



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/05088/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 5th June 2017**

**Decision & Reasons Promulgated
On 27th July 2017**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**S R
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Hodson of Counsel instructed by Elder Rahimi
Solicitors

(London)

For the Respondent: Mr S Whitwell, a Senior Home Office 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 or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

1. The appellant appeals with permission against the decision of the First-tier Tribunal dismissing his appeal against the decision of the respondent to refuse him refugee protection, humanitarian protection or leave to remain in the United Kingdom on human rights grounds, pursuant to Article 8 ECHR. There is no challenge to the Article 8 decision, either within or out with the Immigration Rules.
2. The appellant is a national of Iran, of Kurdish ethnicity who came to the United Kingdom in December 2015 and claimed asylum the same day. In his grounds of appeal, the appellant challenged the failure to anonymise the asylum decision. That would not have changed the outcome, but the point is properly taken and I make an anonymity order.
3. The appellant challenged the assessment of his credibility, both on the basis of the weight given to various discrepancies in his evidence, and in relation to items of correspondence, a letter from KDP-Iran dated 6 April 2016 and an email from KDP UK dated 19 December 2016, which purport to confirm his association with KDP-Iran and the risk he says arises therefrom, both from the contents of the documents, and by reason of the KDP UK email and its terms.
4. The appellant claims to have been a supporter of the KDP Party in Iran which, at some point, split into two parties: the KDP-Iran, which is the successor of the original KDP Party, and the KDPI, which is a splinter party. Once that is borne in mind the appellant's interview and screening interview are reasonably clear, except that in the screening interview the party to which he belonged is erroneously recorded as the KDPI, that is the splinter party, rather than the KDP-Iran, the successor to the original KDP. The First-tier Tribunal decision refers throughout to KDP-I, which is none of the above organisations.
5. The appellant challenges the weight given to a number of discrepancies in his account identified at paragraphs 41, 42, 44, 47 and 48 of the decision, in the assessment of his credibility. The First-tier Judge used infelicitous language in paragraphs 41, 44, 46 and 49, since in each case he said "This inconsistency persuades me that the account is not credible", but it is clear on the totality of his reasoning that it was the discrepancies overall which caused him to reject the credibility of the core account, rather than any one individual factor.
6. The more complex question is that of the letter and email purporting to confirm the appellant's connection with KDP-Iran and the risk that entails on return. The confusion between the KDPI and the KDP-Iran is of relevance because the First-tier Tribunal had before it two documents, a letter from KDP-Iran and an email from KDP UK, and country evidence about the source, type and language of such confirmatory documents, contained in a Danish Immigration Service Report "Iranian Kurds : On Conditions for Iranian Kurdish Parties in Iran and KRI, Activities in the Kurdish Area of Iran, Conditions in Border Area and Situation of Returnees from KRI to Iran - 30 May to 9 June 2013" ('the Danish Report') which at

paragraph 2.1.5 described the letters of recommendation from the splinter group KDPI:

“2.1.5. Letters of recommendation issued by KDPI

Regarding letters of recommendation, KDPI’s representative in Paris informed the delegation that when the representation in Paris is requested to verify whether a person is a party member or sympathizer, it will ask the party’s headquarters in Khoysanjak Camp in KRI to investigate the case. Upon receiving the answer from Khoysanjak, the representation in Paris will issue a letter of recommendation. In the letter, in addition to the name of the person in question, it is stated *in French* whether the recommended person is a KDPI member or a sympathizer. *The letter of recommendation, which is signed by KDPI’s representative in Paris, will be sent by fax directly to the asylum administration in the country in question; it will never be handed to the recommended person himself.* If the given asylum administration requests the original letter, the KDPI representation in Paris will send the letter by post directly to that asylum administration. ... Mohammad Nazif Qadiri encouraged asylum authorities in Europe to cooperate with the KDPI office in Paris in order to avoid fraud. He stressed that a letter of recommendation proving a person’s membership of KDPI will not be handed over to the KDPI member him- or herself, but it will be sent directly to the relevant asylum authorities in Europe from the Paris office.” *[Emphasis added]*

