



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

Appeal Number: PA/12563/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 18th July 2017**

**Decision & Reasons
Promulgated
On 26th July 2017**

Before

UPPER TRIBUNAL JUDGE KING TD

Between

AK

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss A Patyna, of Counsel, instructed by Virgo Solicitors
For the Respondent: Mr O Clarke, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Turkey born on [] 1997. He appeals against the decision of the respondent dated 28th October 2016 refusing to grant him asylum or other protection in the United Kingdom.
2. The hearing of the appeal came before First-tier Tribunal Judge Kainth on 15th December 2016. For the reasons as set out in the determination

promulgated on 16th January 2017, the appeal was dismissed in all respects.

3. Challenge has been made to the findings of the Judge, in particular it being said that undue weight was placed upon the screening interview to the detriment of other relevant material as presented. It was upon that matter that permission was granted and thus the matter comes before me to determine the issue.
4. The claim of the appellant is that he suffered ill-treatment in Turkey as a result of his association with the HDP ("The Peoples' Democratic Party") and sympathy towards common suspected links with the PKK ("The Kurdistan Workers Party"). It was his claim that he was detained on three occasions, namely 20th August 2012, 14th February 2015 and 13th February 2016. It is his case, as stated in the substantive interview, that warrants for his arrest have been issued in relation to all those matters, but no warrants or court documents were presented.
5. It was the case, as advanced on behalf of the appellant, that he had wished to leave Turkey since 2014 and had made multiple visa applications. It is said that an application in August 2014 had been refused, a further one in September 2014 had been refused, and an one in September 2014 had been refused. In the event he flew from Turkey to the UK without documents in May 2016 and claimed asylum upon entry. Essentially the Judge did not accept it to be credible that the appellant had waited so long to flee, if indeed he was being sought in such a manner as he has described.
6. A particular feature of this case, however, is that having arrived in the United Kingdom and claimed asylum, he was made the subject of a screening interview, a brief nature of which is set out by the Judge in paragraph 27 of the determination. The appellant was asked whether he had ever been accused of any allegation or offence or detained, to which he had said he had not. He indicated there was no warrant for his arrest. He denied that he was an Alevi Kurd, but did give details as to his uncle in the United Kingdom.
7. On the face of the matter and common sense, having waited so long to get to the United Kingdom to claim asylum, it is surprising he did not give an account of his ill-treatment or fear.
8. The appellant provides two explanations for that matter: the first being that the interpreter at that screening interview indicated that he was from the Turkish Consulate which led the appellant not to trust him. There seemed to be however no indication given by the appellant to the interviewer that he would prefer a different interpreter, and as the Judge notes in paragraph 27, even if that were the case, it does not explain why the appellant should lie about his circumstances in one sense and give details as to his family member, his uncle, in another.

9. A further explanation seems to be given by the appellant that he was unwell having made the journey, he was hallucinating, having nightmares and his thought processes were not correct and that he was therefore not able to explain himself correctly during the screening interview. The Judge noted at paragraph 35 of the determination that in terms of the screening interview the appellant was asked specifically whether he had any health problems and had answered in the negative. In any event, no report has been prepared to support his contention as to his condition.
10. It is to be recognised, indeed as has been indicated in a number of judicial decisions, a screening interview is precisely that. It is not designed to be a full interview, but merely to have some indication as to what the claim is about. The appellant is therefore not expected to give a full explanation, but it is reasonable to expect, as indeed the Judge comments, for him to give a truthful one. In contrast to the screening interview the appellant in his substantive interview gives quite a different account of his fears and treatment.
11. It seems to me, and I so find, that it was in those circumstances it is entirely reasonable for the Judge to place significant weight upon that screening interview, particularly given that the explanations as to why the appellant had acted as he did at the screening interview were not accepted.
12. There were a number of other findings which were made by the Judge on other matters of the claim. As I have indicated, the Judge considered that the delay in seeking to leave Turkey undermined the claim that he was being actively sought by the authorities over a number of years. In particular, in relation to the claimed detention in February 2016, the appellant claims to have been released upon bail and was in breach of his bail terms in leaving Turkey. The whole nature of the circumstances in which he came to find assistance in leaving Turkey by a member of the public just happening to meet him was not a circumstance which the Judge found to be credible in all the circumstances.
13. The Judge notes that it would be unlikely, given the profile of the appellant that he would be able to leave Turkey using a passport with his photograph and name on it. Consideration was given to the case of **IK (Returnees - Records - IFA) Turkey CG [2004] UKIAT 00312** with specific reference to the GBTS system which records the entry and exit of individuals. Mr Clarke drew my attention to the decision, in particular to paragraphs 25 onwards dealing with the ambit and accessibility of the information systems maintained by the authority in Turkey. The Tribunal recognised the difficulty of obtaining clear details and set out the difficulties in the course of the judgment. The Tribunal considered that border control information was essentially geared to those coming in. However regard was had to NUFUS records and the Tribunal found little reason to doubt that those who were the subject of warrants of arrest

would have a record in some department. Indeed, as the appellant claims, he is the subject of three warrants for arrest. It would be surprising indeed if that was not a factor that was noted in the border control. The Judge makes reference more to the bail aspect rather than to the warrant aspect. It seems that having three warrants would clearly increase the implausibility of the appellant being able to leave on his own passport.

