



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: PA/03060/2020**

**THE IMMIGRATION ACTS**

**Heard at Cardiff Civil Justice Centre  
On 6 January 2022  
Remotely by Microsoft Teams**

**Decision & Reasons Promulgated  
On 27 January 2022**

**Before**

**UPPER TRIBUNAL JUDGE GRUBB**

**Between**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**AAA**

**(ANONYMITY DIRECTION MADE)**

Respondent

**Representation:**

For the Appellant: Mr C Bates, Senior Home Office Presenting Officer

For the Respondent: Mr K Gayle, Elder Rahimi Solicitors

**DECISION AND REASONS**

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) I make an anonymity order. Unless the Upper Tribunal or court directs otherwise, no report of these proceedings shall directly or indirectly identify the respondent (AAA). This direction applies to both the respondent (AAA) and to the appellant and a failure to comply with this direction could lead to contempt of court proceedings.

2. Although this is an appeal by the Secretary of State, for convenience I will refer to the parties as they appeared before the First-tier Tribunal.

### **Introduction**

3. The appellant is a citizen of Iran and is of Kurdish ethnicity. The appellant was arrested on 23 November 2009 having illegally entered the UK clandestinely in a lorry.
4. On 4 December 2009 the appellant claimed asylum. On 8 March 2010, that application was refused but, as the appellant was a minor, he was granted limited leave to remain valid until 6 April 2011. On 1 April 2011, the appellant made a further application for leave on international protection and human rights grounds. That application was refused on 17 October 2011. The appellant appealed but, on 7 December 2011, the First-tier Tribunal dismissed his appeal and, following refusal of permission to appeal, he became appeal rights exhausted on 19 July 2012.
5. On 30 June 2014, the appellant was convicted at the Cardiff Crown Court of possession with intent to supply a controlled drug (class B) and supply of a controlled drug (class B) and was sentenced to eight months' detention at a Young Offender's Institution.
6. On 18 December 2014, a Deportation Order was signed and on 19 December 2014 a decision to deport the appellant and to refuse a human rights claim was made. On 20 November 2018, the appellant made a further international protection claim on the basis that he was at risk of persecution on return to Iran due to imputed political opinion. Further submissions were made on 30 November 2018 and 11 January 2019.
7. On 25 March 2020, the Secretary of State refused the appellant's claims for international protection and under the ECHR.

### **The Appeal to the First-Tier Tribunal**

8. The appellant appealed to the First-tier Tribunal. In a determination sent on 8 March 2021, Judge Young-Harry allowed the appellant's appeal on asylum grounds. The judge found that the appellant was at risk on return to Iran because of his *sur place* activities in the UK including taking part in demonstrations outside the Iranian Embassy and in respect of posts made on his Facebook account.

### **The Appeal to the Upper Tribunal**

9. The Secretary of State sought permission to appeal to the Upper Tribunal which was granted by the First-tier Tribunal (UTJ Martin) on 21 April 2021.
10. In response to the Secretary of State's application for permission, on 2 January 2022 the appellant's representatives filed a rule 24 response seeking to uphold the judge's decision.

11. The appeal was listed at the Cardiff Civil Justice Centre on 6 January 2022. The appeal was heard remotely. I was based in the Cardiff Civil Justice Centre and Mr Bates, who represented the Secretary of State, and Mr Gayle, who represented the appellant, joined the hearing remotely by Microsoft Teams.

