



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

Case No: UI-2023-003482  
First-tier Tribunal No: PA/50968/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

21<sup>st</sup> February 2024

**Before**

**THE HONOURABLE MRS JUSTICE THORNTON  
and  
UPPER TRIBUNAL JUDGE MANDALIA**

**Between**

**KA  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**REPRESENTATION**

For the Appellant: Ms V Easty, counsel instructed by Elder Rahimi Solicitors  
For the Respondent: Mr N Wain, Senior Home Officer Presenting Officer

**Heard at Field House on 28 November 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. The appellant is a national of Iran. He claims to have left Iran in March 2018. He arrived in the UK on 29 April 2019 and claimed asylum on 20 May 2019. His claim was refused by the respondent on 1 March 2022. The respondent accepts the appellant is a national of Iran and that he is of Kurdish ethnicity. However the respondent rejected the core of the appellant's claim and having also considered the appellant's claim regarding his *sur place* activities in the UK, concluded the appellant will not be at risk upon return to Iran.
2. The appellant's appeal against that decision was dismissed by First-tier Tribunal Judge Cohen for reasons set out in a decision dated 14 March 2023.
3. Judge Cohen found the appellant had not given a truthful account of events and he rejected the core of the appellant's account regarding the events that caused the appellant to flee Iran. He also rejected the appellant's claim that he cannot recall the telephone numbers for his family and that he is no longer in contact with them. Judge Cohen went on to address the appellant's *sur place* activities in the UK comprising of his profile on Facebook and his attendance at demonstrations in the UK outside the Iranian Embassy. Judge Cohen found that the appellant is not genuinely politically motivated, and that his posts on his social media account will not have come to the attention of the Iranian authorities. Having referred to the decisions of the Upper Tribunal in *HB (Kurds) Iran CG* [2018] UKUT 00430, and *XX (PJAK, sur place activities, Facebook) (CG)* [2022] UKUT 00023 (IAC) and the decision of the Supreme Court in *HJ (Iran) v SSHD* [2011] AC 596, Judge Cohen found, at [41] that the appellant will be of no interest whatsoever to the authorities on return to Iran. He found the appellant would not be known to the authorities and he has no political profile. He found the appellant does not face a well-founded fear of persecution on the basis of political activity upon return to Iran.
4. At paragraph [43], Judge Cohen said:

"I find that the appellant had no reason to leave Iran illegally and find that he did not so and as indicated left legally on his own passport and so will have no problem returning. However, even if he left the country illegally, having regard to appropriate case law he will at worst have to pay a fine and I do not find that the appellant will face ill-treatment upon return to Iran purely as a result of having illegally exited the country or as a failed asylum seeker of Kurdish origin."

## THE GROUNDS OF APPEAL

5. In summary, the appellant advances two grounds of appeal. First, he claims the judge's finding that the appellant is not genuinely politically motivated, is perverse. The appellant claims there was compelling evidence of the appellant being involved in a number of 'anti-regime' demonstrations outside the Iranian Embassy in London. The appellant

claims the judge failed to provide sustainable reasons for the finding that the appellant is not genuinely politically motivated. It is said the judge's analysis is 'disappointing', and the judge should have been aware of the significant deterioration in the human rights situation in Iran, particularly for Kurds. The appellant claims the judge based his adverse finding upon the lack of evidence to corroborate his claims. The judge's flawed analysis of the evidence and reasoning is said to undermine the finding that it is reasonable to expect the appellant to delete his Facebook account prior to his return to Iran.

6. Second, the appellant claims the judge's analysis of the evidence regarding the core of his claim is materially flawed. It is said that it is wholly understandable that the appellant was informed that the packages he was transporting contained Komala materials and the judge erred in finding that it is implausible that the appellant agreed to undertake the task of transporting the materials, given the risks involved. The appellant claims that contrary to the judge's finding at [32], the appellant's 'credibility is enhanced' by his claim that he did not tell his father about his activities. The appellant was well aware of the risks involved and the activities were 'secret'. The appellant claims that the reasons given and the discrepancies referred to by the judge at paragraphs [33] to [38] of the decision do not withstand scrutiny. Finally, the appellant claims the judge erroneously found, at [43], that the appellant left Iran on his own passport, when the respondent had already accepted the appellant had illegally exited Iran.
7. Permission to appeal was granted by Upper Tribunal Judge Linsley on 4 October 2023.
8. The respondent has filed a rule 24 response dated 23 October 2023.