14. In addition, the decision of the Respondent in refusing asylum, highlighted certain disconcerting details as to language and lack of cultural awareness. In fairness to the appellant the Judge at paragraph 39 accepts that some of the replies were consistent with the external evidence but not necessarily indicative that he was Kurdish.
15. Miss Patyna seeks to argue that the Judge failed to consider properly the evidence that was presented and unduly dismissed it because of the screening interview.
16. In that connection the Judge makes reference to a number of photographs that were presented, particularly at pages 67 and 69 of the bundle, said to relate to Kurdish celebrations in March 2015 and one taken outside the HDP building on 10th June 2015 with the appellant attending with two HDP MPs. The Judge found that the photographs were not indicative of the appellant's claimed political involvement. Further that there were no supporting witnesses concerning his activities.
17. There are other photographs which seem to confirm the identification of Claldogan who is an HDP MP, showing him in various photographs during the course of his political activity. Similarly, Mahmut Torgul, also an MP, there are photographs of him in the course of his activities. The fact that the appellant may be beside these two persons without more does not create the political profile which he claims there to be. Although corroboration is not to be sought, as a requirement, it is perhaps surprising that there are no statements from those individuals speaking about the appellant, if indeed he had a more significant profile than merely a photograph.
18. The Judge also considered at paragraph 33 of the determination a document that is set out in translated form at page 65 of the appellant's bundle. It seems to be a document from the Chief Public Prosecutor, Political Party Membership Investigations with an ID number 15734110710, seemingly to be attributable as a party membership to the appellant. There was an investigation conducted on 18th October 2016, produced as evidence of the appellant's membership of the HDP, seemingly a copy having been obtained from the internet. The website address as a membership enquiry of political parties. The appellant explained that simply entering a specific reference number provides the relevant information. He claimed to be an active member and supporter of the HDP. The Judge found that that document by itself being one

seemingly created from the website and without more was not of great weight in determining the issue of membership.

19. Miss Patyna indicates there was also a report from The Peoples' Democratic Party of Turkey setting out in general terms how it operates and the experience which it has of the authorities interference and there was a lot of generic information about the difficulties which those supporting the PKK or the HDP had in Turkey, but little of any of that makes any direct reference to the appellant himself. Although Miss Patyna accepts that there were other matters considered by the Judge, she submits that in essence credibility was determined by the screening interview and by little else and that the Judge would have come to a different conclusion had the Judge not been so focused upon that aspect.
20. It seems to me, however, that the Judge was perfectly entitled to give such weight to the documents as deemed appropriate. The appellant is an individual who claims to have been at the forefront of political activities over a number of years in Turkey and who is actively being sought by the authorities. He claims to be associated with MPs and be the recipient of warrants for arrest. None of that material has been presented. Given the length of time that the appellant was in Turkey seeking to come to the United Kingdom to claim asylum, it is perhaps reasonable to expect there to have been more documentation about his activities or statements from colleagues to clarify the matter. In his interview he claims to have taken an active part in events and meetings of the party and an active member since 2015 of the HDP. He speaks in his interview of many raids, both in Istanbul and elsewhere.
21. If indeed the appellant is right in saying that he gave an inaccurate or untruthful account to the authorities when initially questioned it is understandable that thereafter what he says or produces is the subject of the utmost scrutiny. In this particular case the Judge formed the opinion, for the reasons set out, that the appellant was not credible as to the activities which he subsequently claimed to have been involved with.
22. Although it is right that there is a very heavy emphasis placed by the Judge upon the screening interview, I do not find that it has tainted all other considerations as is claimed. It is clear that the Judge has viewed the matter from a number of perspectives, testing the evidence that was presented in the light of what the appellant had to say to the authorities, both in the screening interview and subsequently.

Notice of Decision

23. I do not find there to be any material error of law. In the circumstances the appellant's appeal to the Upper Tribunal is dismissed and the decision of the First-tier Tribunal Judge shall stand, namely that the appellant's appeal for asylum is dismissed, that in relation of humanitarian protection is dismissed as well as that in relation to human rights.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

A handwritten signature in cursive script, appearing to read "P. Q. King".

Date 26 July 2017

Upper Tribunal Judge King TD