### **The Judge's Decision**

12. Judge Young-Harry considered two aspects of the appellant's claim. First, as the appellant had previously claimed, his father had been involved in transporting P/IAK members across the Kurdistan border and that, as a result, the appellant would be at risk on return. Secondly, the appellant claimed to be at risk because of his *sur place* activities in the UK including demonstrations outside the Iranian Embassy and Facebook entries which showed political activity.
13. As regards the former, Judge Young-Harry rejected the appellant's claim. That claim had previously been rejected in the appellant's First-tier Tribunal appeal in December 2011 on the basis that he was not a credible witness. At paras 12 - 17, Judge Young-Harry considered further documents, including court summonses and arrest warrants provided by the appellant in support of that claim. Nevertheless, applying Tanveer Ahmed, the judge found those documents unreliable and saw no basis to depart from the findings in the earlier appeal brought by the appellant. That finding is not challenged by the appellant.
14. As regards the latter, at paras 18 - 32 the judge went on to consider the appellant's claim based upon his attending demonstrations in the United Kingdom, as he claimed since 2009/2010, outside the Iranian Embassy and posts of a political nature on his Facebook page.
15. The judge did not accept that the appellant had attended demonstrations in the UK since 2009/2010 but did accept that he had done so since 2019/2020. At paras 18 - 22 the judge said this:
  - "18. The appellant also relies on his *sur place* activities. The appellant claims he has been demonstrations outside the Iranian Embassy in the UK since 2009/10. However, he has only provided support in photographic evidence of his attendance at demonstrations since the end of 2019.
  19. When asked why he failed to mention he had been attending demonstrations in the UK since 2009/10 during his 2011 appeal hearing, he claimed he did not have any evidence to support the claim because he had avoided taking pictures at demonstrations because he was concerned about the safety of his family in Iran, hence his failure to mention it at his last appeal.
  20. I reject the appellant's claim that he has been attending demonstrations in the UK since 2009/10. I find he would certainly have relied on this at his 2011 hearing. I find it does not follow that he would attend public demonstrations which, according to the appellant in his statement, were filmed by the staff inside the embassy and he would not be concerned

about his family being at risk yet, he would be concerned about disclosing this information in a courtroom.

21. The appellant relies on various pages of Facebook entries and photographs in his bundle, showing him at what appears to be demonstrations. His clothes appear to be different in the pictures which would suggest they were taken on different days; it is not clear however how many demonstrations he has attended. He is carrying signs in some of the photos. One of the signs reads: 'Free Political Prisoners in Iran.'
  22. I note on one occasion he is wearing a high visibility jacket; he claims he was allocated a specific role at this demonstration by a Kurdish Party. In another photograph it appear he is being interviewed by a media outlet. I accept that the appellant's *sur place* activities, in particular his attendance at public demonstrations outside the Iranian Embassy and Facebook activity, may give rise to a risk on return.
  23. The appellant claims as a result of his attendance at demonstrations, his family members, remain in Iran had been visited by the authorities and advised to warn the appellant to stop his activities. The appellant claims they visited in 2019 and more than once in 2020. This however is not consistent with his claim that he only started revealing his face at demonstrations once he knew his family were safe and his further claim that he did not attend demonstrations in 2020 due to COVID-19 restrictions. Neither could he explain how the authorities knew who he was or how to locate his family. I therefore reject the appellant's account in this regard and find it is likely that the authorities have thus far not expressed an interest in him. I must consider however whether the authorities would have an interest in him on return."
16. The appellant does not challenge the judge's finding that he had not engaged in demonstrations, as he claimed, since 2009/2010. The judge, however, clearly accepted that the appellant had engaged in public demonstrations outside the Iranian Embassy since 2019 and accepted his Facebook activity. In para 23, however, the judge found, to quote the judge's words, that the authorities "have thus far not expressed any interest in him".
  17. The judge then went on to consider whether the authorities would have an interest in him on return, despite her finding that they had "thus far not expressed an interest in him". The judge dealt with this at paras 24 - 32 as follows:
    - "24. According to the **Country Policy and Information Note - Iran: Kurds and Kurdish Political Groups - January 2019** [hereafter CPIN], Kurds in Iran face daily discrimination. Those who are outspoken are specifically targeted for arrest, detention and prosecution, simply for exercising their freedoms. Those involved in activism face an increased risk.
    25. In **HB (Kurds) Iran CG [2018] UKUT 00430 (IAC)**, discrimination alone is not sufficient to amount to persecution, although Kurds in Iran face greater suspicion than other groups. Illegal exit and being Kurdish alone is not enough to amount to persecution or a breach of Art 3. However, Kurds who are involved in Kurdish politics or activism risk arrest, detention and physical abuse by the Iranian authorities.

