



Upper Tribunal

(Immigration and Asylum Chamber) Appeal Number: PA/14304/2018

THE IMMIGRATION ACT

**Heard at Civil Justice Centre
Manchester**

On 12th June 2019

**Decision & Reasons
Promulgated**

On 20th June 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

Mr Yasin Faisali

(NO ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Khan, Counsel, instructed by GMIAU

For the Respondent: Mr McVitie, Senior Home Officer Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Mack and First-tier Tribunal Judge Pickup promulgated on the 21st February 2019, whereby the judges dismissed the appellant's appeal against the decision of the respondent to refuse the appellant's protection claim.
2. I have considered whether or not it is appropriate to make an anonymity direction. Having considered all the circumstances, I do not consider it necessary to do so.
3. Leave to appeal to the Upper Tribunal was granted by First-tier Tribunal Judge Hollingworth on 3rd April 2019. Thus the case appeared before me to determine whether or not there was a material error of law in the decision.

Grounds of appeal

4. The first ground of appeal asserts that too much reliance was placed on what the appellant had allegedly said in the screening interview. It is argued that the screening interview is not accurately recorded and the appellant has notified the respondent and the Tribunal of inaccuracies in the interview. It is also asserted by the appellant that the interpreter must have been speaking in Kurmanji and misunderstood what was said by the appellant.
5. The appellant's representatives some 18 months after the initial screening interview wrote to the respondent indicating that there were inaccuracies in the record of the interview. It is claimed that the screening interview
 - a) In referring to the appellant's journey should have included a reference to his being kept in a flat perhaps in Bulgaria for a period of 3 months; and
 - b) thereafter that he had made reference not to PJAK but to KDPI.
6. According to the record of the screening interview the appellant, when asked to set out the basis of his asylum claim at 4.1 of the screening interview, had stated that he feared the Iranian authorities because "*they had been informed that I attended a meeting with (Kurdish Political organisation) Party of Free Life of Kurdistan "PJAK" .They will probably hang me*"
7. The appellant in seeking the amendment some 18 months later was alleging that the organisation that he mentioned in the screening interview was the KDPI, the Kurdish Democratic Party of Iran not the PJAK the Kurdistan Free Life Party.
8. In his statement the appellant has asserted the interpreter must have been speaking Kurdish Kurmanji. The representatives have not asked that the language spoken by the interpreter be checked. It is merely an assertion made by the appellant. The point was made that the

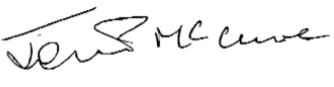
appellant has not alleged that any other parts of the interview have been mistranslated, only the parts identified principally where the appellant has given the name of the political organisation, which he claimed to be connected with.

9. The appellant's representative seeks to make the point that there would be no difference between the appellant asserting that he had a meeting with PJAK or with the KDPI. Both would result in the authorities taking an interest in the appellant.
10. The appellant's representative seeks to rely upon the case of *SB (Sri Lanka) v SSHD* 2019 EWCA Civ 160. The case points out that a screening interview is just a cursory exercise designed to collect information and does not involve a significant examination of the appellant's account. In the case the appellant had sought to suggest there were problems with his interview and his screening interview because of the interpreter.
11. The screening interview identifies the interpreter at the start and gives an identification reference. The screening interview also states that the language of the interview was Kurdish Sorani.
12. The claims by the appellant had been specifically considered by the panel. Consideration commences at paragraph 32 (a) and continues into 32(b). They have carefully considered the explanation given and have rejected the explanation. The panel considered specifically the discussion between the appellant and the interpreter to ensure that they understood each other. At the end of the interview the appellant was asked whether he understood the questions and indicated that he did. The panel has gone on in a very detailed examination of the interview to point out how material the discrepancies were and why they did not accept the explanation given by the appellant. In the circumstances the panel has considered carefully the discrepancies and was entitled to take such discrepancies into account in assessing the credibility of the appellant. The panel has given valid reasons for coming to the conclusions that they did.
13. Issue was taken that the panel have elevated evidence that Iran has a sophisticated state surveillance system to the level of country guidance and have therefore given much greater weight to it by calling it country guidance rather than referring to it as background material. It is not being suggested that if the panel had referred to it as background information or background country material that there was anything wrong with such on the basis of the background materials. The suggestion being that there was background evidence to support the claim that Et'alaat had a sophisticated system of surveillance. The objection is to the fact that it has been referred to as country guidance.

14. The references appear in paragraph 32 (f). The panel makes clear at the commencement of paragraph 32 that they were assessing the evidence and making findings of fact. If one considers the concluding remarks of paragraph 32 there clearly considering background information on the activities of Et'alaat. It is clear that there considering the factual evidence as to the available resources and the surveillance techniques of organisations such as Et'alaat. They were relying upon the background evidence to indicate that the appellant's account of the raid being carried out at his home was not credible. Whilst they may have misstated or miscategorised that as an element of country guidance, it is clear that they are making findings of fact and giving reasons for reaching the conclusions that they have.
15. In the circumstances whilst they may have described it as country guidance it is clear that there were conducting an assessment of the evidence and not applying a legal principle. The panel has given valid reasons for reaching the conclusions that they have.
16. As a final matter it is suggested that in accepting that the appellant was illiterate, they should then have accepted that the appellant would not be aware of what was said in leaflets that he was distributing. The point was made in the decision that the appellant's understanding of politics was extremely vague. In paragraph 32 (i) it had been noted that the appellant knew nothing about the parties that he was claiming to be involved with, did not know the leaders, the main policies or aims. It was being suggested that the appellant was willing to risk his life to distribute leaflets for the organisation but knew nothing about the organisation.
17. The panel considered that a person distributing leaflets on behalf of an organisation would at least know something about the organisation and would be interested to know what the leaflets that he was distributing were seeking to promote. Despite the appellant being illiterate the panel was satisfied that the appellant would know something of the political party and would know something of what was said in the leaflets. In the circumstances they were not satisfied with the explanation given by the appellant that he was involved in politics or that he had been distributing leaflets. In the circumstances there is nothing perverse about expecting the appellant to know something of the policies of the party which he was seeking to promote and something of the information that appears on leaflets that he is giving out.
18. The panel has carefully examined all of the appellant's account that has given valid reasons for reaching the conclusions that it has. In the circumstances there is no material error of law in the decision.

Notice of Decision

19. I dismiss the appeal on all grounds.

Signed 

Deputy Upper Tribunal Judge McClure
2019

Date 17 June