



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: HU/00444/2019

**THE IMMIGRATION ACTS**

Heard at Birmingham  
On 8 November 2019

Decision & Reasons Promulgated  
On 19 December 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE O'RYAN

Between

AMIR SAEEDI  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr Maddah, Representative, YICS  
For the Respondent: Mr Mills, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is the Appellant's appeal against the decision of Judge of the First-tier Tribunal Row dated 28 May 2019 dismissing the Appellant's appeal against the decision of the Respondent dated 28 November 2018 refusing his human rights claim.
2. The Appellant is a national of Iran and first arrived in the United Kingdom in July 2008 and claimed asylum. That application was not successful, either on initial application or on appeal. However, the Appellant later formed a relationship with a British national and the Appellant was granted leave to remain in November 2015 in

relation to this relationship. Unfortunately, the Appellant's relationship came to an end and he made an application on 30 April 2018 for further leave to remain on the basis of his private life in the United Kingdom. What that private life consisted of was, in addition to having some friends in the United Kingdom, that the Appellant had opened a takeaway business and ran it as a self-employed concern. He had one full-time employee and two part-time employees.

3. The Respondent refused the application on grounds that the Appellant did not meet the criteria set out for leave to remain on private life grounds under paragraph 276ADE(1) and that the decision would not involve a disproportionate interference with his private life. The Appellant appealed and the matter came before the judge on 23 May 2019.
4. The Appellant gave evidence and the judge made findings which included the following. The Appellant's takeaway food business showed a profit of £9,012 for the tax year ending 5 April 2019 and the Appellant also received an additional income from renting out certain property associated with the takeaway business, producing an income of £2,500 per year. The suggestion by the Appellant that he could not immediately be removed from the United Kingdom to Iran because the Respondent did not possess any travel document for him was not relevant to the outcome of the appeal and would not represent a significant obstacle to his integration into Iran. The Appellant's associated argument that if he were unsuccessful in this appeal he would remain in the UK as a destitute asylum seeker was also found not to be relevant to his integration into Iran. The suggested claim that the Appellant would fear harm in Iran because of being a failed asylum seeker was not made out.
5. The judge also found as follows:

"17. The Appellant further argues that the economic situation in Iran is such that he would not be able to obtain employment. He has provided background evidence that sanctions imposed by the United States of America have caused economic difficulties. I accept that this is the case. However, the Appellant would be in the same position as most Iranians. He would be in a better position than many. He is 29 years old, he is in good health. He has had the experience of living in a foreign country. It is said that he speaks English. He has run his own business in the United Kingdom. He argues that such skills are not transferable. I do not accept that. There must be many places in Iran selling food. The skills of which the Appellant will have developed in business in the United Kingdom are the sort of skills that he would need to pursue a similar business in Iran."

6. At paragraph 18 the judge found that there were no significant obstacles to the Appellant's return. Under the title 'Article 8 ECHR' the judge considered the following:

“20. I take into account that the Appellant has been in the country since 2008. He has developed relationship. He has started a business. I take into account that if he was to leave the country he would not be able to continue to run that business himself. He could however sell it and use the capital to start again in Iran. He could ask someone else to run it for him. It is a business on a relatively small scale which made a profit of just over £11,000 in the most recent accounting year. It is however something which weighs in the Appellant’s favour.”

7. However, the judge took into account the importance of maintaining immigration control and the positive satisfaction of Immigration Rules; the fact that the Appellant could continue a private life in Iran; the judge directed himself that the Appellant is capable of being financially independent in the United Kingdom, but this had a neutral effect; his private life was developed at a time when his immigration status was precarious. Ultimately the judge found at paragraph 27 that the public interest in the removal of the Appellant exceeded the interference with his private life and that the Respondent’s decision was lawful.
8. The Appellant appealed against that decision in grounds of appeal dated 26 August 2019 which are with respect loosely drafted but appear to argue, in summary, that the judge erred in law in:
  - (1) failing to consider the impact of the current financial sanctions that has made it impossible to transfer funds from any proposed sale of his business as the judge suggested, and this represented an insurmountable obstacle to the continuation of the Appellant’s private life in Iran;
  - (2) failing to have sufficient regard to the asserted fact that the removal of the Appellant would result in the loss of one full-time and two part-jobs in the United Kingdom and the removal of the Appellant would not be in the interests of the British economy.
9. Permission to appeal was granted by Upper Tribunal Judge O’Callaghan on 3 September 2019 finding that it was arguable that the judge had failed to determine whether the Appellant would be unable to run his business from Iran and whether the Appellant would be able to transfer the proceeds of any sale of his business to Iran, arguably impacting upon the assessment as to proportionality. Permission was also granted on ground 2 although it was described as being significantly weaker.
10. I have heard submissions from the parties today. On behalf of the Appellant Mr Maddah relies on the grounds of appeal and the terms in which permission was granted. At the outset of the hearing I ensured that I had a copy of the Appellant’s bundle which was before the judge. It appeared to me that part of the original bundle may have become detached. Mr Maddah provided me with a spare copy of the bundle so that I had all of the material which the Appellant had put before the judge relating to the economic sanctions imposed on Iran. However, I specifically