26. Even those expressing peaceful dissent and speaking out about Kurdish rights face persecution. Any perceived or low-level activity is considered political and is swiftly dealt with by Iran's zero tolerance approach. The authorities have a 'hair trigger' approach to those suspected of or perceived to be involved in Kurdish politics i.e. the threshold for suspicion is low yet the response is extreme. According to the **Country Policy Information Notes Iran: Journalists and Internet Based Media - October 2016**, the authorities monitor social networking sites and messaging apps and charge offenders accordingly. Thus, even if the appellant does not hold any genuine, political views and the evidence before me is contrived, I find the appellant's Facebook activity, is likely to come to the attention of the Iranian authorities on return, giving rise to a risk.
  27. In line with **BA (Demonstrators in Britain - risk on return) Iran CG [2011] UKUT 00036 (IAC)**, the Iranian authorities routinely try to identify those demonstrating outside the Iranian Embassy in London, perception alone is often enough to give rise to a risk. The authorities have an unannounced attention to proceed against this dissidents abroad. I find the appellant is likely to fall into this category.
  28. Returnees are screened on arrival and if they are identified as activists, they are detained. The Iranian authorities have a facial recognition technique allowing them to identify up to 200 faces at a time. If the authorities are aware of a person's activities abroad the person may be picked up for questioning and transferred to a special court. Those with a profile may be detained while their documents are checked. I find the appellant is reasonably likely to face such treatment on return.
  29. Following **AB and others (internet activity - state of evidence) Iran [2015] UKUT 0257**, the Iranian authorities are likely to question those returning to Iran without documentation, such as failed asylum seekers, creating a pinch point. This may lead to scrutiny, including questions about internet activity. I find the appellant is likely to face such questioning on return, as a failed asylum seeker.
  30. Kurds who exit Iran illegally, which I find the appellant did, face a heightened risk on return, **SSH and HR (illegal exits: failed asylum seeker) Iran CG [2016] UKUT 0308**. Thus, the appellant's illegal departure may increase the level of difficulty he is likely to face on return, coupled with the fact he falls within a risk category, namely his involvement or perceived involvement in Kurdish politics, following **SB (risk on return - illegal exit) Iran CG [2009] UKAIT 0053**.
  31. I have regard for s.8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, I consider the appellant claimed asylum shortly after his arrival.
  32. Having considered all the evidence, I find it reasonably likely that the appellant will face a risk on return to Iran, based on his *sur place* activities, namely attending public demonstrations outside the Iranian Embassy carrying signs and placards, posting pictures on Facebook and being openly critical about the Iranian regime, will give rise to a risk on return."
18. In essence, the judge found that the appellant would be identified on return, not least by the use of a "facial recognition technique" from his Facebook account or, as the judge had accepted, monitoring by the Iranian

authorities of his activities in the form of demonstrations outside the Iranian Embassy. This would arise at a “pinch point” at the airport and, having regard to the fact that he was also an illegal entrant and of Kurdish ethnicity, his open criticism of the Iranian regime would put him at risk even if his political views were “contrived”.

### **The Secretary of State’s Challenge**

19. The Secretary of State relied upon *four* grounds.
20. First, the judge made a contradictory findings that, in para 23, the appellant had not “come to the attention of the authorities” but then concluded that the appellant’s activities would be known to the authorities on return.
21. Secondly, the judge was wrong to find that the appellant’s social media activity would put him at risk even if it was “contrived”. In the light of the earlier appeal finding that the appellant was not credible, the judge had failed to consider that, if the appellant did not genuinely hold political views, he could delete his Facebook account and activity so as not to expose him to risk on return.
22. Thirdly, the judge had speculated when finding that the appellant’s photographs showed him at demonstrations outside the Iranian Embassy.
23. Fourthly, the judge had misinterpreted the case of BA in concluding that the Iranian authorities had facial recognition technology which could be used to identify the appellant on return to Iran.

### **The Submissions**

24. On behalf of the Secretary of State, Mr Bates adopted the grounds of appeal which he supplemented in his oral submissions.
25. First, Mr Bates submitted that the judge had failed to make a clear finding whether the appellant’s *sur place* activity was genuine or not. Mr Bates indicated that he was inclined to accept that the appellant would be at risk if he was genuine in his political beliefs and activity but he did not accept that he would be at risk if it was not genuine. The judge had erred, in that case, in concluding that the appellant would be known to the Iranian authorities on return because the appellant could delete his Facebook account and, if his belief was not genuine, applying HJ (Iran) v SSHD [2010] UKSC 31 the appellant would be able to answer truthfully that he did not have a genuine political belief. Mr Bates submitted that the judge had given inadequate reasons why the appellant would come to the attention of the Iranian authorities if his political beliefs were not genuine.
26. Secondly, Mr Bates submitted that there was nothing in HB or the other case law to state that a person was at risk on return to Iran if their political activity was not genuine.