## **THE HEARING BEFORE US**

### **SUBMISSIONS BY MS EASTY**

9. Ms Easty submits the appellant had provided a comprehensive witness statement dated 23 June 2022 in support of his appeal before the FtT. She submits the judge does not set out the appellant's evidence as set out in that statement in his decision. The judge simply recorded at paragraph [22] that the appellant relied on his statement and the evidence submitted in support of the appeal. She accepts the appellant does not claim in the grounds of appeal that the judge failed to have regard to the evidence set out in that statement.
10. Ms Easty addressed the second ground of appeal first since it concerns the Tribunal's assessment of the core of the appellant's claim. She submits that at paragraph [31] of the decision, it is not clear whether the judge accepted the appellant's account that he had smuggled goods across Iran/Iraq border notwithstanding the judge stating at paragraph [32], that he did not accept the appellant undertook the activities claimed.
11. The judge states, at [31], that the appellant's claim that his cousin not only disclosed that he was working for the Komala party but also advised

the appellant what the contents of packages were, and even showed him the contents on one occasion, is at odds with the appellant's claim that the Komala Party activities were secret. Ms Easty submits that is to ignore the appellant's evidence in paragraph [29] of his witness statement that he was close to his cousin and that his cousin trusted him.

12. Ms Easty submits the judge said he did not find it plausible that the appellant would have risked his life and liberty in smuggling activities, but in the final sentence in paragraph [31] the judge finds that the appellant's motivation for smuggling was economic rather than political. There is also no finding as to whether the judge accepts the appellant's cousin was working for the Komal Party.
13. Ms Easty submits that contrary to what the judge said at paragraph [32] of his decision, the appellant's claim that he did not tell his father about his activities serves to support the appellant's account rather than undermine it.
14. Ms Easty submits that in paragraphs [7] and [30] of the appellant's witness statement he explained that the Kurdish New Year (or Newroz) is marked as beginning on the evening of 1st Farvardin. Three days before Newroz, in the early evening when the appellant was working on some farmland, his cousin went to see him. The appellant had assumed that that his cousin was arrested that night while he was distributing the leaflets. The appellant's cousin had been arrested that night (*three days before Newroz*) or in the early hours of the following day, and there was therefore no discrepancy in the appellant's account. The events relied upon by the appellant occurred several years ago and Ms Easty submits that in reaching his decision, the judge failed to have regard to the passage of time.
15. Ms Easty submits the judge referred at [34] of the decision to the arrest and release of the appellant's father. The judge considered the appellant's claim to be at odds with the background material. At paragraph [35], the judge considered the appellant's account of when he discovered his father was released to be inconsistent. However in his witness statement, the appellant had explained that he did not know why the authorities released his father. In paragraph [33] of his witness statement the appellant had explained that he last spoke to his father while the appellant was in Turkey, and his father said that he had been questioned about the appellant and his involvement in the Komal Party, but he had maintained he knew nothing about that. The appellant explained his father is quite old and has a heart condition. He had explained that that may be why he was released.
16. As far as the appellant's *sur place* activities are concerned, Mrs Easty submits the appellant had provided evidence of his activities on his Facebook account. Ms Easty submits the evidence before the FtT was 'not ideal', but in paragraph [39] of his decision the judge failed to have regard to the appellant's own evidence. In his interview (Q.156) the appellant had explained that he set up his Facebook account because many Kurds have been killed because they are 'Kolber' or support a Kurdish party.

