile as an academic with links to UK institutions. Although the judge did not accept her account of why she fled in December 2018, she would still, Counsel submitted, be at risk because of her profile as an academic in the light of the crackdown against academics and others in Iran with links to UK institutions. At paragraph 14(k) of the determination the judge says that there was no suggestion that the appellant exited Iran illegally, but he did not go on to consider the risk on return because of her profile as an academic person with links to UK institutions.
14. Mr McVeety suggested that the judge had not failed to deal with the hypothetical risk to the appellant on her return as a result of her being an academic studying at a UK institution and her being funded by a British university with links with an organisation under a UN scheme. On the judge's finding, in 2017 and again in 2018, after some deterioration in the situation in Iran and after an alleged visit by the authorities, the appellant actually left Iran legally using her own passport. There was no evidence anywhere that she was stopped and questioned by the authorities, or indeed that she was of any interest to the authorities. The appellant claims that academics are at risk, but her claim to have connections with academia is disingenuous, because she has not actually studied in the United Kingdom since December 2016, when, for whatever reason, she decided not to continue her studies at Lincoln University. It was following the university writing to the Secretary of State that her leave was curtailed by the Secretary of State. She has not been studying for a PhD between 2016 and when she left in 2017 and she has not studied since she returned to the United Kingdom in 2018. Her last period of study ended more three years ago when, for whatever reason, she gave up her studies.

15. The appellant was originally granted leave to study for a PhD at Lincoln University in December, 2014 and the authorities, according to her, would have been aware of this during the two interviews that she had had with them. The judge found that the appellant had actually created a profile, suggesting that she would be at risk because the authorities have an interest in Iranians and people with dual nationality who have studied abroad, who might be spies on behalf of the West. If the appellant was remotely considered to be connected to any organisation in the West, anxious to obtain intelligence on what was going on in Iran, she would not have been able to leave on her own passport. She was not then, an academic, and had not been for two years.
16. Counsel reminded me that the appellant had actually received the letter calling for her to attend on 9<sup>th</sup> December but only left on the 11<sup>th</sup>. It is quite possible that she was wanted by the Iranian authorities and nonetheless was able to use her own passport to leave the country. As of April 2019, the Iranian authorities would have seen the appellant to have been a student, because she obtained her Master's degree in 2013 and received funds from Lincoln University.
17. I reserved my determination.
18. There is in the appellant's bundle a considerable amount of background evidence relating to the attitude of the Iranian authorities to those it would seem as might be working for foreign Governments as spies in Iran, but this is not a new phenomenon and I believe in quoting from the background evidence as he did, the judge was well-aware of this. In 2007 Radio Free Europe carried a report that Iran warns students against US contacts. Students currently "*studying in universities under the guise of being students and have contact with foreigners and White House statesmen*" would be confronted the report said.
19. There was a report also of 2018 of an Iranian academic being detained on espionage charges. This particular lady has dual nationality. There was a Guardian report of 2007 which said that the Intelligence Ministry had told "*the country's academics they will be suspected of spying if they obtain contact with foreign institutions or travel abroad to international conferences*". There is of course more up-to-date background information in the bundle and it may well be that there are more reported cases than there were previously, but certainly the background information suggests that the risk to academics has been very real and very live since 2007, if not before. The judge was aware of this, as of course the appellant must have been.
20. I do not believe that the judge has erred in the way suggested by Counsel. I agree with Mr McVeety. The appellant appears to have created a profile which she says means that she will be at risk from the authorities on her return, but it is quite clear as the judge pointed out that she has been able to come and go between the United Kingdom and Iran without any particular difficulty apart from the inconvenience of two twenty minute

interviews. It is also clear from the determination that the First Tier Tribunal Judge considered the background material before making his findings of fact. The fact that he has not quoted from all of it is, with respect, not an error of law. It has, according to the material be dangerous for academics to travel abroad if they are perceived to come into contacts with foreign politicians or agencies. There is more of the recent material in the bundle than there is of the material going back to 2007, but there clearly has always been a risk.

21. I do not believe that the appellant would be perceived to be an academic and neither did the judge. She has not undertaken any academic study since 2016 and if she was questioned so extensively, as she claims, in 2017, she would have explained that she had completed her studies and abandoned her PhD. The appellant simply does not have the profile as an academic with links to the United Kingdom institutions. She is a failed PhD student, and was a failed PhD student when she returned in 2017, if not when she actually returned home to Iran in 2016, and if questioned on her return to Iran will be able to also say that her academic study ceased in 2016 and that since that time she has been attempting to obtain leave to remain in the United Kingdom, initially in 2017 and more recently since her arrival in December.

### **Notice of Decision**

22. I have concluded that the determination of First-tier Tribunal Judge Herwald does **not contain any material errors of law** and **I uphold the determination**. The appellant's appeals are **dismissed**.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

***Richard Chalkley***  
**Upper Tribunal Judge Chalkley**

**Date:** 16 August 2019

**TO THE RESPONDENT**  
**FEE AWARD**

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

***Richard Chalkley***  
**Upper Tribunal Judge Chalkley**

**Date:** 16 August 2019