27. On behalf of the appellant, Mr Gayle relied upon his rule 24 response.
28. Mr Gayle submitted that it was irrelevant that the appellant had been found not to be credible in relation to the past including the political activity of his father. He submitted that the appellant would be at risk on return even if his political belief was not genuine given his Facebook account and that he is a Kurd who would be returning having left illegally. Mr Gayle submitted that the judge was entitled to find, in effect, that the authorities would not believe that the appellant was not genuine and he would be perceived to be a political opponent.
29. Relying on [65] of BA, Mr Gayle submitted that the judge had not found that the appellant would be identified because of the use of facial recognition technology but rather because of a technique whereby at the airport, it was accepted in BA, there were officials who may be able to recognise up to 200 faces at any one time. He added that, in any event, given the passage of time since BA, it should be considered that there would be software available for facial recognition in any event.

## **Discussion**

30. Ground 1, in my judgment, misstates what the judge found in para 23 of her decision. There, the judge said that she rejected the appellant's account including the claimed visits by the Iranian authorities to his family and that: "It is likely the authorities have thus far not expressed an interest in him". The judge did not find, as Ground 1 suggests, that the appellant has not "come to the attention of the authorities". What the judge found was that they have expressed no "interest" in him yet. In itself, therefore, that finding is not inconsistent with the judge's subsequent finding that the authorities will, on his return, show an interest in him because of his Facebook activities and, using facial recognition techniques, any photographs taken or other monitoring in which he is identified outside the Iranian Embassy. The sustainability of those latter findings is, of course, challenged by the respondent but they are not, in themselves, inconsistent with what the judge found in para 23. She did not find that the appellant is not *known* to the Iranian authorities. She found that they have expressed no *interest* in him thus far when he is, of course, still in the UK. I, therefore, reject Ground 1.
31. It may be useful to take together the remaining grounds (2-4), along with Mr Bates' submission that the judge failed to make a finding as to whether the appellant genuinely has political beliefs.
32. As I have said, Mr Bates acknowledged in his submissions that he was "inclined to accept" that the appellant would be at risk if his political beliefs were genuine because he could not be required to delete his Facebook account and, given his circumstances, at the "pinch point" at the airport, applying the relevant case law, he would be at real risk of serious ill-treatment. However, Mr Bates submitted that the judge had not made that finding even though she had gone on to find that even if the

appellant's political views were not genuine but contrived, he remained at risk.

33. A useful starting point is the country guidance in HB particularly in relation to the risk to returning Kurds who are suspected or perceived to be political active. The relevant parts of the judicial headnote are as follows:

- “(2) Kurds in Iran face discrimination. However, the evidence does not support a contention that such discrimination is, in general, at such a level as to amount to persecution or Article 3 ill-treatment.
- (3) Since 2016 the Iranian authorities have become increasingly suspicious of, and sensitive to, Kurdish political activity. Those of Kurdish ethnicity are thus regarded with even greater suspicion than hitherto and are reasonably likely to be subjected to heightened scrutiny on return to Iran.
- (4) However, the mere fact of being a returnee of Kurdish ethnicity with or without a valid passport, and even if combined with illegal exit, does not create a risk of persecution or Article 3 ill-treatment.
- (5) Kurdish ethnicity is nevertheless a risk factor which, when combined with other factors, may create a real risk of persecution or Article 3 ill-treatment. Being a risk factor it means that Kurdish ethnicity is a factor of particular significance when assessing risk. Those “other factors” will include the matters identified in paragraphs (6)-(9) below.
- (6) A period of residence in the KRI by a Kurdish returnee is reasonably likely to result in additional questioning by the authorities on return. However, this is a factor that will be highly fact-specific and the degree of interest that such residence will excite will depend, non-exhaustively, on matters such as the length of residence in the KRI, what the person concerned was doing there and why they left.
- (7) Kurds involved in Kurdish political groups or activity are at risk of arrest, prolonged detention and physical abuse by the Iranian authorities. Even Kurds expressing peaceful dissent or who speak out about Kurdish rights also face a real risk of persecution or Article 3 ill-treatment.
- (8) Activities that can be perceived to be political by the Iranian authorities include social welfare and charitable activities on behalf of Kurds. Indeed, involvement with any organised activity on behalf of or in support of Kurds can be perceived as political and thus involve a risk of adverse attention by the Iranian authorities with the consequent risk of persecution or Article 3 ill-treatment.
- (9) Even ‘low-level’ political activity, or activity that is perceived to be political, such as, by way of example only, mere possession of leaflets espousing or supporting Kurdish rights, if discovered, involves the same risk of persecution or Article 3 ill-treatment. Each case however, depends on its own facts and an assessment will need to be made as to the nature of the material possessed and how it would be likely to be viewed by the Iranian authorities in the context of the foregoing guidance.
- (10) The Iranian authorities demonstrate what could be described as a ‘hair-trigger’ approach to those suspected of or perceived to be involved in Kurdish political activities or support for Kurdish rights. By ‘hair-trigger’ it means that the threshold for suspicion is low and the reaction of the authorities is reasonably likely to be extreme.”



