



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/02833/2016

THE IMMIGRATION ACTS

Heard at Glasgow
On 5 June 2017

Decision & Reasons Promulgated
On 7 June 2017

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

D M M

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr K Forrest, Advocate, instructed by Maguire Solicitors (Scotland) Limited
For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The respondent refused the appellant's asylum claim for reasons explained in her decision dated 5 March 2016.
2. First-tier Tribunal Judge Farrelly dismissed the appellant's appeal for reasons explained in his decision promulgated on 20 March 2017.
3. The grounds of appeal to the UT say that the judge failed to apply anxious scrutiny to the country information, which was material because (i) the appellant would be taken to a special court in Tehran airport and questioned for having left the country illegally; (ii) he would be asked about his background, his reasons for leaving and his connection with any organisation; (iii) he was not expected to lie, and would have to divulge why he did leave, namely to claim asylum in the basis of his activities with the KDPI; and (iv) notwithstanding that the judge disbelieved the appellant, the judge failed to consider whether the Iranian authorities would nevertheless perceive him to be involved in Kurdish political activities, placing him at real risk.
4. In granting permission the UT said it was arguable that the judge did not consider the appellant's account in the context of Home Office country information and guidance on Iran,

produced among the appellant's documents; the judge said at ¶15 that a substantial amount of the country evidence supplied on behalf of the appellant was ancient, that for instance the US State Department report provided was dated 2007, so "woefully out of date", ignoring the fact that some evidence was more up-to-date and some dealt with the effect of making an illegal exit from Iran.

5. Mr Forrest based his submissions around the grant of permission. He referred to *MN* [2014] UKSC 183 at ¶31 on anxious scrutiny. He said that it was difficult to see from the decision exactly what the judge had or had not accepted. The nearest he came to saying that the appellant was not believed was at ¶18 and 20, but those passages were ambiguous. ¶21 used clearer language, but no basis had been laid for the conclusion there stated. The judge had not been referred to specific passages in the background evidence, but items 3 and 4 of his inventory went specifically to risks arising from illegal exit and risks to Kurds, putting the appellant's account in a context which enhanced his plausibility, and these had been ignored.
6. I do not find that the grounds for the appellant disclose that the making of the decision of the FtT involved the making of any error on a point of law.
7. The judge did not find the appellant a reliable witness, to the lower standard. Points are weighed both ways in reaching that conclusion, but there is no ultimate ambiguity about it. Reasons are clearly stated, and none of them are suggested to be wrong.
8. Grounds (i) – (ii) are framed as if the appellant had proved his claims, which he did not. Ground (iv) is based only on a fanciful prospect of misperception by the Iranian authorities.
9. The outcome, on the facts found, is clearly in line with country guidance.
10. There has been no reference to anything in the background materials which shows that the judge erred.
11. Mr Forrest in submissions sought to make the best of an unpromising set of grounds, but they amount to no more than insistence and disagreement on the facts.
12. The decision of the FtT shall stand.
13. An anonymity direction was made in the FtT. There is no apparent need for one, but as the matter was not addressed in the UT, anonymity has been maintained in this decision.



5 June 2017
Upper Tribunal Judge Macleman