Throughout the years, the Kurds have been persecuted and the appellant explained he now had a chance to 'right' the wrongdoing towards Kurds. In his witness statement the appellant had explained that he used Facebook to try and trace his family and also to post material that is highly critical of the Iranian regime. Ms Easty accepts the wider data relating to the appellant's Facebook account such as information, including the appellant's locations of access to Facebook and full timeline of social media activities as referred to in *XX (PJAK, sur place activities, Facebook) (CG) [2022] UKUT 00023 (IAC)* were not before the FtT.

17. Finally, Ms Easty submits the Judge erred in finding that the appellant had no reason to leave Iran illegally, and that he did not so. The respondent had already accepted the appellant had exited Iran illegally. The appellant's profile on return will, Ms Easty submits, be of someone who is of Kurdish ethnicity, has had known involvement in smuggling, and is the cousin of an individual/family with connections to the Kolbar Party. Those factors, taken together with the appellant's illegal exit from Iran, are matters that establish that the authorities will have an interest in the appellant such that he will be at risk upon return.

#### **SUBMISSIONS BY MR WAIN**

18. In reply, Mr Wain submits that in considering the core of the appellant's claim regarding events in Iraq, the judge had regard to the evidence before the Tribunal. The judge identified several reasons for rejecting the appellant's account. It was open to the judge to conclude that the appellant's account that his cousin openly told the appellant that the packages related to the Komal Party and that on one occasion the appellant was shown that a package contained memory sticks, is at odds with the claim that the activities were secret. The appellant's cousin may have trusted the appellant, but the judge was entitled to have regard to the risks when reaching his decision. Mr Wain submits that when paragraph [31] is read as a whole, the judge considered the plausibility of the appellant's account by reference to the evidence before the Tribunal.
19. Mr Wain submits it is clear the judge rejected the appellant's account of events. If there were any doubt, at paragraph [32], the judge made it clear that he had rejected the appellant's account of the activities that he had claimed to have undertaken.
20. Mr Wain submits that at paragraph [33], the judge considered the appellant's account that was summarised at paragraph [4] of the decision. In his interview (*Q.94 and Q.96*) the appellant claimed his cousin was arrested "three days prior to Nawroz", and he maintained that his cousin had been arrested three days before the appellant left Iran. The appellant had claimed in his witness statement dated 18 June 2019 that the next day, two days before Newroz, he went to see his sister in Mariwan, and that is when he received the telephone calls in a which he claims he was told about the arrest of his father and cousin.
21. Mr Wain submits the judge had noted at paragraph [3] that the appellant's father worked as a gardener and did not undertake any political

activity. The Judge considered the appellant's claim that his father had been arrested where they had hidden the documentation and memory sticks in a farm that was 15 to 20 minutes walk from his house. The judge considered the appellant's claim regarding the arrest and release of his father by reference to the background material. The judge was entitled to find that the appellant's claim is totally at odds with the objective evidence which indicates that even low level political activity in support of Kurdish groups can lead to significant implications, detention and ill-treatment.

22. As to when the appellant was informed of the arrest of his father, Mr Wain submits that in paragraph [14] of his witness statement, the appellant claims that he was told by his neighbour when he was at his sister's house that his father had been arrested and his neighbour had seen the Etellaat take the appellant's father away. In his interview, the appellant was asked how long his father and cousin had been detained. The appellant said (Q.108 to Q.111) that when he was in Turkey he found out his father was released but nobody knew anything about the whereabouts of his cousin. That was approximately 5 - 6 days after the appellant had left Iran. He said, at Q.110; "When I was in Turkey I was told he had been arrested, but not how long he had been detained for.". The appellant went on to say that he did not speak to his father when he was in Turkey, but spoke to his mother. He claimed his father was at work. Mr Wain submits it was open to the judge to find at paragraph [35] of his decision that the appellant's claim as to when he found out about the arrest of his father was internally consistent and undermine his credibility.
23. Mr Wain submits the judge identified factors that undermine the core of the appellant's claim and that it was open to the judge to observe at paragraph [37] that there are further discrepancies in the evidence that do not need to be set out. He submits it was open to the judge to find that it is implausible that the appellant has lost contact with his family.
24. The judge, Mr Wain submits, considered the appellant's *sur place* activities by reference to the guidance set out in *XX (PJAK, sur place activities, Facebook) (CG)* and the judge noted at [39] that the appellant has submitted extracts from Facebook and limited photos showing him attending demonstration said to be outside the Iranian Embassy. The photographs taken of the appellant outside the Embassy are at pages 88 to 91 of the consolidated bundle before us. The majority of the Facebook posts relied upon by the appellant are untranslated. Mr Wain accepts that when the judge was considering the appellant's *sur place* activities, it is right that there is no requirement for corroboration. However, he refers to the decision of the Court of Appeal in *TK (Burundi) v SSHD* [2009] EWCA Civ 40 in which the Court noted there is a lower standard in asylum claims, but if there is no good reason why evidence that should be available is not produced, the judge is entitled to take that into account in the assessment of the credibility of the account.
25. Mr Wain refers to paragraph [95] of the decision of the Tribunal in *XX (PJAK, sur place activities, Facebook) (CG)*, and submits the FtT had regard to the level of the appellant's political involvement and the nature of his *sur place* activities, including his role at the demonstrations and his

