



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2022-003826

First-tier Tribunal No: PA/55513/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 31 August 2023**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**DK**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms Sepulveda of Hanson Law, Solicitors.

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

**Heard at Birmingham Civil Justice Centre on 20 June 2023**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

1. In a determination written following a hearing at Birmingham CJC on 13 April 2023 the Upper Tribunal found a judge of the First-tier Tribunal had materially erred in law in allowing DK's appeal against refusal of his application for asylum and/or leave to remain in the UK on any other basis.
2. The findings of the First-tier Tribunal relating to the lack of credibility in DK's claim and the finding at [23] in relation to lack of evidence of DK joining any political groups in Iran or the UK are preserved findings.

3. DK is a citizen of Iran born on 17 July 1993 who arrived in the UK on 28 March 2019.
4. Notwithstanding a specific direction having been given for DK to file any further evidence on which he seeks to rely no later than 4 PM 25 May 2023 an additional bundle was received on the 16 June 2023. Mr Lawson was asked whether he had any objection to this evidence being admitted late. He confirmed he did not.
5. The appellant claimed before the First-tier Tribunal that the authorities in Iran were interested in him because he and his father had driven three or four KDP men to Sardasht. The appellant claimed that following this, on returning home on the afternoon of the next day, his sister came to the family farm telling them his father had been arrested and the authorities were looking for him. The appellant claimed he went to the mountains to hide until an uncle found him and arranged for him to be taken out of the country. In relation to the core account the First-tier Tribunal Judge wrote:

17. I do not find it credible that the Iranian authorities would be unaware of the farm on which the Appellant were working and, if there were serious about finding the Appellant they would have searched there. Further, I am satisfied that they would have left one of their number on guard who would have been able to follow the Appellant's sister to where she went. In addition, if they were looking for the Appellant I am satisfied there is a reasonable likelihood they would have found him hiding in the mountains. The evidence of the Appellant is that his uncle was able to do so.

18. I also do not find it credible the Appellant has been in contact with no one in Iran since his arrival in the United Kingdom. The journey here will have been costly and I am satisfied that it is a reasonable likelihood that the Appellant has been in touch if only to assure his family that he has arrived here safely.

19. Accordingly, I do not find the Appellant credible in his claims.

...

23. Whether the Appellant's anti-government views are truly held is only for him to say. I note his own evidence that he had no interest in politics in Iran. I have nothing before me to show that he has joined any groups in the UK which are against the Iranian regime.

6. In his witness statement dated the 25 May 2023 the appellant repeats his comments upon the findings in the reasons for refusal letter and comments in support of this original claim which do not undermine the preserved findings.
7. In answer to questions put to him in cross examination the appellant confirmed he had not been involved in politics in Iran. When asked why, if this was so, he had suddenly become involved in demonstrations outside Iran the appellant claimed that he took part to put his views as it was different outside to what you could do in Iran. The appellant claimed that he has his own views that he could not express in Iran and that he could not be involved in politics against the regime as this was not permitted. He stated that as a Kurd he had no rights and that his father kept him away from politics.
8. The appellant was asked why he needed an interpreter for the hearing as the entries on his social media had been written in English. He stated that they had been written for him as his English was limited. When asked if his English was limited how he knew what was being written on his behalf the appellant claimed he was depending on an Iranian person and that he tried to make sure that what he wanted had been put.

9. The appellant was asked why if he was returned to Iran he could not delete his Facebook account prior to leaving the UK. The appellant claimed even if that happened he will be oppressed, as in Iran he would not be able to share his views and in any event it was reported that he was at a demonstration UK, and so there was no basis for deleting the account and that he had sent the evidence of this fact.
10. The appellant was asked whether the photograph he was referring to is that of him outside the Iranian Embassy. The appellant stated it was and that although he had stood outside the Embassy at demonstrations there were more people there and that he was interviewed by Iranian TV. The appellant stated he wanted to inspire Iranian people and that his attendance had been broadcast.
11. When asked if the interview had been broadcast in Iran or in the UK the appellant claimed it was in the UK. He claimed he was interviewed by an Iranian channel that operates in the UK and that he has a video on his phone although the same but not been provided. I do however accept that stills showing the appellant being interviewed have been provided.
12. The appellant claimed there were about 5000 people at his demonstration and when asked how the authorities would identify him in such a group he claimed it was because of the things he was doing and that it was very obvious he was there.
13. The appellant was asked when a named individual was at the demonstration and why he had had his photograph taken with him, to which the appellant asked who the named individual was. When it was pointed out to the appellant this was his witness the appellant claimed that the first time he met the individual was at the demonstration and that they attended together and that he was aware of the appellant's activities.
14. It was put to the appellant that the reason the photographs had been taken was to help his asylum claim which he claimed was not the purpose and that they were produced to show that he protested for the Iranian people and that no matter what he said no British people had been oppressed.
15. The appellant's witness, [P] claimed to have known the appellant from a restaurant in Birmingham and that he met him on March 2020 before the COVID-19 lockdown. At [3] of the witness statement dated 15 June 2023 it is written:
  3. I confirm that I am a witness to DK to confirm that he has attended demonstrations in the UK, I have been with him 5 times. I can also confirm that I see how active DK is in his stance for being critical against the Iraqi and Kurdish authorities. He shouts, holds up banners, placards, and volunteers his services through providing security and safety and cleaning the streets after the demonstration. DK has a good heart and cares about what he does, and the Kurdish cause. I also saw DK give leaflets out. The leaflets were about the awareness of what happened to Mahsa Amini.
16. It was put to P that his asylum claim based on a real risk concerning a relationship had been rejected, but that he had succeeded on the basis of his sur plas activities in the UK. The witness claimed he was not sure has he had not gone through all the significant parts. There was no re-examination of the witness.

