IAC-AH-DP-FH-NL-V1

Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: DA/00436/2014

THE IMMIGRATION ACTS

Heard at Manchester	**Decision & Reasons Promulgated**
On 8th March 2016	**On 12th April 2016**

Before

UPPER TRIBUNAL JUDGE REEDS

Between

J
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Schwenk, Counsel instructed on behalf of Kesar & Co Solicitors
For the Respondent: Mrs C Johnstone, Senior Presenting Officer

DECISION AND REASONS

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

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. This direction applies both to the Appellant and to the Respondent.

Failure to comply with this direction could lead to contempt of court proceedings.

Proceedings

1. The parties before the Tribunal both agreed that the anonymity direction that had been made by the First-tier Tribunal should be continued as set out above.

2. The Appellant, with permission appeals the decision of the First-tier Tribunal (Judge Hanes) who in a determination promulgated on 29th June 2015 dismissed his appeal against the decision of the Respondent made for a deportation pursuant to Section 32(5) of the UK Borders Act 2007.

3. The Appellant's immigration history can be summarised briefly. The Appellant entered the UK on 24th February 2008 using his own passport with a valid entry clearance until 31st October 2008 as a student. On 21st October 2008, an application for further leave to remain was refused (due to unpaid fees). On 30th October 2008 a further application for leave to remain was also refused due to the wrong form being used. On 20th February 2009 a further application for leave was made which was refused on 3rd March 2010 due to the application being out of time and as a result of poor attendance at college. On 8th June 2010 the Appellant was arrested but the charges were subsequently dismissed and he was served with an IS151A. The Appellant was released in June 2010 on a temporary basis and according to the Secretary of State, he failed to report and was listed as an absconder.

4. On 15th September 2010 he claimed asylum and was interviewed in respect of that claim. The Secretary of State subsequently refused that claim on 15th October 2010 and the Appellant did not appeal against that decision. It is asserted by the Secretary of State that the Appellant failed to report after 18th November 2010 and was listed as an absconder.

5. The Appellant was arrested on 19th September 2011 for the index offence that gave rise to the deportation proceedings and on 14th March 2012 was convicted and sentenced of five years imprisonment as a result of convictions relating to drugs offences.

6. On 15th May 2012 the Appellant was informed of his liability to deportation and on 26th February 2014 a deportation order was made pursuant to Section 32(5) of the UK Borders Act 2007 following that conviction. A supplementary refusal letter was issued on 27th January 2015. The Appellant appealed against the decision and the appeal came before the First-tier Tribunal (Judge Hanes) on 8th June 2015.

7. The basis upon which the Appellant's case was advanced was set out by the Judge at [2]. It was conceded on behalf of the Appellant that the Appellant was excluded from claiming humanitarian protection pursuant to paragraph 339D of the Immigration Rules and also that there was no

Article 8 claim based on either family or private life. In this context it was not disputed that neither paragraph 339 or 339A applied to the Appellant and it was also conceded on the Appellant's behalf that there were no exceptional circumstances raised which would outweigh the public interest in deportation. There was no appeal either on mental health grounds under Articles 3 or 8 and thus the only issue on appeal before the Judge was firstly, whether the Appellant was excluded from protection as a refugee under Section 72 of the 2002 Act; and secondly if excluded, would deportation breach his rights under Articles 2 and 3 of the ECHR and thirdly if not excluded, was the Appellant at risk of persecution or ill-treatment if returned to Iran based on his political beliefs.

8. The Judge heard evidence from the Appellant and took into account three bundles of documentation provided on behalf of the Appellant set out at [3] and the material provided on behalf of the Respondent. In a determination promulgated on 29th June 2015 the Judge dismissed his appeal on asylum and human rights grounds and thus dismissed his appeal under the UK Borders Act 2007. When considering Section 72 of the 2002 Act reached the conclusion at [10] that the Appellant had provided sufficient evidence to rebut the presumption that he constituted a danger to the community for the purposes of Section 72 and thus found he was not excluded from protection of the Refugee Convention.