asked Mr Maddah if there was any material within those documents which specifically supported the Appellant's proposition that he would be unable to transfer money to Iran. Mr Maddah confirmed that although the documents spoke of the hardship caused in Iran by the sanctions in a general sense, there was in fact nothing specific within the bundle which confirmed anything about the ability to transfer money to a bank in Iran.

11. However, Mr Mills submitted that it was accepted on behalf of the Respondent that banks in the United Kingdom, although not legally obliged to suspend banking transactions to Iran, have done so, because they are international organisations and the banking laws in the United States of America currently prohibit banking transactions with persons in Iran.
12. Mr Maddah continued to argue that it would not be possible to transfer any money to Iran. He also relied upon the argument that the Appellant's departure would result in the closure of a business who employed three persons in the United Kingdom.
13. For his part Mr Mills resisted the appeal.

### **Discussion**

14. I do not find that there is any material error of law in the judge's decision. There is no evidence within the Appellant's bundle as to whether or not it is currently possible to transfer money from a bank in the United Kingdom to a bank in Iran. Mr Mills' concession that this may not be possible is a generous one. However, as Mr Mills put it, and I find, there was no evidence that it is actually impossible to transfer money to Iran by some other means. Money transfers can of course be made other than through a bank, and the variety of methods of doing so has increased in recent years with electronic applications. I find that the Appellant has not made out his case. The Appellant has not established that there was evidence before the judge which supported the Appellant's proposition that it was impossible for money to be transferred from the United Kingdom to Iran. The Appellant's first point therefore falls.
15. Judge O'Callaghan seems to have suggested that it was arguable that the judge failed to consider the point that the Appellant would not be able to run his business from Iran. For my part, this is a matter which does not even require consideration by the judge. It would naturally be the case that a person being required to leave the United Kingdom would not be able to continue to run a business within the United Kingdom, particularly one such as a takeaway which involves physical presence and activity in the United Kingdom. This would be the natural consequence of any person being removed from the United Kingdom and is implicit within the judge's decision. I do not find that it required any further consideration on the part of the judge.

16. Further, insofar as the Appellant argues that it is not in the public interest to remove him from the United Kingdom because the closure of his business would result in the loss of three jobs, I am referred by Mr Mills to the authority of Thakrar (cart JR; Art 8: value to community) [2018] UKUT 336 IAC in which the second paragraph of the head note provides as follows:

“2. Before concluding that submissions regarding the positive contribution made by an individual fall to be taken into account for the purposes of Article 8(2) of the ECHR as diminishing the importance to be given to immigration controls a judge must be satisfied that the contribution is very significant. In practice this is likely to arise only where the matter is one over which there can be no real disagreement. One touchstone for determining this is to ask whether the removal of the person concerned would lead to an irreplaceable loss to the community of the United Kingdom or to a significant element of it.”

17. I find, with respect to the Appellant, who must be commended for his determination in opening a business in the United Kingdom, that the extent of the Appellant’s business activity does not even arguably reach the level described in Thakrar, i.e., that of being a very significant benefit to the community. Again with respect, it cannot properly be said that closing a takeaway business would represent an irreplaceable loss to the community of the United Kingdom or to a significant element of it. I am therefore bound to find that there is no material error in the judge’s decision.

### **Notice of Decision**

There is no material error in the judge’s decision.

I do not set aside the judge’s decision.

The Appellant’s appeal is dismissed.

No anonymity direction is made.

Signed

Date 17.12.19



Deputy Upper Tribunal Judge O’Ryan