



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

Case No: UI-2024-002030  
FTT No: PA/54880/2023  
LR/00007/2024

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 31 July 2024**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JUSS**

**Between**

**HK**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr M Mohzam (Counsel)

For the Respondent: Mr N Wain (Senior Home Office Presenting Officer)

**Heard at Field House on 21<sup>st</sup> June 2024**

**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. This is an appeal against the determination of First-tier Tribunal Judge Sweet, promulgated on 14<sup>th</sup> March 2024, following a hearing at Hatton Cross on 8<sup>th</sup> March 2024. In the determination, the judge dismissed the appeal of the Appellant, whereupon the Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

### **The Appellant**

2. The Appellant is a male, a citizen of Iran, who was born on 1<sup>st</sup> September 1980. He appeals against the decision of the Respondent dated 24<sup>th</sup> July 2023, refusing his application for refugee status, humanitarian protection, and permission to remain in the UK on the basis of his family and private life.

### **The Appellant's Claim**

3. The essence of the Appellant's claim is that if he is returned to Iran he will be executed by the Iranian government, or sentenced to life imprisonment, for participating in demonstrations and acting contrary to the ruling regime in that country. The Appellant made his application on behalf of his spouse, whom he had married in August 2007, and their two children. They have been sent separate refusal letters.
4. The Respondent accepted that the Appellant had taken part in a demonstration on 17<sup>th</sup> May 2018, to stop the division of his city, known by the name of Kazeroon, and that he had left Iran illegally after that. The Appellant had claimed that a few days after the demonstration the authorities had come looking for him at his house, although there were thousands of people attending the demonstration. However, precisely for this reason the Respondent took the view that the Appellant would not have been identifiable as he claimed on account of his participation in a demonstration alone in the manner alleged. Moreover, his demonstration was not at a high level and so there would be no interest in him by the Iranian government. In fact, he remained in Iran for six months before leaving the country.

### **The Judge's Findings**

5. The judge observed how the Appellant had referred to two subpoenas. These had been officially translated. They were dated 9<sup>th</sup> May 2018. In the first subpoena the Appellant was summoned to appear on 15<sup>th</sup> May 2018. However, this was two days before the demonstration took place on 17<sup>th</sup> May 2018. The judge observed how, "the reason for the subpoena is described as participation in the illegal gatherings, for the conduct of initial investigation regarding the riot" (at paragraph 12). The Appellant's explanation was that he received these two documents from his brother, who sent them to him in the UK, although his wife had first received the documents and then passed them on to his brother, who had then sent them on in 2020. When asked why he had not provided these documents earlier when he was interviewed in August and September 2022 he did not have a satisfactory explanation (at paragraph 12).
6. Second, however, there remained the issue about the date of the subpoenas, being 9<sup>th</sup> May 2018, which was before the demonstration of 17<sup>th</sup> May 2018. Here the judge observed that, "the appellant did not give a reasonable explanation for this discrepancy, save to suggest the date of the subpoenas was incorrect", but the judge's view was that, "these documents have been officially translated, and

if there was an error in the dates of them, the onus is on the appellant to provide a reasonable explanation” (at paragraph 13).

7. Thirdly, there was the matter of the Appellant participating in Facebook entries, but the judge was concerned that the Appellant “did not explain why these entries were not mentioned in or after his asylum interviews”, and nor could he explain why they “could not be deleted on return to Iran, where he had not played any part in political activities” (paragraph 14). The judge was not satisfied that the Appellant’s claim was credible. The appeal was dismissed.

### **Grounds of Application**

8. The grounds of application state that the judge took exception to the fact that when the Appellant was interviewed on 10<sup>th</sup> August 2022 he had referred (in response to question 69) to the date of 27/02/1397 from the *Iranian* calendar. He had also referred (in response to question 70) to the subpoena being dated 9/3/1397, for an appearance in court on 14/03/1397, and these were once again references to the *Iranian* calendar. The Respondent had not been able to explain how the Home Office was able to calculate the date for the summons in the Iranian calendar as falling on 17<sup>th</sup> May 2018. The judge himself did not venture to enquire of the Respondent how such a calculation had been made. The inference here being that had the calculation been accurately worked out the judge would not have come to the conclusion that the Appellant in the first subpoena had been summoned to appear on a date which was two days before the demonstration.
9. Permission to appeal was granted on 7<sup>th</sup> May 2024 by the First-tier Tribunal, with the observation that, “there does appear to be anomalies in the date as the demonstration is said to have taken place on 27/2/1397 and the subpoena issued after that on 9/3/1397”, so that “it is at least arguable there was a mistake of material fact, albeit arising from a mistake in translation or date conversion” (at paragraph 2). Secondly, given that the judge had accepted that the Appellant attended a political demonstration in Iran and then left illegally thereafter, the judge ought to have enquired into whether the Appellant’s participation represented a genuine expression of political belief such that he could not be expected to delete or deny his participation in Facebook activities thereafter (see **HJ (Iran) [2010] EWCA Civ 172**).