7. At paragraph 2.2.5, the Report describes the letters issued by KDP-Iran, the successor to the original KDP:

“2.2.5. Letters of recommendation issued by KDP-Iran Mustafa Moloudi, (KDP-Iran) informed the delegation that the headquarters of the party in Khoysanjac, KRI issues letters of recommendation to members going abroad to seek asylum. Since all members have their names listed in the headquarters, it is possible to identify each one of them. The party issues letters of recommendation, but the source emphasized that letters of recommendation are not delivered to asylum seekers and *they will only be issued directly to the asylum authorities or the asylum seekers’ lawyers in Europe.* Every member has a written file within the headquarters which forms the basis of the description of the situation of the asylum seeker in the letter of recommendation. If a party member for instance goes to Denmark to seek asylum, he or she must address the local party committee that will then ask the headquarters to issue a letter of recommendation. The party’s sympathizers can also get a letter of recommendation if the KDP-Iran is certain that the person asking for the letter had to flee due to political activism. In such case it will be stated in the letter that he or she is a party sympathizer and not a member.”

[Emphasis added]

The KDP-Iran letter

8. The KDP-Iran letter on which the appellant relies was written on 6 April 2016, the day of the appellant’s asylum interview. It is written in English

and purports to have been sent from Koya Iraqi Kurdistan. The letter is addressed 'to whom it may concern', and says this:

"This is to certify that [the appellant] is a supporter of our Party.

Undoubtedly, he cannot return home, and by that if he ever be deported to Iran, he would be definitely arrested and certainly run the risk of being persecuted by the repressive agents of the Islamic Regime of Iran.

It is much appreciated your consideration of accepting and granting his asylum which is absolutely based on Human Rights and Political cause according to Geneva Convention.

Most Sincerely Yours,

Qadir Wirya
Kurdistan Democratic Party
Organization Department"

In the bundle before the First-tier Judge there was an excerpt from the party website which indicated that there was a Qadir Wirya in the KDP.

The KDP-UK email

9. The First-tier Tribunal Judge also had before him an email dated 19 December 2016, the day before the First-tier Tribunal hearing, sent to the appellant's solicitors, Elder Rahimi, by KDP UK, a United Kingdom-based organisation, as follows:

"Dear Elder Rahimi,

Many thanks for assisting our party member [the appellant]. Recently I have noticed that you contacted another [KDP-Iran] department in the UK regarding [the appellant's] asylum application. Therefore, we are really sorry we have not responded you (sic) on time.

Basically according to information we have [the appellant] was a strong [KDP-Iran] supporter during he was in Iran and as a consequence of his activities he fled the country. *It has to be mentioned unfortunately the nature of his activities, who else he was working with and other specific details not even be shared with us due to the security of our other supporters and members in Iran. I am sure that you are aware of strict rules and zero tolerance for opposition parties' activities from Islamic Republic of Iran inside the country.* However, in the UK [the appellant] has been through (sic) membership process of KDP-Iran and he is currently in position of our full party member.

The organisational department of KDP-I in United Kingdom strongly supports [the appellant's] asylum application and we have already requested for a new confirmation letter for [the appellant] from our party's main organisational department based in Iraqi Kurdistan.

Please do hesitate (sic) to contact us for any further enquiries regarding [the appellant] or our party.

Yours faithfully,

Yunes Mukri”

First-tier Tribunal decision

10. The First-tier Tribunal dealt with these letters as follows:

“27. The appellant has a letter dated 6 April 2016 from the KDP-I in Iraq. This says the appellant is a supporter of the Party. The appellant says he contacted his friend in Iran and asked him for it. The appellant has not met the author of the letter. He is one of the Chairmen of KDP-I.

28. There is an email from the KDP UK Committee dated 19 December 2016. ...The email says the appellant is a Party member in the United Kingdom. He joined after his asylum interview which took place on 6 April 2016. ...