9. However in detailed findings of fact set out at paragraphs [28 to 47] the Judge rejected the factual basis of his claim to be at risk on account of his political activities in and outside of Iran and also rejected his account that he would be at risk on return to Iran based on his claimed blogging activity. The Judge's findings can be summarised as follows:

(i) The Appellant claimed that he was at risk on account political activities in and outside of Iran relating to the production and distribution of anti-regime flyers between 2005 and 2010 this resulted in a warrant for his arrest. At [29] and [30] the Judge noted a number of inconsistencies concerning the factual basis of his claim which the Judge set out at [29] and [30]. The Judge found that the Appellant's evidence was "riddled with inconsistencies" and compared the Appellant's factual account given in 2010 with his recent 2014 statement and also the contents of an OASys Report at a psychiatric report provided on his behalf.

(ii) In respect of the arrest warrant at [31-32] the Judge considered the evidence of the Appellant which included a letter from his mother relating to events in Iran and also a letter from a lawyer summarised [26] and findings made in respect of that at [32]. The Judge considered the Appellant's factual account as to whether the interest shown on him by the authorities by an arrest warrant being issued and/or a court summons. The Judge considered the factual account in the light of the Country Information Report for Iran dated November 2014. Having done so, the Judge found that the objective material confirmed that an original summons would have

been left with a family member and that an arrest warrant would have been published. In respect of both of those documents the Appellant had failed to produce a copy of any document, that is a copy of the original summons which should have been left with a member family in accordance with the objective material and that the arrest warrant, which would not have been left with the family would have been published. The Judge gave little weight to the handwritten letter from the Appellant's mother for the reasons given [32] and in relation to the letter from the lawyer at [32] gave no weight to it for the reasons given at [32] namely, that it did not clarify whether there was a summons or arrest warrant against the Appellant, the date of these summons had not been disclosed nor the particulars of the claimed defence, nor on what date committed nor was it clear that the file remained open or closed.

(iii) Therefore the Judge was satisfied that the Appellant had no political profile when he left Iran as a 17 year old and that he had fabricated his account in relation to the leaflets.

(iv) Dealing with the sur place claim based on his blogging activity the Judge at [33] found that the Appellant had failed to mention his blog during his first interview in 2010 at a time in which he had been blogging in 2008 to 2011. The Judge found at [34] that there were both "major and minor discrepancies" which went to the core of the blogging claim and identified that one of those discrepancies was that he had never made any mention having a blog when making his first asylum claim until several months after the deportation order was made against him in 2014 and made reference to the evidence in this respect. The Judge took into account his explanation for this at [34] and in the light of the medical evidence which the Judge had previously summarised but rejected that explanation for the reasons given at [34] and [41]. The Judge found that not only had he not made reference to it earlier, there was no explanation as to how he had produced blogs whilst a patient in an acute psychiatric ward. That there was no evidence before the Judge of the hospital having either free or paid for internet access of patients and the Judge found it implausible that the Appellant would have been blogging for the reasons given at [34]. The Judge also found that a subscription to Alexa was required to access the website and that there was no evidence as to any subscription for an independent source.

(v) At [35] the Judge contrasted his claim in the UK to being an active blogger with the findings that she made in relation to his previous conduct and found that it did not support the profile of a political activist [35]. The Judge found no reasonable explanation as to why he would delete emails to his paternal uncle but maintain a blog with his name and photograph on it. The Judge found that the Appellant's uncle he would have been in a position to provide support had not attended the hearing [35].

(vi) The Judge considered the supporting evidence and made adverse credibility findings relating to that at [36, 37].

(vii) At [38] the Judge found the Appellant to be "manipulative and habitually untruthful and not a credible witness". The Judge found that there were numerous significant discrepancies and was not satisfied the supporting documentation in respect of his blogging claim was genuine. The Judge took into account a submission made that he did not have the opportunity to fabricate the blogs but the Judge found that that submission ignored the possibility that he may have been assisted by someone else and gave reasons for that at [38].