### Discussion and analysis

17. The appellant has been found to lack credibility and to be a person who is willing to lie to the authorities in the UK in an attempt to secure a grant of international protection to allow him to remain and make use of the benefits associated with such status.

18. Do not find it is appropriate to put weight upon the evidence of P other than the confirmation of the appellants attendance at a demonstration which is corroborated by other evidence too. When this witness's name was pointed out to the appellant by Mr Lawson the appellant's initial reaction was to ask to this person is. I am not satisfied that either are telling the truth about the nature and extent of their contact. I also note that in his witness statement P refers to DK being critical of the Iraqi and Kurdish authorities when the appellant's claim is that he faces a real risk as a result of being critical of the Iranian authorities.
19. The main point in this appeal is, however, whether disingenuous or not, the appellant's activities create a real risk for him if returned to Iran.
20. Those activities including attendance at demonstrations, the interview with the Iranian television channel that broadcasts in the UK, and entries on his Facebook account.
21. The leading case on assessing risk concerning a Facebook account is XX (PJAK - sur place activities - Facebook) Iran CG [2022] UKUT 00023 (IAC). That decision confirmed that the cases of BA (Demonstrators in Britain - risk on return) Iran CG [2011] UKUT 36 (IAC); SSH and HR (illegal exit: failed asylum seeker) Iran CG [2016] UKUT 00308 (IAC); and HB (Kurds) Iran CG [2018] UKUT 00430 continue accurately to reflect the situation for returnees to Iran.
22. One issue that arises from the appellant's evidence is that there is a photograph, and he states a recording, of his conducting an interview with a journalist from Iran International. Evidence has also been provided of an Internet broadcast from this organisation.
23. There are screen-prints of posting on the website of Iran International, but they are not in English, do not appear to be accompanied by translations, and are therefore inadmissible.
24. There is a photograph of the appellant standing by the journalist from Iran International looking down at her microphone but there appears no interaction between these individuals in the photograph.
25. It is accepted the appellant has attended demonstrations, but I do not find he has established he has the type of profile that, in isolation, will create a real risk of him on return when considering the country guidance caselaw.
26. I accept that at one demonstration there is reference to Vahid Beheshti, an Iranian hunger striker who lives in the UK who is described as a British Iranian journalist and human rights activists, who went on hunger strike to put pressure on the UK government to designate Iran's Revolutionary Guard Core (IRGC) as a terrorist group.
27. The question in these cases is, as always, whether the appellants sur place activities, whether genuine or not, will have brought him to the adverse attention of the Iranian authorities such that there will be a real risk for him at the 'pinch point' referred to in the case law on return.
28. In this case the strongest indicator that the appellant will face a real risk is that it is highly likely he has come to the adverse attention of the authorities as a result of his interview with Iran International. There was insufficient from the Secretary of State to undermine the fact that this occurred.
29. The significance of this fact is that Iran International, described as an independent TV network based in the UK, in a BBC News article dated 18 February 2022, is reported to have had to suspend its operations in the UK because of threats made against its London based journalists. The network suspended its operations in the UK for what they described as a significant escalation in State backed threats from Iran. It is said those threats have grown to a point that it was felt no longer possible to protect the channels staff.
30. I accept that there is within the appellant's evidence screenshots of a reporter from Iran International reporting upon the demonstration attended by the

appellant. The date on the broadcast is given as 29<sup>th</sup> April. I accept the point made by Ms Sepulveda in her submissions that the appellant appears standing behind the reporter while she speaks into her microphone and that his face is clearly visible. I find that it is more likely than not that the Iranian authorities will be monitoring the output of Iran International and that they are likely to also pay particular interest to those who attend events that are broadcast on the television network.

31. The fact the appellant appears on one of these stills, facing the camera, in a full frontal view where his distinct identity is clearly shown, supports his claim that he will have come to the adverse attention of the Iranian authorities. It is also the case, that even though the appellant has not established that he is an organiser or a person with a similar profile that will, in isolation, place him at risk, it is known photographs are taken from the Iranian Embassy and that members of the Iranian security services infiltrate such meetings and demonstrations. They are likely to have recognised the fact that the appellant did appear to have some role other than merely attending at the demonstrations, as demonstrated by the fact he was wearing a high visibility jacket and, in one photo, appears to have an identity tag around his neck.
32. The risk in relation to Iranian returnees is always at the 'trigger point'. That is the point where they come into contact with the authorities at the point of return to Tehran. In addition to the above the appellant is an Iranian Kurd, returning from the United Kingdom, having protested against the regime on a number of fronts.
33. For the above reasons I find that it cannot be ruled out to the lower standard that the appellant will face a real risk on return to Iran sufficient to entitle him to a grant of international protection, on the basis of an adverse imputed political opinion based on his activities even if disingenuous, of a real risk of harm sufficient to amount at the very least to a breach of Article 3 ECHR. On that basis the appeal must succeed and is allowed.

**C J Hanson**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**31 July 2023**