political profile. Having considered the appellant's claim, Mr Wain submits it was open to the judge to find that the appellant is not genuinely politically motivated and the appellant can simply delete his account prior to returning to Iran. Mr Wain submits it was open to the judge to find that the appellant's previous postings will not have come to the attention of the authorities in Iran and that he will not have to suppress his political opinions in Iran because they are not genuinely held.

26. Mr Wain submits the finding at paragraph [42] of the decision that the appellant had no reason to leave Iran illegally, and that he did not do so, is immaterial. The judge had noted at paragraph [8], that the respondent had accepted the appellant illegally exited Iran. In paragraph [43], the judge went on to find that even if the appellant had left the country illegally, he will at worst have to pay a fine. The judge found the appellant will not face ill-treatment upon return to Iran purely as a result of having illegally exited the country or as a failed asylum seeker of Kurdish origin.
27. Mr Wain submits the appeal before the FtT was advanced on the basis that the appellant is of Kurdish ethnicity and someone with a political profile that would put him at risk upon return. The appellant's claims were rejected by the judge for reasons that are adequately set out in the decision.

## **DECISION**

28. We are grateful to Ms Easty and Mr Wain for their submissions at the hearing before us although we have not found it necessary to refer to each and every point they raised. Both Ms Easty and Mr Wain addressed ground 2 first since that ground concerns the judge's assessment of the core of the appellant's account of the events in Iran. We do the same.
29. Before addressing the two grounds of appeal, we record that under s11 Tribunals, Courts and Enforcement Act 2007, an appeal from the FtT only lies on points of law. In other words, it is only if there is an error of law that the Upper Tribunal is entitled to intervene. There are some most elementary propositions that we have borne in mind:
  - a. The core issue in this appeal was whether the appellant will be at risk upon return to Iran. In an international protection claim, this is an issue which faces judges of the specialist immigration tribunals on a daily basis, and appellate courts should not "rush to find misdirection" in their decision-making.
  - b. It is not necessary for a judge to deal expressly with every point, but a judge must say enough to show that care has been taken and that the evidence as a whole has been properly considered. *Budhatkoki* [2014] UKUT 00041 (IAC)
  - c. Adequate reasons mean no more nor less than that. It is not a counsel of perfection. Still less should it provide an opportunity to undertake a qualitative assessment of the reasons to see if they are wanting, perhaps even surprising, on their merits. The purpose of the duty to give reasons, is in part, to enable the losing party to

know why they have lost and to enable an appellate court or tribunal to see what the reasons for the decision are so that they can be examined in case there has been an error of approach. *MD (Turkey) v SSHD* [2017] EWCA Civ 1958

- d. The UT is not entitled to find an error of law simply because it does not agree with the decision, or because the Tribunal thinks the decision could be more clearly expressed or another judge can produce a better one. Baroness Hale put it in this way in *AH (Sudan) v SSHD* at [30]:

"Appellate courts should not rush to find such misdirection simply because they might have reached a different conclusion on the facts or expressed themselves differently."