(viii) At [42] whilst the Judge was satisfied that this was an "opportunistic sur place claim" the Judge nonetheless considered whether he would be at risk of return applying the decision in **Danian v SSHD [1999] EWCA Civ 3000**. The Judge in this respect considered the decision of **AB and Others (internet activity – state of evidence) Iran [2015] UKUT 0257** noting that this was not a country guidance decision. The judge took into account what would happen at the "pinch point on return" and made reference to the level of blogging in Iran [43]. Taking into account all the evidence the Judge was not satisfied that there was a real risk that the Appellant's blog had been detected by the Iranian authorities. In the alternative, even if the blog had been detected and marked by the Iranian authorities, when considering the pinch point at the airport, the Judge was not satisfied the Appellant with his specific profile would be of sufficient interest to the authorities such as to lead to a real risk of persecution. Thus the Judge dismissed his appeal.

10. The Appellant applied for permission to appeal which was refused initially by the First-tier Tribunal. Permission was granted by the Upper Tribunal on 25th September 2015.

11. I heard from both representatives who made their submissions before me. Mr Schwenk on behalf of the Appellant relied upon the written grounds which amounted to nine separate Grounds of Appeal. Ms Johnstone relied upon the Rules 24 response filed. The submissions that I heard from both parties are set out in the Record of Proceedings. The submissions will be incorporated into my consideration of whether or not the grounds demonstrate that the Judge's decision involved a making of an error on a point of law.

12. Dealing with Ground 1, Mr Schwenk submitted that the judge placed undue weight on the contents of the OASys Report and the psychiatric reports when reaching adverse credibility findings at [30]. He submitted that these documents are not ones in which an assessment was made of whether the Appellant's fear of persecution was well-founded.

Furthermore he submits that there was no evidence that there was an interpreter or that he could check if mistakes in the narrative had been made and thus it was unsafe to rely upon such documentation.

13. It is plain from reading the determination as a whole that the judge made a number of adverse credibility findings against the Appellant and not just those set out at [30] to which Ground 1 relates. The determination is a comprehensive and detailed analysis of all the issues advanced before the Tribunal and include detailed findings of fact made upon the relevant matters, including the oral evidence, before the Tribunal. This is a case in which the judge had the advantage of hearing the Appellant's claim being the subject of cross-examination. Thus when considering an assessment of credibility the determination should be read as a whole.

14. In my view it was open to the judge to consider the narratives and factual information given by the Appellant in both the psychiatric reports and the OASys Report when reaching the findings at [30]. At that paragraph, the judge highlights what might be described as "obvious discrepancies" in the accounts that he has given at different times, for example, the judge records that he told the writer of the OASys Report that he was involved in the student riots in 2009 (when the Appellant was in the UK and had been arrested twice which was not true). The judge was entitled to rely upon the contents of the report and that of the psychiatric reports. As Mrs Johnstone submits, at no time had it been raised that the narrative contents of those reports were either factually wrong or there had been any mistakes made when recounting the Appellant's narrative when it was taken contemporaneously. Whilst the Appellant denied in his oral evidence that he had stated those matters, it had not been raised at any time before that. Whilst I would accept that there is always the opportunity for mistakes to be made, these were reports compiled by professionals in the probation service and by psychiatrists. The Appellant himself confirmed in the screening interview (Annex C) that he spoke both English and Farsi. The doctor in fact stated that he had carried out the interview in Farsi and thus it could not be said in that case that there was likely to be any mistake made.

15. As set out above they are not the only adverse credibility findings but form part of a number of adverse findings set out in the body of the determination from [28] to [47]. Whilst the purpose of the reports are not to consider the fear of persecution, in my view the judge was entitled to rely on the contents of those reports concerning the factual details given by the Appellant. It was therefore open to the judge to find that there were obvious inconsistencies in his account generally. Consequently I find no error of law in the approach of the judge on this issue.

16. Dealing with Grounds 2 and 3, they relate to the objective evidence concerning the document referred to by the Appellant as either an arrest warrant or a summons and the letter produced by the Iranian lawyer.

