



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

Appeal Number: PA/08753/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 7 March 2018**

**Decision & Reasons
Promulgated
On 27 March 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE HUTCHINSON

Between

**MR MEHMET YILDRIM
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Panagiotopoulou, Counsel instructed by
Montague Solicitors LLP

For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

DECISION AND REASONS

Background

1. The appellant is a citizen of Turkey, born on 20 December 1999, who claimed asylum on arrival in the UK on 19 January 2016. The appellant appealed, to the First-tier Tribunal, a decision dated 29 July 2016 to refuse his application for asylum. In a decision promulgated on 14 September 2017, Judge of the First-tier Tribunal Cassel dismissed the appellant's appeal on asylum, humanitarian protection and human rights grounds.

2. The appellant appeals to the Upper Tribunal with permission from the Upper Tribunal on the following (limited) grounds that it was arguable:
 - Ground 1 That the First-tier Tribunal had not factored in the clandestine nature of the appellant's return at [35];
 - Ground 2 That the First-tier Tribunal failed to take into consideration, in the findings at [32], that the appellant had a past history with the police, and the credibility findings in relation to the police raiding his home;
 - Ground 3 That given that the First-tier Tribunal accepted the appellant was a supporter of HDP, that he had purportedly attended protests and that his family all supported the HDP and that he was detained in 2015, arguably the decision did not accord with the country guidance case of **IK (Returnees - Records - IFA) Turkey CG [2004] UKIAT 00312**.

Error of Law Discussion

3. For the reasons that I have outlined I am not satisfied that an error of law has been identified and the decision of the First-tier Tribunal shall stand.

Ground 1

4. The First-tier Tribunal Judge, at [31] and [35], referred to the appellant being able to enter Turkey without difficulty when his first attempt to reach the UK had not been successful and he had returned with the aid of an agent. The judge noted, at [31], that in evidence the appellant had stated that he had no fear on return on that occasion. In addition at [35] the judge took into consideration that the appellant was "able to re-enter Turkey following the previous failed attempt to reach the UK without difficulty" and went on to say that there was no evidence of past persecution. I do not accept Ms Panagiotopoulou's submissions that the judge erred given that the appellant had re-entered Turkey clandestinely. That is evident from the face of the Tribunal's decision including that the judge notes that the appellant, at [31], "returned to Turkey with the aid of an agent".
5. Read as a whole the judge's consideration of the appellant's return, although it mentions re-entering Turkey 'without difficulty', is concerned rather with the appellant's ability to return to Turkey without persecution. This is further underlined by the judge's recording of the evidence at [15] where he stated that the appellant had "encountered no problems on returning to Turkey and did not have any fear of return on that occasion". I am not satisfied that there is any error, material or otherwise, in the judge's approach to the appellant's return to Turkey and the judge was entitled to take into consideration the lack of difficulty that he experienced there. No error of law is disclosed in ground 1.

Ground 2

6. Equally the judge was entitled to take into consideration that it was not credible that the police had attended the appellant's address within one to two hours after the appellant leaving the demonstration, bearing in mind that the demonstration took place some fourteen or fifteen hours' distance from his home.
7. The Tribunal was aware of the evidence including the appellant's claims that he had been frequently stopped by the authorities and this is recorded in the decision, including where the appellant's evidence is recorded in some detail from [7] to [19] and lists a number of claimed difficulties including his claim that the authorities had previously detained him. There was no error in the conclusion reached by the Tribunal. Notwithstanding that the appellant's evidence was that he had previously been frequently taken to the police station, the Tribunal provided adequate reasons for not finding it credible that the police would attend his house so soon after the demonstration.
8. In any event, any error the Tribunal is said to have made in relation to this finding cannot be material, given the alternative findings made, at [32]: that even if the police had attended his home and the judge was wrong in concluding that they had not, the judge found that there was no credible evidence in relation to what enquiry they would have been making (and the judge took into account that the appellant remains in contact with his mother who has remained in the family home and would be in a position to provide evidence, for example in a letter or statement about the nature of the police enquiries, yet no such evidence had been provided) and that it was equally likely that this had nothing with membership of the HDP or political activity. There was no challenge to those findings in the alternative. The appellant's ground 2 discloses no more than a disagreement with the judge's reasoned findings.

Ground 3

9. In relation to ground 3 it is not properly arguable that the judge did not adequately properly consider the various risk factors with reference to the country guidance of **IK**. The judge considered this in light of the fact that the judge did not find the appellant's evidence credible in a number of aspects, including in relation to his father's claimed disappearance. The Tribunal properly directed itself, at [33]. that notwithstanding that lack of credibility it was incumbent on the tribunal to consider the appellant's risk on return.
10. The judge identified, at [35] that the risk factors were referenced by Ms Panagiotopoulou in her skeleton argument and the judge referenced the particular paragraphs of the skeleton argument, from paragraph 19 onwards. The appellant's representative's skeleton argument submitted that the appellant was likely to be at risk due to his involvement with suspected separatist activities and pro-Kurdish organisations and his

ethnicity and the fact that he had been absent from Turkey. The Tribunal went on to consider, at [35] and [36] the appellant's risk on return in line with **IK**.

11. The judge accepted at [30] that the appellant was a supporter of the HDP and at [35] that he had had some involvement in the distribution of leaflets. The judge also accepted that his family supported the HDP (at [30]). It was abundantly clear that the Tribunal had all these issues in mind, and in addition considered that the country guidance evidence showed a deterioration in the situation for the Kurdish community in Turkey, at [35], but that there was nothing disclosed in the evidence that would place the appellant at any particular risk, compare to other Kurdish nationals of Turkey.
12. In so finding the judge took into consideration that the appellant had been detained in 2015 but that there was no arrest warrant or court proceedings and that he was warned not to distribute leaflets and had abided by this warning. The judge took into consideration the appellant's previous return to Turkey and that he had lawfully attended a demonstration with many other Kurds but did not "misbehave". Therefore the Tribunal's subsequent conclusion, that there was no evidence of past persecution and that although his Kurdish connections may be discovered on return there was no well-founded fear of persecution, was a finding that was open to the judge and clearly encompassed all of the relevant factors, including his personal situation (encompassing his absence from Turkey), the country situation, his family background, support of the HDP and his limited level of involvement as found by the Tribunal. Ground 3 discloses no material error of law.

Conclusion

13. The grounds in general disclosed no more than a disagreement with the judge's carefully and closely reasoned decision. The decision of the First-tier Tribunal does not disclose an error of law and shall stand.

Notice of Decision

14. The appellant's appeal is dismissed.

No anonymity direction was sought or is made.

Signed

Date: 23 March 2018

Deputy Upper Tribunal Judge Hutchinson