34. I have no reason to doubt Mr Bates' position that if the appellant's beliefs were genuine, the judge was entitled to find, based upon the relevant case law in particular HB, that the appellant's political activity would put him at risk on return. That would, in my judgment, follow from the judge's reasoning and the cited background material and case law at paras 24 - 32.
35. Mr Bates, of course, did not accept that the judge was entitled to find that the appellant's activities in the UK would become known to the Iranian authorities, in particular under Ground 3, on the basis that the photographs did not establish that the appellant was demonstrating outside the Iranian Embassy and, therefore, as the background evidence demonstrated, the Iranian authorities would be monitoring such activity. I was taken to the relevant photographs at pages 6 - 14 of the appellant's appeal bundle. The judge identified the appellant in these photographs (indeed that is not disputed) and also that he is shown carrying a poster stating "Free Political Prisoners in Iran" and also a PJAK flag. He is also identified being interviewed, it would appear, by an individual with a microphone. The judge found that these photographs depicted demonstrations and accepted that they were outside the Iranian Embassy. The Secretary of State has presented no evidence to contradict that finding. There is clear evidence of a demonstration. There is clear evidence that the demonstration is being policed and is held behind barriers across the road from a number of buildings which, in my judgment, taken together the judge was entitled to accept showed the appellant outside the Iranian Embassy. Whether or not the appellant is a genuine political opponent, the photographs clearly show individuals opposed to the Iranian regime and supporting the Kurdish PJAK Party. It was a reasonable inference for the judge to find, even though she had not accepted the credibility of the appellant's claimed past activities and those of his family, that these were photographs of the appellant demonstrating outside the Iranian Embassy in the UK.
36. Whilst the judge did not make an explicit finding that the appellant had genuine political beliefs as represented in his attendance at public demonstrations outside the Iranian Embassy and on his Facebook page, reading her reasons as a whole, it is clear to me that she did, in fact, accept that he had genuine political views. The bulk of her reasoning at paras 24 - 32 is premised on that. What she says at para 26 in relation to him being at risk "even if" he does not hold any genuine political views, is an conclusion based upon an alternative premise to the principal one upon which she finds in favour of the appellant. Further, at para 30, in taking into account the "heightened risk" to the appellant as a Kurd who left Iran illegally, she concluded that he falls within a "risk category" which she then states is: "namely his involvement or *perceived* involvement in Kurdish politics". Again, the judge reached her finding, as to the heightened risk, based upon actual involvement or what would be perceived as involvement in Kurdish politics.

37. In any event, I am not persuaded by Mr Bates' submission that the judge was not entitled to find, in the circumstances of this case, that the appellant would be at risk even if his political beliefs were not genuine. The fact of the matter is that, at present, the appellant has a Facebook page which shows apparent political activity. Likewise, he has taken part in public demonstrations outside the Iranian Embassy which, on the evidence, the judge was entitled to find might well already have come to the attention of the Iranian authorities because of their monitoring from inside the embassy.

38. In BA, the UT said this at paras 2(a) and (c) of the judicial headnote:

"2 (a) Iranians returning to Iran are screened on arrival. A returnee who meets the profile of an activist may be detained while searches of documentation are made. Students, particularly those who have known political profiles are likely to be questioned as well as those who have exited illegally.

....

(c) There is no evidence of the use of facial recognition technology at the Imam Khomeini International airport, but *there are a number of officials who may be able to recognize up to 200 faces at any one time*. The procedures used by security at the airport are haphazard. It is therefore possible that those whom the regime might wish to question would not come to the attention of the regime on arrival. If, however, information is known about their activities abroad, they might well be picked up for questioning and/or transferred to a special court near the airport in Tehran after they have returned home." (my emphasis)

39. The judge was entitled to find, based upon what was said in BA at para 2(c), that on return to Iran at the airport there was a real risk that due to the facial recognition capacity of a number of officials who are able to recognise 200 faces at a time, the appellant's *sur place* activities would come to the attention of the Iranian authorities. That would be at the "pinch point" referred to in the case law, for example in AB and others. The appellant would be at "heighted risk" and increased suspicion, as HB makes plain, due to his illegal exit and being Kurdish.