17. It is submitted that the guidance (COIS report dated November 2014) referred to by the judge was not a document that was before her and that she gave no indication that she intended to rely upon it. It is further asserted that the judge misapplied that objective/ country evidence and that this had led to her giving no sustainable reasons for rejecting the evidence of the lawyer.

18. As to procedural unfairness, in general terms it is not for the judge to assemble evidence and if the judge is aware of material evidence then it should be brought to the parties' attention, which may extend beyond the date of the hearing. In this context the judge made reference to a COIS Report dated November 2014 and the section relating to arrest warrants and summons. The COIS Report of that date had been referred to in the Respondent's decision letter as a document relied upon, although it is right to observe not in the context of an arrest warrant or summons, it is a document that forms part of the decision making process in home office appeals as the source of country materials. As Mrs Johnstone submitted this is a document in the public domain and is relied upon by the Secretary of State as objective material concerning factual claims made in respect of court documentation. However, even if the judge was in error in considering the material without giving the parties notice of it, I am satisfied that it was not a material error as the grounds advanced now concerning the contents of the objective material were the grounds advanced before the judge at the time and do not demonstrate that the judge either misapplied that country evidence nor as the grounds state, did it lead the judge to reject the lawyer's letter.

19. Mr Schwenk submitted that the judge misapplied the country evidence and gave no sustainable reasons for rejecting the lawyer's letter.

20. The COIS Report of November 2014 referred to arrest warrants at paragraph 2.8.17 in the following terms: they have to be signed by a judge, a warrant for arrest should be served on the accused at his last known address and if the address is unknown, or the accused cannot be found at his last known address, then proper service would take place through publication of the warrant. The members of the family cannot be served instead unless they acknowledge that they are not aware of his whereabouts. If the accused cannot be found the arrest warrant will be passed to the law enforcement officers to arrest the Appellant.

21. Thus the evidence in the COIS Report is that the arrest warrant is served on the accused at the last known address. On the facts of the case before the judge it was common ground that the address of the Appellant was known and also that he was not found at the house and therefore following the objective evidence, proper service would take place through publication of the warrant in a widely circulated newspaper. If the accused cannot be found, the material states that the arrest will be passed to a law enforcement officer. Therefore the evidence given by the Appellant is consistent that the arrest warrant was not served or left at the family

home and thus the judge considered this part of the objective material which was favourable to the applicant.

22. However at [32] the judge made the finding that the arrest warrant, if not left with the parents would therefore be published. The judge found that the Appellant had failed to produce a copy of the document (that is any publication of the arrest warrant). This was consistent with the objective material and consistent with the Appellant's account as he had not made any reference to the publication of any letter nor had he produced the same despite evidence from his mother (in the form of a statement).

23. Furthermore the judge was entitled to reject the lawyer's letter for the reasons given at [32]. The judge found that it was a "handwritten six line letter". It did not clarify whether there was a summons or arrest warrant against the Appellant although the suggestion appeared to be a summons. The date of the summons had not been disclosed nor the particulars of the Appellant's claimed offence nor on what date it was committed nor was it clear if the file remained open or closed.

24. Whilst the grounds at paragraph 10 asserted that "properly understood the evidence suggests that the warrant would not have been published as the Appellant's address is not unknown" and thus the reasoning for rejecting his account is fundamentally flawed, that misreads the objective material where it explicitly states that where the address is known (as on the factual account of this Appellant), and the Appellant is not present or be found at the last known address, it is published.

25. As to whether the document was an arrest warrant or a summons, the lawyer's letter makes no distinction. In the letter sent from the Appellant's mother it makes reference to the police raiding the house and she was served with a court summons which she had to sign. The objective material sets out that a court summons may be issued by a judge from a variety of courts including the Revolutionary Courts (see paragraph 2.8.10) and therefore paragraph 12 of the grounds is not correct.

