



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

**Appeal Number PA/51584/2021
[IA/01084/2020]**

THE IMMIGRATION ACTS

**Heard at George House, Decision & Reasons Promulgated
Edinburgh On the 27 July 2022 On the 22 August 2022**

Before

UT JUDGE MACLEMAN

Between

AKAM MAHMOOD HASSAN

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 Mullen, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. This decision is be read with my decision promulgated on 20 April 2022, setting aside the decision of FtT Judge McGrade.
2. As to remaking the decision on ground 1, *sur place* activity, Ms Cosgrove in her written summary and in oral submissions referred to evidence in a key passage index that the Iraqi and Kurdish authorities monitor Facebook and act on what they find. She maintained that this takes place to such an extent they are likely to identify even someone with little or no political profile who has made adverse comments. She argued that the appellant

is an activist at a level where there are numerous references to targeting, and that there is obviously general monitoring of Facebook even at that low level.

3. Ms Cosgrove founded, in particular, on the following examples (page numbers in the appellant's bundle):

Freedom House -

p.4, disclosure by Facebook of inauthentic accounts associated with intelligence services of the KRG;

p.9, Facebook and Google reports, content removal requests from the Iraqi government;

p.10, intimidation, arrests and assassinations of social media users, online activists, "with reprisals sometimes triggered by nothing more than a Facebook post";

p.12, removal of fake accounts associated with intelligence services of the KRG spreading misinformation about opposition sources;

p.20, an individual active in protests and who had posted about government corruption on Facebook - arrested, detained, beaten, and forced to sign a false document;

Gulf Centre for Human Rights -

p.42, arrest of 15 year old twin brothers on charges including the running of a "Facebook page calling for demonstrations, demanding employee rights and the improvement of public services";

EU Agency for Asylum -

p.42 intimidation, arrests and killings of online activists "a relatively regular occurrence. Reprisals ...could be triggered on occasion by a simple post on Facebook";

Human Rights Watch -

p.157, live streaming of a protest on Facebook, leading to arrest, interrogation, and beating while blindfolded;

p.166, arrest of two men "for merely posting messages of solidarity" with demonstrators;

p.167, a man who "added a frame around his Facebook profile ... to show solidarity with protests" detained and held incommunicado for 5 days; another man warned of an arrest warrant issued for posting "several times on Facebook in support of the protest movement".

4. Ms Cosgrove mentioned *XX (PJAK - sur place activities - Facebook) Iran CG [2022] UKUT 00023 (IAC)*. She did not take me to anything specific in that case, which is of course guidance for another country, although she said that its general approach might be relevant. She said that the appellant, although he has failed on the general credibility of his claim about events in Iraq, has not been found to have made his postings in bad faith. She

suggested that deletion of the appellant's Facebook account might not help him, as he already has a history which may have identified him to the authorities.

5. On the remaining part of ground 2, documentary issues, Ms Cosgrove accepted that the appellant has not shown that he has no CSID, or that he has no family or other contacts in Iraq. However, she submitted that even if he has a CSID he would eventually need to obtain an INID, which would require him to visit Kirkuk, and he had based his case on risk of persecution there.
6. Mr Mullen said on ground 1 that there was nothing surprising about the intelligence services in Iraq, including those in the KRG, being actively concerned with social media, as all intelligence services are now so involved. He submitted that the appellant was unable to show more than a few isolated examples, not amounting to a general risk to any casual blogger, such as he was. None of the instances cited appeared to relate to posts from outside Iraq, of which there must be thousands daily. It was not shown that the intelligence services of Kurdistan were likely to take on the enormous burden of searching to the extent likely to draw the appellant to attention. The evidence simply did not support the risk alleged.
7. On ground 2, Mr Mullen relied on the FtT's undisturbed findings that the appellant has a CSID somewhere, or would be able to obtain one, and submitted that even if he did need to go to Kirkuk for documentation, he had proved nothing by which he could not be expected to do so.
8. In reply, Ms Cosgrove emphasised the lower standard of proof and the evidence from reputable sources of repercussions for quite minor activity on social media, which appeared to be a widespread rather than a rare problem. She pointed out that Judge McGrade at [31] accepted not only Facebook Postings but also attendance at a number of demonstrations and gave an interview which appeared on YouTube which, she said, added to the risk.
9. I reserved my decision.
10. The issue is one of fact and degree, weighing the appellant's activities against the evidence said to support a real risk of repercussions.
11. There are instances amounting to apparent persecution by the Iraqi authorities for fairly trivial comments or activities on social media. I note, however, (i) that these appear to be mostly the actions of the central government rather than of the KRG authorities and (ii) that none of the examples appear to relate to internet activities from outside Iraq.
12. Neither of those considerations necessarily excludes a risk to the appellant from the intelligence services of the KRG, but they tend against it.

13. The appellant has not been found generally to be a reliable witness. The FtT did not make a specific finding of bad faith on his Facebook postings, but it expressed serious concerns at [33] on whether an alleged death threat among the responses was manufactured.
14. So far as demonstrations are concerned, the FtT at [37] found no evidence of monitoring and that the Iraqi or Kurdish authorities would have no knowledge of his participation; and alternatively that his peripheral involvement gave rise to no real risk. The YouTube interview is found to be of little note at [38 - 39]. No error has been shown in those observations. These elements do not add significantly to the appellant's case.
15. The intelligence services of the KRG are interested in and active on social media; but it would be a huge task for them to monitor activities abroad on Facebook and the like on a large scale, or to maintain an interest in commentators from abroad at the low level of the appellant. Taking account of the evidence which may previously have been overlooked, as summarised above, I find the risk that they may have identified and recorded the appellant as a target because of his online criticisms to be miniscule.
16. There is nothing to prevent the appellant from deleting his Facebook account. In the event of his return he would be likely to do so. The taking of that sensible precaution would not affect his fundamental rights.
17. Even if all traces of his presence were not to disappear from the internet, for the reasons above, there is no real likelihood of anything remaining which would place him at risk.
18. The case has been advanced as strongly as it could be, based on the findings of the FtT and on the background evidence summarised above; but drawing all the above together, the appellant falls short of showing that his online activity poses a risk of persecution by the authorities of the KRG if he returns to Iraq.
19. On ground 2 (ii), the submissions for the respondent are a complete answer. The appellant has not shown that he is in any difficulty over a CSID, and even if he did eventually have to go to Kirkuk to obtain an INID, he has not shown any obstacle.
20. The decision of the FtT has been set aside; but the appeal, as originally brought to the FtT, is again dismissed.
21. There is no need to retain anonymity.

H Macleman

27 July 2022
UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email.