## **GROUND 2**

30. The appellant's account of the events that caused his departure from Iran are accurately summarised at paragraphs [3] to [5] of the decision of the FtT. At paragraph [20] of his decision, the judge recorded that amongst the documentation submitted in support of the appeal is the appellant's witness statement in which he repeats the basis of his asylum claim, refutes the respondent's reasons for refusal of his claim and seeks to clarify or correct some of his responses in interview. At paragraph [22] of his decision the judge records that the appellant adopted his witness statement. The statement is a matter of record and the judge was not required to recite the evidence in his decision. Ms Easty accepts that it is not claimed in the grounds of appeal that the judge failed to have regard to that statement.
31. In an appeal such as the present, where the credibility of the appellant is in issue, a Tribunal Judge adopts a variety of different evaluative techniques to assess the evidence. The judge will for instance consider: (i) the consistency (or otherwise) of accounts given by the appellant at different points in time; (ii) the consistency (or otherwise) of an appellant's narrative case for asylum with his actual conduct at earlier stages and periods in time; (iii) the adequacy (or by contrast paucity) of evidence on relevant issues that, logically, the appellant should be able to adduce in order to support his or her case; and (iv), the overall plausibility of an appellant's account.
32. The appellant's grounds of appeal refer to the decision of the Court of Appeal in *Y -v- SSHD* [2006] EWCA Civ 1223. There, Keene LJ referred to the authorities and confirmed that a judge should be cautious before finding an account to be inherently incredible, because there is a considerable risk that they will be over influenced by their own views on what is or is not plausible, and those views will have inevitably been influenced by their own background in this country and by the customs and ways of our own society. However, he went on to say, at [26];

"None of this, however, means that an adjudicator is required to take at face value an account of facts proffered by an appellant, no matter how contrary



to common sense and experience of human behaviour the account may be...”

33. We reject the claim that the judge has failed to set out whether he accepted or rejected the appellant’s claim that he had smuggled goods across the Iran/Iraq border. At paragraph [31] the judge referred to the appellant’s claim that he was acting as a smuggler, transporting goods across the border such as televisions, satellite dishes and alcohol. The judge also referred to the appellant’s claim that he had been asked by his cousin to take a package across the border for him and that when asked, his cousin indicated that it was for the Komala Party. At paragraph [31], the judge outlines his concerns about the appellant’s account:
- a. On the one hand the appellant claims that all activities on behalf of the Komala Party were necessarily secret, and yet his cousin openly told him that the packages that the appellant was asked to take across the border related to that party. The appellant was told that the packages contained memory sticks and some documents and on one occasion, the appellant was shown the contents of a package that contained memory sticks.
  - b. The appellant would have been aware that if he was found in possession of leaflets relating to the Komala Party with propaganda and information contained on memory sticks by the Iranian authorities, it would have had catastrophic implications for him.
  - c. It is not plausible that the appellant would have risked his life and liberty in smuggling political material based upon his limited political knowledge and his immediate family’s lack of political involvement.
  - d. The appellant’s motivation for smuggling was economic rather than political and he would not want to jeopardise his position and livelihood by undertaking such a risky endeavour.
34. The judge was entitled to have regard to the appellant’s account that he had acted as a smuggler, transporting goods across the border such as televisions, satellite dishes and alcohol. The judge found that appellant’s motivation for those activities was economic. At paragraph [31] of his decision the judge was addressing the appellant’s claim that he had become involved, through his cousin, in taking packages across the border for the Komala Party. No express finding was required as to whether the appellant’s cousin was working for the Komala Party. The focus was upon the account of events relied upon by the appellant. The judge said at [31]; *“I disbelieve the appellant’s claim”*. If there were any doubt, at paragraph [32], the judge states: *“..I do not accept that the appellant undertook these activities”*, citing yet another reason for rejecting the appellant’s claim. That is, that the fact the appellant did not tell his father of his activities is indicative of the appellant being aware of the severe implications for him. That was an interpretation of the evidence and reason open to the judge. The fact that the appellant claims his cousin ‘trusted him’ does not undermine the findings made by the judge and the reasons given by him for rejecting the appellant’s account. The judge was

entitled to have regard to the fact that the appellant would not want to jeopardise his position and livelihood as a smuggler by undertaking such a risky endeavour.

