



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/04447/2018**

THE IMMIGRATION ACTS

**Heard at Glasgow
On 29 November 2018**

**Decision & Reason Promulgated
On 11 December 2018**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

HARDI [A]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Ms H Cosgrove, of Latta & Co, Solicitors
For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. This determination is to be read with:
 - (i) The respondent's decision dated 20 March 2018, refusing the appellant's claim.
 - (ii) The appellant's grounds of appeal to the First-tier Tribunal (although these are generic only, and do not raise any specific issues).
 - (iii) The decision of FtT Judge Handley, promulgated on 12 June 2018.

- (iv) The appellant's grounds of appeal to the UT, stated in the application for permission to appeal filed on 26 June 2018.
- (v) The grant of permission by FtT Judge S H Smith, dated 12 July 2018.
2. Mr Govan did not concede that paragraphs 1 and 3 of the grounds showed error, but he accepted that paragraph 2 made a good point. At [36] it was accepted that the appellant was due to attend court. At [37] and [38], however, the case is decided on the basis of the Iranian state having shown no previous adverse interest in the appellant, and that all that might be apparent about him would be illegal exit from Iran [on which no express conclusion seems to be made] and return from Britain; which, applying country guidance, did not show a risk of persecution.
 3. Mr Govan said that the apparent finding in favour of the appellant at [36] might well be only a slip, given the findings otherwise made comprehensively against him; but that the decision should be set aside, and remitted to the FtT for a fresh hearing.
 4. Ms Cosgrove said that the finding at [36] was positive, and not just an error of expression. She supported that by reference to [35], where the judge found it clear that the appellant had been arrested and fined under the laws about alcohol consumption. She submitted that the findings of previous adverse attention from the state, even in absence of other positive findings, put the appellant into a category where likely scrutiny on return showed a risk, and the outcome, applying country guidance to the findings, should be reversed. Alternatively, she said that if the findings were simply muddled, the outcome should be a rehearing.
 5. I indicated that the decision would be set aside, as agreed, and reserved my decision on what should follow.
 6. I am not satisfied that the FtT made findings clear enough to support the contrary conclusion. The decision of the FtT is therefore set aside, and stands only as a record of what was said at the hearing. The remedy is a rehearing in the FtT, with a view to clear findings being made on the extent to which the appellant establishes his claims (including the mode of his exit from Iran, his available modes of return, whether scrutiny is likely, and what any scrutiny may bring to light).
 7. The member(s) of the FtT chosen to consider the case are not to include Judge Handley.
 8. No anonymity direction has been requested or made.



7 December 2018

Upper Tribunal Judge Macleman