26. The material also demonstrates at paragraph 2.8.13 that the police delivered a summons to the address. If the person is present it is handed over to the person in question. He or she is given the original summons and must sign the copy which is given back to the court. At paragraph 2.8.14, it is recorded that if the person is not present, a family member can receive the summons in his or her place. The same procedures for receiving the summons apply in that the family member signs the copy which is given back to the court and keeps the original.

27. Contrary to the grounds, the judge at [31] correctly cited the objective material as to the delivery of a summons. At [32] the judge finds by reference to the objective material that it confirmed that an original summons would have been left with a family member (as the material set out, a signed copy would go back with the bailiffs). Therefore the judge's finding is consistent with the objective material and it was open for her to

reach the conclusion that as the Appellant had failed to produce a copy of any document (i.e. the copy summons) and his explanation, which was that his mother had been served with the court summons which he had to sign) was inconsistent with the objective material because she would not simply have signed it but would have been given a document and as the judge stated, no such document was ever produced although there was the opportunity to do so.

28. Consequently there has been no misapplication of the objective material for the reasons amply set out at [32].

29. There were sustainable and adequate reasons given by the judge for rejecting the lawyer's letter which did not provide cogent details in support of his claim which the judge identified at [32]. Thus the judge was entitled to treat the document as an unreliable document for the reasons that she gave.

30. Dealing with Ground 4, it is asserted that the judge failed to consider the distinction between Alexa and blogfa.com. It is submitted that Alexa is a subscription website. It analyses traffic and other websites and that whilst a subscription is required for Alexa no subscription is necessary for blogfa.com. However there was no evidence before the judge from blogfa or Alexa as to any subscription (paid or unpaid). Furthermore, it is important to read the determination as a whole and it is not the only reason given by the judge for rejecting his claim in this respect. The veracity of his blog was challenged by the Secretary of State (see [33]). The Appellant had failed to mention that he was a blogger during his first interview in 2010 and thus the judge considered the explanation for his failure to do so at [34] and [41]. At [34] the judge found that there were "both major and minor discrepancies which go to the core of the blogging claim". Whilst he stated he began blogging in 2008 and stopped shortly before his arrest and detention in 2011, the Appellant never once mentioned having a blog during his first asylum claim or at any time until several months after the 2014 deportation order was made against him. The judge made reference to question 84 of the 2010 asylum interview in which he stated he had not been involved in any political activities in the UK other than sending emails to Iran.

31. The judge considered the explanation given by the Appellant for this major discrepancy in which he had stated "I don't know why I didn't mention my blog in my asylum interview, but I really wasn't in a good place at the time and my whole life was falling apart." In this respect the judge noted that one of the blogs was dated 22nd September 2010 which was seven days after his screening interview and five days before his substantive interview. The judge also found at [41] by reference to the medical evidence that she rejected his explanation of failure to mention his blog in the 2010 asylum claim as attributable to his mental state or due to any interpreting issues. As the judge noted, he was legally represented in 2010 and she reached the conclusion that the reason for the failure to mention the blog was that there was no blog between 2008 and 2011 as he had claimed.

32. Also in respect of the issue of blogging, the judge found that there was no explanation as to how he had produced blogs on 19th and 20th April 2011 when he was a patient in an acute psychiatric ward at a mental health hospital between 6th April and 16th May 2011. The judge observed that there was no evidence before the Tribunal of either having any internet access (either free or paid for) for patients at that period of time.

33. Whilst Ground 5 challenged the determination on the basis that the judge found it "implausible" that he would be blogging in April 2011, the ground ignores the findings of the judge. It was not just the case that the judge made a finding that it was implausible that he would be blogging in April 2011 having self-harmed but because the judge expressly found that during the period when he said he was blogging, there was no evidence provided of there being any internet access, (either free or paid for) for patients between those dates. Therefore it was not simply a matter of being either physically unable to blog. In fact the Appellant had produced no evidence as to whether it was even possible during that time to carry out any blogging, irrespective of his state of health. The burden is on the Appellant and there was objectively verifiable evidence identified by the judge that could have been produced in support of his claim but had not. Thus the judge was entitled to rely upon that.