35. At paragraph [33] of his decision, the judge referred to the internal inconsistency in the appellant's account of when his cousin was arrested. The appellant was quite clear in his interview that his cousin was arrested three days prior to Newroz. In his witness statement the appellant was equally clear that it was two days before Newroz, when he was in Mariwam, that he received two calls regarding the arrest of his cousin and father. The evidence of the appellant was at best, vague, and the explanation offered by the appellant that he had assumed that that his cousin was arrested three days before Newroz or in the early hours of the following day, is based on speculation. The judge was entitled to conclude that the appellant's account was internally inconsistent.
36. At paragraphs [34] to [35] of his decision the judge identified other internal difficulties with the appellant's account of events. His account was internally inconsistent and inconsistent with reliable background material. The appellant had given an inconsistent account of when he had learned of the arrest of his father. In his first witness statement, he claimed he was informed of the arrest of his father when he was visiting his sister in Mariwam. In his interview (*Q.110*), the appellant claimed that he was in Turkey when he was told his father had been arrested, but not how long he had been detained for. In his interview he had also claimed (*Q.111*) that he had not spoken with his father when he was in Turkey, whereas in his statement he had claimed that he had spoken to his parents and younger brother when he was in Turkey.
37. Although the appellant had explained that he did not know why the authorities released his father, the appellant's account of the release of his father within a matter of days was, the judge considered, totally at odds with the objective evidence that even low-level political activity in support of Kurdish groups leads to significant implications, detention, questioning and ill-treatment at the hands of the authorities and potentially lengthy detention and sentences.
38. At paragraph [37] of his decision, the judge said:

“In the light of the discrepancies in the appellant's evidence which I find go to the core of his claim, I find that the appellant has not given a truthful account and that he was not assisting his cousin with political activities or transporting political propaganda for Komala in around (*sic*) and that his father and cousin were not apprehended by the authorities and that the appellant was at no risk at the time that he left Iran and would be at no risk upon return on this basis. I find the appellant to be lacking in credibility.”
39. Standing back and reading the decision as a whole, it is clear that the judge considered the wide canvas of evidence before him regarding the core of the appellant's account of events and reached a decision that was open to him.

**GROUND 1**

40. At paragraph [39] the judge noted the appellant's claim to have undertaken political activities in the UK. Mr Wain accepts that when the judge was considering the appellant's *sur place* activities, it is right, as Ms Easty submits, that there is no requirement for corroboration. However, as Mr Wain submits, in *TK (Burundi)* the Court of Appeal confirmed that if there is no good reason why evidence that should be available is not produced, the judge is entitled to take that into account in the assessment of the credibility of the account. Here, the only evidence before the Tribunal regarding the appellant's *sur place* activities was the evidence of the appellant himself, photographs confirming his attendance at demonstrations outside the Iranian Embassy, and extracts from his Facebook account. At paragraph [39] the judge noted the absence of any evidence of membership of or support for a political party or organisation in the UK, or evidence supporting the appellant's political activities in the UK. The absence of such evidence is plainly a factor that a judge is entitled to have regard to when reaching a decision as to the individual's profile. The level of an individual's political involvement, nature of any *sur place* activity, the role they play at any demonstrations and their political profile are all relevant and ordinarily some evidence to support the appellant's claim will be available. The evidence relied upon by the appellant established nothing more than attendance at demonstrations and activity of his Facebook account. That in itself is insufficient to establish, even to the lower standard, that the appellant has a political profile that the authorities may have an interest in.
41. At paragraph [40], the judge properly directed himself that according to the country guidance set out in *HB (Kurds) Iran CG* [2018] UKUT 00430, even low-level political activity was considered to lead to a risk of persecution or article 3 ill-treatment by the authorities. The Iranian authorities have demonstrated what could be described as a "hair-trigger" response suspected or perceived to be involved in Kurdish political activities or support for Kurdish rights.
42. Here, beyond the photographs of the appellant attending demonstrations, the focus of the appellant's claim was upon his social media activity. In *XX (PJAK, sur place activities, Facebook) (CG)*, the Upper Tribunal provided some general guidance on social media evidence:
- "127. Social media evidence is often limited to production of printed photographs, without full disclosure in electronic format. Production of a small part of a Facebook or social media account, for example, photocopied photographs, may be of very limited evidential value in a protection claim, when such a wealth of wider information, including a person's locations of access to Facebook and full timeline of social media activities, readily available on the "Download Your Information" function of Facebook in a matter of moments, has not been disclosed.
128. It is easy for an apparent printout or electronic excerpt of an internet page to be manipulated by changing the page source data. For the same reason, where a decision maker does not have access to an actual account,

