



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

Appeal Number: PA/06287/2018

**THE IMMIGRATION ACTS**

**Heard at Newport  
On 23 November 2018**

**Decision & Reasons Promulgated  
On 3 April 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE I A LEWIS**

**Between**

**R M  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms S Latimer of Counsel instructed by Fountain Solicitors  
For the Respondent: Mr C Howells, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal against the decision of First-tier Tribunal Judge Coaster promulgated on 9 July 2018 dismissing the appeal of the Appellant against a decision of the Respondent dated 3 May 2018 refusing a protection claim.
2. The Appellant is a citizen of Iran born on 8 December 1957. He left Iran, or about 19 January 2017 travelling by air to Paris on his own passport. He then travelled to Italy (he says via Sweden), before flying to the United Kingdom. He disposed of his passport *en route*. He arrived in the UK on 31 January 2017 and claimed asylum.

3. A screening interview was conducted on 31 January 2017 (Respondent's bundle before the First-tier Tribunal at Annex A). When asked to explain briefly all reasons why he could not return to Iran (section 4.1 of the screening interview), the Appellant didn't claim any reason beyond being "very unhappy in Iran":

*"There isn't any reason except I was very unhappy in Iran. My life is not in danger, but I have never been happy. I could not tolerate living in Iran. There is no security. Two weeks ago a building caught fire people have no security in Iran. I want to have a decent life. I want to bring my wife and live in this country."* (A5)

Further, in the 'Criminality and Security' section the Appellant denied ever having been committed or been accused of committing any offences, denied ever having been detained, and denied ever having been involved with any political organisation (A6-A7).

4. Following the screening interview, by way of a letter of representations from his solicitors dated 16 May 2017, the Appellant sought to amend what was said to be errors in the record of the screening interview (B11-B12). In respect of section 4.1 it was asserted:

*"[The Appellant's] account has been recorded inaccurately. Our client was asked whether or not at the time that he left Iran, he had a fear for his life. At the time that our client departed Iran, he had no intentions of claiming asylum. Our client instructs that although he has had problems with the authorities and spent time in prison previously, he was intending to return and was travelling for business. Whilst on business, he received a call from his wife to confirm one of his friends had been arrested and that he was in danger. Our client instructs that when he sought to explain, he was informed that he would have a further interview to explain."* (B12)

I pause to note that it is unclear from the above, notwithstanding the opening assertion, whether it was being claimed that the interviewing officer misrecorded what was said, or whether the Appellant misunderstood the question and otherwise was not given an opportunity to state in full his reasons for claiming asylum.

5. In the letter of representations it was not asserted that the Appellant had denied any history of detention at the screening interview, but nonetheless it was stated that he had been imprisoned on 3 occasions. Such periods of imprisonment as claimed were significant: a sentence of 10 years in 1976 of which he served 2 years; a period of detention between approximately 1981 and 1984; and 8 months in detention without being formally charged in 2002. The letter did not seek to correct the denial of any involvement a political organisation.
6. Notwithstanding that concerns as to the conduct of the screening interview were raised, and corrections made to the record of the screening interview, the letter of 16 May 2017 fails to articulate the basis of the

Appellant's claim for protection. Although it is stated that he only decided to claim asylum after it being reported by his wife that a friend had been arrested and that "*he [the Appellant] was in danger*", no further context is offered

7. It is also to be noted that the Appellant reported a number of health conditions at the screening interview – diabetes, kidney problems, and a damaged left leg pursuant to a car accident. In the letter of representations seeking to clarify/correct the contents of the screening interview it was additionally claimed that the Appellant also suffered from asthma. No mention was made of any condition that might impair his memory. However, notwithstanding the correction to the screening interview, at the substantive asylum interview conducted on 5 October 2017 (Annex C) the Appellant additionally claimed that he was suffering from Alzheimer's and forgetfulness (question 1, C17). Although the Appellant produced extensive medical records in his appeal bundle before the First-tier Tribunal (pages 89-137) there is nothing identifiable therein to support a claimed diagnosis of Alzheimer's.
8. It was not until the substantive asylum interview that anything particular or specific by way of reasons for claiming asylum emerged. The Appellant acknowledged that notwithstanding earlier difficulties with the authorities, he had had no such difficulties since his release in 2002, and he was issued with a passport in 2012 and allowed to travel freely. His claimed current difficulties arose by reason of his involvement with an organisation called NehZat Azadi which offered assistance and support to the families of prisoners, and/or otherwise by reason of his own activities in helping prisoners and their families outside the context of his involvement with the organisation e.g. see clarification to question 28 offered in letter dated 11 October 2017 (D38).
9. The core substance of the Appellant's claim is helpfully articulated at paragraphs 19 and 20 of the decision of the First-tier Tribunal:

*"19. The Appellant claimed that an arrest warrant had been issued for him and his friend [F] who had been already detained. This is because he and F were helping prisoners and their families financially. He had done this because he had been in prison himself and knew what it was like. The Appellant and his friend had supported about 50 families. The Appellant and his friend were members of an illegal political organisation called NehZat Azadi although the Appellant did not know how many members the organisation had. He and F personally provided financial support to the families of prisoners and assisted in prisoners obtaining legal representation because they had sufficient means that they could afford to do so. They paid cash to lawyers for their services making bank transfers.*

*20. The Appellant believed that the authorities had been unaware of his activities. The families they had helped had been unaware of their respective identities even if their names were*

*known. When asked how the authorities have now become aware of the Appellant, he replied that whilst he was away, F had become known and had been arrested."*