46. The background evidence says that the KDP-I do not issue letters of recommendation to an individual. Rather, this will be sent to the relevant government department. The letter dated 6 April 2016 says the appellant is a supporter of the Party. The appellant said he did not know the author of the letter and his friend obtained it for him. I place limited weight on its contents. The author does not know the appellant. It is not clear how he could say the appellant is a supporter. It appears to be based on information his friend passed on. The contents of the letter did not persuade me that the appellant was a supporter of the KDP-I while he was in Iran. ...

48. The email dated 19 December 2016 says that its contents are based on information held on the appellant. It says the appellant was a strong supporter of the Party when in Iran. It is not clear how the author is in possession of this information. Furthermore, the email says information cannot be given on what work he carried out for the Party, or who he worked with. The author of the letter is however happy to name the appellant as a strong supporter. If the KDP-I were concerned for the appellant’s safety, it is surprising that the author is happy to disclose his identity and his links to the party.

49. The email also goes against the background information in the Danish Report mentioned above. This says that the KDP-I correspond with the relevant government, rather than an individual. As a result I place limited weight on the email dated 19 December 2016. It did not persuade me that the appellant’s account of his activities in Iran is credible. ”

Discussion

11. The appellant’s case is that the First-tier Tribunal Judge’s decision conflated the three organisations, KDP-Iran (the April 2016 letter), KDPI (no letter or email) and KDP UK (the December 2016 email). The question is whether such conflation, and referring to the organisation in question in the First-tier Tribunal decision throughout as KDP-I (which is the name of

none of the organisations in the Danish Report) is an error of fact at a level of seriousness capable of amounting to an error of law.

12. The type of letter of recommendation which is written by the two organisations, KDP-Iran and KDPI, varies. The reference in the decision to letters of recommendation being sent only to governments is consistent with paragraph 2.1.5 of the Danish Report, but the 6 April 2016 letter is not in French and does not originate from Paris. Paragraph 2.2.5 says that KDP-Iran sends letters in English, from Iraq, which is more consistent with the April 2016 letter, but again, those documents are sent only to governments or to appellants' lawyers. There is no guidance in the Report as to what KDP-UK does, but that email was addressed to the appellant's lawyer.
13. I am guided by the judgment of Lord Justice Brooke at [90] in *R (Iran) v Secretary of State for the Home Department* [2005] EWCA Civ 982, that the Upper Tribunal may not interfere with a finding of fact unless it is contrary to the weight of the evidence, incomprehensible, or one which no reasonable judge properly directing himself could have reached. Given the vagueness of the letters and the lack of any personal detail, I am satisfied that a reasonable Judge, applying *Tanveer Ahmed* principles, and directing himself properly as to the evidence in the Danish Report and the source of the April 2016 letter and December 2016 email, could and would have reached the same conclusion, that no weight could be placed on the letters.
14. It follows that the First-tier Tribunal's error as to the applicable organisation is not material and that it is not open to the Upper Tribunal to go behind the finding that no weight can be placed on this correspondence.
15. The final point which is made on the appellant's behalf is that the December 2016 email from the KDP UK showing that he had joined that organisation in the United Kingdom after his 6 April 2016 asylum interview, but without specifying on which date he did so, is enough by itself to create a *sur place* risk to this appellant on return to Iran because he cannot be required to lie and would have no explanation for this act undertaken by him.
16. That is a point which the Secretary of State was not given sufficient opportunity to consider, given the lateness of the document, and I remind myself that the letter gives no personal information at all and notes that the appellant failed to share with the organisation he joined any evidence as to who he was working with or what he did whilst in Iran. The verification from the party's main organisational department based in Iraqi Kurdistan has never materialised, despite the passage of five months since the writing of that email, and again I consider that it was open to the judge to conclude as he did that nothing in that email would be likely to put the appellant at risk on return.

Conclusions

For these reasons, I find that there is no material error of law in the First-tier Tribunal decision and I uphold it.

Signed: **Judith A J C Gleeson**
Upper Tribunal Judge Gleeson

Date: 26 July 2017