purported printouts from such an account may also have very limited evidential value.

43. As Ms Easty quite properly acknowledged, the appellant failed to disclose the relevant 'metadata' including his 'locations of access to Facebook' and 'full timeline of social media activities', which would be readily available. The extracts from the appellant's Facebook account do not in themselves assist the FtT with when the relevant articles were posted or whether the posts, likes, or shares, are permanently visible to the public. There was no evidence at all before the FtT to suggest that the Iranian authorities have seen the appellant's posts.
44. As the judge said at paragraph [41] of his decision, he has had regard to the guidance set out in *XX (PJAK, sur place activities, Facebook) (CG)*. In light of the other findings made by the judge, it was open to judge to find that the appellant is not genuinely politically motivated and that he can simply delete his Facebook account prior to returning to Iran. The judge found the appellant's 'posts' will not have come to the attention of the authorities in Iran. The judge had rejected the core of the appellant's account that he was of interest to the authorities in Iran prior to his departure and there was nothing in the evidence before the FtT of the appellant having any sort of political profile that would arouse the interest of the authorities in Iran.
45. As the appellant's *sur place* activities do not represent any genuinely held beliefs, the appellant would not be expected to lie when questioned. It was therefore open to the judge to find, at [41], that the deletion of the Facebook account will not therefore contravene the principles established and set out in *HJ (Iran) v SSHD* [2011] AC 596. It was in our judgement open to the judge to find that that the appellant will be of no interest whatsoever to the authorities on return to Iran. The findings that the appellant would not be known to the authorities and that he has no political profile were open to the judge on the evidence before the Tribunal.
46. Finally, Mr Wain accepts the respondent had accepted the appellant had exited Iran illegally. The judge found, at [43], that the appellant had no reason to leave Iran illegally, but that is immaterial to the outcome of the appeal. The judge quite properly noted that the relevant country guidance establishes that the appellant will at worst, have to pay a fine. That finding is not challenged by the appellant.

## **CONCLUSION**

47. The FtT judge had the benefit of hearing and seeing the appellant give evidence. It is now well established that it is necessary to guard against the temptation to characterise as errors of law what are in truth no more than disagreements about the weight to be given to different factors. It is our judgement clear that in reaching his decision, the judge considered all the evidence before the Tribunal in the round and reached findings and conclusions that were open to him on the evidence. A fact-sensitive analysis of the risk upon return was required. It was open to the judge to conclude that the appellant is not a witness of truth for the reasons set out

in his decision. It cannot be said that the judge's analysis of the evidence is irrational or perverse. The judge did not consider irrelevant factors, and the weight that he attached to the evidence either individually or cumulatively, was a matter for him.

48. We are satisfied that standing back, the judge's decision is a sufficiently reasoned decision that was open to him on the evidence before the Tribunal and the findings that he made.
49. It follows that we are satisfied that there is no material error of law in the decision of the FtT and we dismiss the appeal.

**NOTICE OF DECISION**

50. The appeal is dismissed. The decision of First-tier Tribunal Judge Cohen stands

**V. Mandalia**  
**Upper Tribunal Judge Mandalia**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**19 February 2024**