



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-002820
PA/55215/2021
IA/15754/2021

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 27 January 2025**

Before

**UPPER TRIBUNAL JUDGE BRUCE
DEPUTY UPPER TRIBUNAL JUDGE HUGHES**

Between

AM (IRAN)

Appellant

AND

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: -

For the Respondent: Mr A. McVeety, Senior Home Office Presenting Officer

Heard at Manchester Civil Justice Centre on 17 January 2025

Anonymity

Unless and until a tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him, any of his witnesses or any member of his family. This direction applies to, amongst others, both the Appellant and the Respondent. Failure to comply with this direction could lead to contempt of court proceedings

DECISION AND REASONS

1. The Ap
2. The Ap
 2020. The basis of his protection claim was that he had come to the adverse attention of the authorities in Iran, who believed him to be involved with the banned Kurdish group the KDPI.
3. Protect
4. The Ap
 came before First-tier Tribunal Judge Juss. By the date of that appeal there had been factual developments in the Appellant's case. He averred that he had continued to show his opposition to the Iranian authorities since his arrival in the United Kingdom. He had demonstrated these political views his Facebook page, and by attending protests outside the Iranian embassy in London.
5. Judge J
 the appeal.
6. The Ap
 was refused by First-tier Tribunal Judge Burnett on 22 July 2022. The Appellant renewed his application to the Upper Tribunal, and on 6 September 2022 Upper Tribunal Judge Norton-Taylor granted permission.
7. On 12 9
 accepted that Judge Juss had erred in law in his approach to the Appellant's *sur place* political activities in the UK. In particular he had failed to apply the relevant country guidance of XX (PJAK, sur place activities, Facebook) CG [2022] UKUT 00023. The Secretary of State agreed that the First-tier Tribunal had failed to make any proper findings on whether the political activity in the UK had been carried out, or whether it had been motivated by a genuinely held political belief.
8. In light
 hearing to determine whether the decision of the First-tier Tribunal should be set aside. Upper Tribunal Judge Lindsley consequently made an order on 12 December 2023 to the following effect:
 - i) Paragraph 13 of Judge Juss' decision is preserved. There the Tribunal rejected the Appellant's claim to be at risk in Iran of suspected involvement in the KDPI. Those findings were unchallenged in the grounds, and Judge Lindsley found no reason to interfere with them;
 - ii) The remainder of the decision, in particular the findings on the Appellant's *sur place* activities, is set aside for error of law;
 - iii) That the decision in the appeal be remade following further hearing.
9. In due
 on his own. We asked him where his legal representatives were; the court record showed him to be represented by Burton and Burton Solicitors. The Appellant informed the court that his solicitors had just the day before told him that they would no longer representing him. He explained that he had experienced difficulties putting them in funds. We checked the correspondence file and found no indication from Burton and Burton that they had withdrawn. We therefore rose so that this firm could be contacted to check the position. The first attempt at telephone contact resulted in Judge Bruce being left on hold for some time before the line went dead. In the second attempt the line rang out. On the third attempt

Judge Bruce finally managed to speak to someone who was aware of the Appellant's case: they informed her that they had indeed withdrawn, and that they had written to the First-tier Tribunal to that effect. Obviously the appeal is no longer in the first-tier Tribunal, and this administrative error explains why we were not aware that the firm had withdrawn.

10. representation. We pointed out that we had no evidence before us post-dating 2021. He said that he had more evidence to show us, on his mobile telephone. This consisted primarily of Facebook pages written in a mixture of Kurdish Sorani and English. Mr McVeety indicated a willingness to look at the Appellant's phone, but pointed out that such evidence would not be filed in accordance with the guidance given in XX; obviously the untranslated text presented another difficulty. In light of the Appellant's evidence that he had only just found out that his solicitors were withdrawing, Mr McVeety indicated, with his customary fairness, that he would have no objection to the matter being adjourned so that the Appellant had the opportunity to obtain new legal representation.

11. not justly proceed with the hearing. The only issue before us is whether the Appellant's political activities in the United Kingdom are such as to place him at a real risk of persecution should he be returned to Iran. The extent of those activities, and any evidence relating to them, is obviously pertinent to that question. We were further satisfied that the Appellant would be materially disadvantaged if he had to make his own submissions about risk, and the relevant passages of the various country guidance cases. Furthermore we are satisfied that given the nature of the error of law in the First-tier Tribunal decision, it would be appropriate to remit this matter so that the Appellant has an opportunity to ventilate his *sur place* claim on a proper footing before First-tier Tribunal judge.

12. **First-tier Tribunal other than Judge Juss. The Appellant lives in Derby, and so if possible this matter should be listed in Birmingham.**

13. **Appellant an opportunity to secure new legal representation and to file fresh evidence should he wish to do so. Any evidence that the Appellant wishes the Tribunal to consider must be translated in accordance with the practice direction.**

Decisions

14. judgement of Judge Lindsley, paragraph 13 is preserved.

15. persecution and/or an unlawful interference with his human rights as a result of his *sur place* activities.

16.

Upper Tribunal Judge Bruce
Immigration and Asylum Chamber
20th January 2025