34. As to Ground 6 it asserts at [35] the judge had misunderstood the nature of the blog by stating that "none of the claimed blogs contain any of the Appellant's own literary work but are a compilation of published articles by others." However, the judge was not saying that this could not constitute a blog as such but the judge went on to make the point that his asserted conduct of blogging was in direct contrast to his demonstrated conduct in the United Kingdom. The judge cites a number of reasons. Firstly by reference to his history in the UK which did not support the profile of a political activist intent on researching and disseminating this information and secondly, the judge identified at [35] that there was no reasonable explanation as to why he would delete emails from his uncle yet make a blog with his name placed on it without any regard for his family in Iran or his own safety between 2008 and 2011. The judge also found that the Appellant's uncle, although in the UK did not attend the hearing and made reference to the inconsistent evidence given by the Appellant. In his statement the Appellant had said that his mother did not know anything about his offence or that he had claimed asylum and just thought that there was a problem with his student visa. The judge found this to be inconsistent with his mother's letter of 13th September which stated that both she and the maternal uncle had been helping him with an asylum claim. Consequently I do not find that those grounds are made out.

35. Dealing with Ground 7, the grounds challenge the finding that the Appellant's blog had been retrospectively posted and that this was "conjecture".

36. In her assessment of the Appellant's overall credibility, the judge found the Appellant to be what she described as "manipulative, habitually

untruthful and not a credible witness." The judge set out and highlighted a number of significant discrepancies (some are not challenged in the grounds) and having considered the account in the round did not accept that this claimed activity of blogging was genuine (see [38]).

37. The grounds seek to challenge paragraph[38] but the grounds fail to take into account the determination should be read as a whole and the judge gave a number of reasons, when taken cumulatively, that led the judge to the overall adverse credibility findings made at [38] including earlier findings relating to events in Iran, and the analysis of the medical evidence at [40] and [41] which were taken into account when she reached the conclusion that she rejected his explanation for not mentioning the blog in 2010 and found it not to be attributable to his mental state or any interpreting issues and that the failure to mention the blog was because there was no blog between 2008 and 2011 as claimed. Therefore she was not satisfied that it was posted between those dates and that it was retrospectively posted and that it need not have been from the Appellant himself.

38. Therefore the findings at [38] should be read alongside the findings at [41] and that whilst it had been submitted that he could not have fabricated the blog as he was detained in 2011 those submissions ignore the possibilities of others acting on his behalf as identified at [41] and that it could have been retrospectively posted in 2014. In either circumstance, this was not "conjecture" as the grounds assert, but based on reasoning open to the judge were viewed cumulatively. In particular, the evidence that the Appellant, notwithstanding his claim to be blogging between 2008 and 2011, made no reference to this in his factual claim in 2010. The judge specifically identified at [34] that one of the blogs was dated 22nd September 2010, seven days after the screening interview and five days before the asylum interview, and that it was positively asserted on his behalf that he had not been involved in any political activities in the UK other than sending emails to Iran (question 84 of the interview). I am therefore satisfied that that ground is not made out either.

39. As to Ground 8, it is asserted that the judge similarly misconstrued the evidence concerning the blogs accessibility. At paragraph 14 of the grounds and relied upon by Mr Schwenk, it is asserted that it was incumbent on the judge to make clear findings on the evidence as to how long the blog had been accessible on the internet and that the judge's suggestion that it was accessible for one day had no rational basis.

40. The judge's findings on this particular issue are set out at [36] to [37], [41], [44] and [45]. At [36] the judge records that the first supporting evidence of a blog is a Google search printed on 8th August 2014 (A1). However no posted blogs are downloaded on that date and the copy blogs were all dated 18th September 2014. The judge also referred to the copy blogs which appear to have been printed on one day, that is 21st October 2014. The judge made reference to a photograph of the Appellant which he stated was taken when he was 19 which had been posted on the blogs.