### **Submissions**

10. At the hearing before me on 21<sup>st</sup> June 2024, Mr Mohzam, appearing on behalf of the Appellant, submitted that the Appellant was questioned during his asylum interview (at questions 69 to 70, at page 343 of the bundle), when he mentioned the year “1397”. This is the Iranian year. The judge did not bother to look at the Iranian date that the Appellant specified. The Appellant had been asked the question, “Can you tell me when the demonstration took place” (at question 69) and what the Appellant had done was to specify an Iranian date. It was not clear from this how the Respondent came to the conclusion that this was 17<sup>th</sup> May 2017 in the Gregorian calendar. The judge had focused only on the translated date and not on the original date as given by the Appellant during his asylum interview. Second, and in any event, it was accepted by the judge that the Appellant had attended a political demonstration. If this is so then there is every possibility that the Appellant had genuine political opinions and failed under the decision in **HJ (Iran) [2010] EWCA Civ 172**. This means that he is at risk. If he

is returned he would be put under the quandary of having to deny his political opinions which he would not be able to do.

11. For his part, Mr Wain submitted that the date of 17<sup>th</sup> May 2018 arises directly out of the Appellant's answer at question 69. The Appellant's own witness statement does not detract from that. The 15<sup>th</sup> May and 17<sup>th</sup> May 2018 are the two demonstration dates and the Appellant in terms confirms the date of 17<sup>th</sup> May 2018 in his witness statement. There had been plenty of opportunity for the Appellant to correct the record and to make it clear that this was not the correct date. He had not done so. The judge had properly considered the question and done so painstakingly. He had explained:

“There was also an issue as to the date of the subpoenas, 9 May 2018, which was *before* the demonstration of 17 May 2018. The appellant did not give a reasonable explanation for this discrepancy, save to suggest the date of the subpoenas was incorrect. However, these documents had been officially translated, and if there was an error in the dates of them, the onus is on the appellant to provide a reasonable explanation” (at paragraph 13).

12. Mr Wain submitted that it was plain that there was no such reasonable explanation forthcoming before the judge. It was not clear what else the judge was supposed to do if the translator had taken the Gregorian calendar when there was no evidence as to what the correct date should have been, and in circumstances where the Appellant had in his own witness statement included the Gregorian date of 17<sup>th</sup> May 2018. We still did not know what the Iranian calendar of 27/2/1397 should be translated into. Second, as far as the Appellant's political activity itself is concerned the judge had looked at the political profile of the Appellant and had concluded that the Appellant was a low level demonstrator, observing, “I do not accept that the appellant's own low-level activities place him at risk on return” (paragraph 17). It had to be remembered that the Appellant at the demonstration that allegedly took place on 17<sup>th</sup> May 2018 described the number of demonstrators as up to 4,000 demonstrators (at paragraph 15). It was not reasonable to assume from this that he would have been identified from this crowd.
13. In reply, Mr Mohzam submitted that the Appellant had always referred to the Iranian calendar and had specified the date of 27/2/1397 which would have been after the demonstration. The Appellant could not be blamed for not correcting the Iranian date of 1397 because he had simply been given the Gregorian date to rely upon. It was the judge's duty to look at all the evidence. When the judge (at paragraph 12) did put the discrepancy to the Appellant he answered by reference to the Iranian calendar of the year 1397.

### **No Error of Law**

14. I am satisfied that the making of the decision by the judge did not involve the making of an error on a point of law such that the decision should be set aside. My reasons are as follows. First, this is an appeal where it cannot be said that the judge has not considered the question before him. He has done so with meticulous attention. The discrepancies in relation to the dates were put to the Appellant and the judge observed, “the appellant did not give a reasonable explanation for this discrepancy, save to suggest the date of the subpoenas was incorrect” (paragraph 13). In any event, the Appellant himself in his witness statement confirms the dates in the Gregorian calendar. First, he states (at paragraph 18) that, “they arranged the demonstration to start on 16<sup>th</sup> May 2018”,

but that he was working on that day. He then states (at paragraph 19) that, “the second day, on the 17<sup>th</sup> May 2018, I came back in the city” and that “I knew that the demonstration was going to happen at midday ...”.

15. Second, and in any event, the demonstration was frequented by between 3,000 to 4,000 people and it is not conceivable that the Appellant would have been identified as a low level activist from this crowd.
16. Finally, as far as the Appellant’s political activities are concerned, the judge had made a clear finding that the Appellant’s involvement was that of a low level activist such that he would not be at risk.

### **Notice of Decision**

17. There is no material error of law in the original judge’s decision. The determination shall stand.

**30<sup>th</sup> July 2024**

Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**Satvinder S. Juss**