Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/02084/2016**

THE IMMIGRATION ACTS

Heard at Glasgow	**Decision & Reasons Promulgated**
on 3 July 2017	**on 4 July 2017**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

SHARO HEWRAMI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D McGlashan, of McGlashan MacKay, Solicitors
For the Respondent: Mrs R Pettersen, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant appeals against a decision by Designated First-tier Tribunal Judge Murray, dismissing his appeal against refusal of asylum, on these grounds:

> The judge erred in law because the reason why she does not believe that the authorities raided the appellant's house and found leaflets is irrational (paragraph 51):
>
> a. This is the principal reason why the judge does not believe the appellant's account: from the second to fourth sentences in that paragraph she is saying that because only two people knew about the appellant's alleged smuggling activities it is not credible … that cannot be right: it is in the nature of such activities that the fewer people who know – the better.
>
> b. So far as there are others – one reason seems to be that the appellant got dates wrong. Reference needs to be made to question 109 in the AIR in which in answer to the question *"When did this happen?"* the appellant states *"I don't know exact date - but it was the ninth month 1394. (November/December) 9/10/1394"*. This suggests a confusion of the Persian and Gregorian calendars.

> Having regard to the fact that the appellant was illiterate (a fact not disputed) it is unreasonable to use this as a reason why his account should be disbelieved.
>
> If there is another reason why he is not believed it may be that *"no reason has been given of why he would be suspected of those activities"* (fourth sentence). But according to the country evidence … there was every reason – being the suspicions of the Iranian authorities of such activities and the harsh treatment meted out to anyone found guilty of engaging in smuggling leaflets. The judge has ignored this evidence.

2. Mr McGlashan filed at the hearing in the UT, without objection, evidence of conversion of dates from the Iranian to the Gregorian calendar – 1 Dey 1394 was 2 December 2015 and 1 Azar 1394 was 22 November 2015. It was not explained how this evidence showed error of law by the judge, or how it might have advanced the appellant's case in the FtT.

3. Mr McGlashan further submitted as follows. It was highly likely that only two people would know the leaflets were in the house. It was accepted there had been no evidence of how the authorities came to know, but that was not within the appellant's knowledge and not for him to explain. As a shepherd the appellant would have been in a position to meet the *peshmerga*. He gave a detailed account of events at his interview. The judge failed to assess the account in its cultural context: the illiteracy of the appellant, the non-availability of education in Kurdish, and the hostile attitude of the authorities towards the Kurds. The case should be remitted for fresh hearing in the FtT.

4. Mrs Pettersen submitted thus. The decision was to be read as a whole. The conclusions at ¶51 and 52 were briefly stated but legally sufficient, and followed naturally from the terms set out of the cross-examination and the submissions. The appellant had no political affiliation and claimed to have run risks for no apparent reason. His account was rejected not simply for a discrepancy in dating but for lack of any convincing detail or substance. The judge's finding that the account was unpersuasive was open to her, and involved no legal error.

5. I reserved my decision.

6. Point a in the grounds does not accurately reflect what the judge said. She did not say it was unlikely that only two people would know. She said that if that were the fact, she did not accept there would have been a raid.

7. The supplementary point that it was not in the appellant's knowledge why there was a raid is correct as far as it goes, but does not show error. There is nothing wrong with the judge's observation that the evidence disclosed no reason for the authorities to be suspicious.

8. The judge adds in that sentence that the appellant dated the raid to November / December yet entered the UK on 28 October of the same year. There is no factual or legal error in noting the discrepancy, and nothing to suggest that it was given any more weight than it could properly bear. Illiteracy (which the judge accepted) is not a token by which all discrepancies in dating must be overlooked.

9. The judge was also entitled to note that the appellant accepted there was a dating discrepancy, which he attributed to poor memory for dates, and that there was no evidence to support that assertion.

10. The final paragraph of the grounds is also misconceived. The judge did not think that there was no evidence that the Iranian authorities penalise smuggling of political anti-regime leaflets. That was a feature of the case in no doubt. The judge's point was that there was no reason for suspicion falling *on the appellant*.

11. There are other reasons in the decision. The judge noted at ¶52 that the appellant said he helped the party for a year, listened to people talk about it, put himself in danger for it, and yet knew very little about it. That is not criticised. It was well within reason to give it some adverse significance.

12. The judge at ¶53 also rejected the appellant's account of activities in the UK, for reasons not criticised. That was a minor issue, not of the essence, but it was another pointer against general credibility.

13. I agree also with the submission for the respondent that the conclusions reached must be read in context of the whole decision; in which context, they are hardly surprising.

14. The grounds and submissions for the appellant resolve into no more than disagreement on the facts. They do not show that the making of the decision of the involved the making of any error on a point of law. The decision of the FtT shall stand.

15. No anonymity direction has been requested or made.

4 July 2017
Upper Tribunal Judge Macleman