40. In these circumstances, it was, in my judgment, reasonably open to the judge to find that, even if the appellant did not hold any genuine political views, there was a real risk that he would be identified and perceived to be a political dissident. That is the risk category identified in the case law. In BA at [65], the UT said this:

"65. ...of especial relevance is identification risk. We are persuaded that the Iranian authorities attempt to identify persons participating in demonstrations outside the Iranian Embassy in London. The practice of filming demonstrations supports that. The evidence suggests that there may well have been persons in the crowd to assist in the process. There is insufficient evidence to establish that the regime has facial recognition technology in use in the UK, but it seems clear that the Iranian security apparatus attempts to match names to faces of demonstrators from photographs. We believe that the information gathered here is available in Iran. While it may well be that an appellant's participation in demonstrations is opportunistic, the evidence

suggests that this is not likely to be a major influence on the perception of the regime. Although, expressing dissent itself will be sufficient to result in a person having in the eyes of the regime a significant political profile, we consider that the nature of the level of the *sur place* activity will clearly heighten the determination of the Iranian authorities to identify the demonstrator while in Britain and to identify him on return. That, combined with the factors which might trigger enquiry would lead to an increased likelihood of questioning and of ill treatment on return.”

41. At [66] the UT dealt further with the risk on return of participants in demonstrations as follows:

“66. As regards identification of risk back in Iran, it would appear that the ability of the Iranian regime to identify all returnees who have attended demonstrations, particularly given the number of those who do, on return, remains limited by the lack of facial recognition technology and the haphazard nature of the checks at the airport. The expert frankly admitted that it was extremely difficult to estimate the risk to identified participants in protests against the Iranian government. Mr Basharat Ali’s careful submission was not that all of those returning, or returned from the United Kingdom, would be subject to mistreatment. We conclude therefore that for the infrequent demonstrator who plays no particular role in demonstrations and whose participation is not highlighted in the media there is not a real risk of identification and therefore not a real risk of consequent ill-treatment, on return. ”

42. In my judgment, even if Mr Bates’ submission is correct in relation to HJ (Iran) - that the appellant could delete his Facebook account (but of course has not done so yet) if his political views are not genuine - there remains the evidential basis for risk derived from monitoring of the demonstrations and, at least for the present, existing Facebook activity. In my judgment, the risk arises most clearly from monitoring by the Iranian authorities of the demonstrations, the ability to identify the appellant, and that he is photographed actively carrying an anti-regime placard and a Kurdish flag together with the fact that he is apparently being interviewed by a person with a microphone. Applying [65] - [66] of BA, the appellant is a person whose *sur place* activity goes beyond mere attendance at demonstrations.

43. The importance of “perception” by the Iranian authorities of activities being political is noted in HB at paras (8)-(10) of the judicial headnote set out above. The “hair-trigger” mentality of the Iranian authorities to those suspected or perceived to be involved in Kurdish politics is also noted in HB. Further in BA, the UT noted at [65] that:

“While it may well be that an appellant’s participation in demonstrations is opportunistic, the evidence suggests that this is not likely to be a major influence on the perception of the regime.”

44. It follows, in my judgment, that whether or not the appellant held genuine political beliefs, the judge was reasonably entitled to find on the material before her that there was a real risk that he would be identified on return and (at least) *perceived* to be a political dissident who would be at real risk of persecution or real risk of serious ill-treatment on that basis (see HB headnote paras (8)-(10)).

45. For these reasons, therefore, I also reject Grounds 2 - 4 and Mr Bates' submission that the judge erred in law in reaching her finding that the appellant had established a real risk of persecution on the basis of political opinion on return to Iran.
46. For these reasons, the judge's decision to allow the appellant's appeal on asylum grounds did not involve the making of an error of law and that decision stands.

### **Decision**

47. The decision of the First-tier Tribunal to allow the appellant's appeal on asylum grounds did not involve the making of an error of law and that decision, therefore, stands.
48. Accordingly, the Secretary of State's appeal to the Upper Tribunal is dismissed.

Signed

**Andrew Grubb**  
Judge of the Upper Tribunal  
12 January 2022