However the Appellant turned 19 after blogs dated 2008 - October 2009. The judge also made further findings as to which blogs had photographs on them. As the judge observed, although the Appellant's claim was that the blog had been posted between 2008 and 2011 there was no expert evidence from either a computer expert or from the website administrators as to either the Appellant's subscription history on blogfa.com (either paid or unpaid), or whether a blogger on the website has the ability (tools) to edit dates on blogs. At [37] the judge made further findings as to the vagueness of the Appellant's evidence as to when the account was closed.

41. Whilst the grounds assert the judge should have taken into account the Appellant's oral evidence as to when he first noticed the account was closed, it was open to the judge to find that the evidence as to when his account was closed was indeed vague and at [37] the judge referred to a screen shot which was not dated. The judge set out the Appellant's evidence that the account was closed a few months ago, that is April 2015 but the Appellant did not provide a clear explanation as to why he had internet access whilst he was detained (see [37]). At [44] the judge set out again that she was not satisfied how long the blog was accessible on the internet and expressly found at [44] that the Appellant's evidence on this issue was "inconsistent" and "vague" as to when the account was closed and had not clearly explained the extent of his ability to access the internet whilst incarcerated, serving a sentence or being detained under immigration powers.

42. The judge identified that firstly there was no statement from an independent source (which could reasonably have been obtained) confirming the number of posted blogs that were in the public domain throughout a specific period of time. Secondly that there was no confirmation from blogfa as to any subscriptions (paid or unpaid). Therefore it was open to the judge to find that the Appellant had not demonstrated the length of the period that the blog was online. Contrary to the grounds, the judge was not saying that it was online for one day but that because the Appellant had failed to produce evidence that reasonably could have been obtained that he had failed to demonstrate whether it was reasonably likely the actual length of time that it was on the internet. As [45] demonstrates, the judge was not simply stating that it was one day that made reference to "if the blog was online between August 2004 and March 2015" she was not satisfied that the contents of those entries were online whether throughout the period of time or a very short period.

43. Ground 9 makes reference to inadequate reasons for rejecting the Appellant's claim that the blog was closed down for political reasons.

44. In this respect the findings on this issue cannot be viewed in isolation from the findings generally or from those whereby the judge was not satisfied as to the evidence as to when the blog was closed for the reasons given at [36], [37] and [44]. At [37] the judge also sets out the evidence concerning the closing down of the blog and the judge gave clear and

adequate reasons for reaching the conclusion that she was not satisfied that the blog was closed either by the Iranian authorities or due to "political reasons".

45. The judge took into account the decision of **AB and Others** (at paragraph 304) which gave three reasons why it could not provide services. Firstly a violation of the laws and agreements in relation to the use of site services, an order from the legal authorities to block the web blog and the publication of immoral content or content deemed to be unauthorised based on the laws of the country. Furthermore the judge also provided the additional reason that the Appellant had not provided any detailed explanation for the administration of the blogfa.com (who are contactable) as to why the account was closed by them and highlights the point that in particular, blogfa had not been contacted as to why the account was closed and why it occurred after a dormant period in terms of postings of three years. Thus the judge gave a number of reasons why she was not satisfied that the blog was not removed by the Iranian authorities.

46. Whilst the grounds seek to challenge particular findings of fact made by the judge, the determination must be read as a whole and the findings read together demonstrate that the judge gave adequate and sustainable reasons for her adverse findings of credibility which were supported by the evidence. Thus it was consequently open to the judge to make those findings which concern not only his conduct in the UK but in relation to his lack of credibility relating to events occurring in Iran. The judge properly considered the relevant authorities and the country materials and it has not been demonstrated that the grounds are made out to undermine those findings of fact. I also observe that the grounds themselves do not challenge the conclusions reached as to risk on return which were set out at [42] to [47] of the determination.

47. Consequently the grounds do not demonstrate any arguable error of law and the decision shall stand.

Notice of Decision

The decision of the First-tier Tribunal shall stand.

Signed Date

Upper Tribunal Judge Reeds