10. The Appellant's application for asylum was refused on 3 May 2018 for reasons set out in a 'reasons for refusal' letter ('RFRL') of that date.
11. The Appellant appealed to the IAC.
12. The appeal was dismissed for the reasons set out in the Decision and Reasons of Judge Coaster promulgated on 9 July 2018.
13. The Appellant applied for permission to appeal to the Upper Tribunal, which was granted by First-tier Tribunal Judge Blundell on 8 August 2018. In material part the grant of permission to appeal is in these terms:

*"2. I consider the second ground arguable. When set against the totality of the account given by the appellant about his involvement with Nehzat Azadi, the single sentence in [33] of the Judge's decision is arguably inadequately reasoned.*

*3. Had it not been for that second ground, I would not have been inclined to grant permission. The first ground complains that there is no clear finding about the appellant's historical imprisonment but the obvious corollary of the finding that the appellant was not currently sought by the Iranian authorities was that he was permitted to leave Iran notwithstanding that claimed history, and would be of no interest at the 'pinch point' of return described in **AB (Iran) [2015] UKUT 257 (IAC)**. Nevertheless, having regard to **Ferrer [2012] UKUT 304 (IAC)**, I do not restrict the scope of this grant of permission."*
14. In context, the second ground of appeal raises criticism in respect of the following passage at paragraph 33 of the First-tier Tribunal's decision:

*"His account of being a member of NehZat Azadi but helping prisoners out of his own funds and not through that organisation does not ring true; it lacked detail and therefore credibility. He was not an active member of NehZat Azadi."*
15. In my judgement, even if it might arguably be contended that the reasoning in the sentence highlighted in the second ground of appeal (and upon which permission to appeal was based) is in itself inadequate, this can make no material difference once the basis upon which the Judge in substance rejected the Appellant's credibility in all material respects is understood.
16. The First-tier Tribunal Judge noted in the premises that it was common ground between the parties that *"if his account is accepted, it was not disputed that he would be at risk on return"* (paragraph 3).

17. The Judge set out the development of the Appellant's claim and narrative account from the screening interview onwards with careful and detailed consideration. The Judge identified "*an enormous inconsistency between the Appellant's evidence at the screening interview and at the substantive asylum interview*" (paragraph 21). Both the identification of this inconsistency, and its characterisation as 'enormous', were entirely sustainable and open to the Judge.
18. In my judgement it is manifestly the case that the Judge gave careful consideration to the Appellant's attempts to explain this discrepancy – including his suggestion that the use of an interpreter via a telephone had occasioned difficulties. The Judge, for sustainable reasons, rejected the suggestion that the extraneous noise resulted in the Appellant being unable to understand what he was being asked (paragraph 27). The Judge did not accept that the Appellant had been denied an opportunity of stating the basis of his claim in simple terms at the screening interview, notwithstanding that it was acknowledged that the screening interview could be a stressful process and that using an interpreter by telephone was not ideal. Over and above the discrepancies arising from the contents of the screening interview, the Judge additionally noted that at a medical assessment on 1 March 2017 the Appellant denied any form of assault or harm, and in stating that he had been detained only referred to a period of 24 hours detention by police (paragraph 30). The Judge considered that if there was any truth to the Appellant's claim that he had very recently heard from his wife (whilst he was travelling in Europe) that an arrest warrant had been issued and the authorities had visited his home in Iran looking for him – matters which had supposedly prompted his claim for asylum – "*the most obvious and pressing response [at the screening interview] would have been to say exactly that – 'my wife just told me that the authorities have an arrest warrant and are searching for me'*" (paragraph 25).
19. It is plain the Judge found that the manner of the emergence of the Appellant's claim subsequent to the screening interview "*cannot be avoided*" (paragraph 28). Indeed the 'enormous' – and it seems to me uncontroversially fundamental – inconsistency, which the Judge plainly concluded the Appellant was unable adequately to explain such that it could be disregarded or marginalised, informed the rejection of the Appellant's narrative account in all material respects. See:
- "Taking the Appellant's evidence in the round, I find his case for asylum fatally flawed by the stark difference between his initial case for asylum and the case that he makes following legal advice"* (paragraph 33).
20. Once the Judge's comment in respect of Appellant's claimed activities outside his claimed involvement with NehZat Azadi criticised in the second ground of appeal is seen in this context, there is nothing in the Judge's comment that materially undermines the otherwise clear and sustainable

adverse finding in respect of overall credibility in recounting the core elements of his claim.

21. Nor do I consider the Judge's reference that "*The Appellant may well have experienced prison in the past*" (paragraph 33) avails him in any material respect. It is not in terms a finding that the Appellant did experience prison; nor is it a finding that he experienced prison for any of the reasons claimed. In any event, as the Judge noted, the Appellant had seemingly been untroubled by the authorities for approximately 15 years since his last release from detention. Even if it might be said that an acceptance of the history of past detentions reinforces the notion that the Appellant was in some way inhibited in giving a full account of himself at the screening interview (because such a history of detentions was omitted), it seems to me that this falls well short of adequately explaining the failure to state even in the simplest or briefest of terms the essential basis of the claim for asylum.
22. In all the circumstances I can find no basis upon which the decision of the First-tier Tribunal could properly be impugned.

### **Notice of Decision**

23. The decision of the First-tier Tribunal contained no material error of law and stands.
28. The Appellant's appeal remains dismissed.

### **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.

Signed:

Date: **1 April 2019**

**Deputy Upper Tribunal Judge I A Lewis**