



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/08192/2017

**THE IMMIGRATION ACTS**

Heard at Field House  
On 28 February 2018

Decision and Reasons Promulgated  
On 15 May 2018

Before

UPPER TRIBUNAL JUDGE CANAVAN

Between

IO  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Anonymity**

*Rule 14: The Tribunal Procedure (Upper Tribunal) Rules 2008*

Anonymity was granted at an earlier stage of the proceedings because the case involves protection issues. I find that it is appropriate to continue the order. 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.

**Representation:**

For the appellant:

Ms A. Mugha, Montague Solicitors LLP

For the respondent:

Mr I. Jarvis, Senior Home Office Presenting Officer

## DECISION AND REASONS

1. The appellant appealed the respondent's decision dated 07 August 2017 to refuse a protection and human rights claim.
2. First-tier Tribunal Judge A. Kelly ("the judge") dismissed the appeal in a decision promulgated on 18 October 2017. The judge rejected the credibility of the appellant's claim that he was detained by the Turkish authorities and concluded that he would not be at risk on return because of his claimed political activities for the HDP.
3. The appellant appealed the First-tier Tribunal decision on the following grounds:
  - (i) The judge failed to put the appellant's more recent involvement with the HDP in the context of his earlier support for predecessor pro-Kurdish parties.
  - (ii) The judge erred in making adverse credibility findings relating to the evidence given by the appellant's wife and sister as to when and how he injured his back, when the appellant's evidence had been consistent on the point.
  - (iii) The judge made a factual error in apparently finding that the appellant was the subject of an arrest warrant.
  - (iv) The judge's finding that the appellant would not be at risk as a result of his "Kurdish ethnicity, his Alevi faith, and his low-level involvement with the HDP" because, even taking his account at its highest, he was "released without change on each occasion that he was detained [suggesting] that the authorities have no further interest in him" [42] was inconsistent with country guidance in *IK (Returnees - Records - IFA) Turkey* CG [2004] UKIAT 00312.
4. First-tier Tribunal Judge Ford granted permission in an order dated 04 December 2017. She limited the grant of permission to the last two grounds. The judge's credibility findings must be considered as a whole, as such, I was satisfied that it was unhelpful to limit the grounds and made clear that I would consider all grounds as part of my assessment of the First-tier Tribunal decision.

### Decision and reasons

5. I have considered the grounds of appeal and submissions as well as the documentary evidence before the Upper Tribunal.
6. Many of the judge's findings about the timing, plausibility and consistency of certain aspects of the account given by the appellant and his witnesses were open to her to make on the evidence. However, despite having stated that she had considered the evidence in the round, her findings take the form of a list of reasons why she did not accept the credibility of the appellant's account, with little or no analysis of whether some aspects of the evidence might support the appellant's account. However, having considered the evidence before the First-tier Tribunal, I am satisfied that any lack of balance in the judge's findings would not have made any material difference to the outcome of the appeal.

7. The judge set out the appellant's claim in some detail [5-15]. She also summarised the documentary evidence [18]. The judge failed to make findings as to whether she accepted the appellant's account of detention on three previous occasions in 1997, 2013 and 2015, which might have formed some background to her assessment of the appellant's claimed detention in December 2016. The appellant did not rely on the earlier detentions to support his current claim to be at risk. On his evidence, the first occurred when he was putting up political posters and he had no further problems for a significant period thereafter. The second and third detentions did not appear to be targeted. The appellant did not claim to be a high-ranking or active member or supporter of predecessor parties. Even if his evidence was taken at its highest, he was detained as part of a general round up at the party building in 2013 and at a demonstration in 2015. The appellant's account of short term detention in such circumstances was broadly consistent with the background evidence relating to Turkey, but did not show that the authorities targeted the appellant because of his political profile.
8. The appellant's claim to be at risk on return at the current time relied on his account of events in December 2016 and early 2017. In this respect, the judge made detailed findings as to why she considered the appellant's evidence about his activities with the HDP was inconsistent [29].
9. The judge did not make specific findings relating to the evidence that supported his claim to be a member of HDP and the Alevi Cultural Association. It appears that she proceeded on the basis that this evidence was likely to be reliable, but questioned the appellant's motives in joining those organisations shortly before travelling to the UK [30]. The evidence before the First-tier Tribunal showed that the appellant made an entry clearance application for a family visit visa in August 2016. He joined the HDP and the Alevi Cultural Association after he made the entry clearance application, but shortly before he left to travel to the UK.
10. In light of the appellant's background of low level support for pro-Kurdish parties, there was nothing inherently implausible about the fact that he might support the HDP. However, it was open to the judge to consider a number of matters that she thought cast doubt on the appellant's claim to be at risk as a result of his association with the HDP. It was open to her to consider apparent inconsistencies in the appellant's evidence as to when and to what extent he became involved with the HDP. It was also open to her to question the timing of the events when it was clear that the appellant was already planning to travel to the UK. It is understandable that the appellant disagrees with the decision but the judge's findings were not outside a range of reasonable responses to the evidence.
11. While I accept that the appellant might have been consistent in his evidence as to when and how he sustained an injury to his back, it was open to the judge to consider the evidence given by the other witnesses in assessing the overall credibility of the claim. It seems that some time was taken to clarify his wife's evidence, which was inconsistent

with that of the appellant [32]. The fact that the appellant's wife asserted that the injury was sustained during the final detention in December 2016 is a matter that called into question whether she was seeking to exaggerate the claim. It was relevant to the judge's overall assessment of the credibility of the appellant's claim to have been detained in December 2016.

12. The appellant's evidence was that he was released from detention after agreeing to act as an informer, but then failed to report. It seems clear that there was no suggestion from the appellant that a warrant was issued for his arrest. Having considered the judge's finding at [36] I do not read it to suggest that she erroneously thought that the appellant was the subject of an arrest warrant. She stated:

"If the Turkish police had an adverse interest in the appellant, and if they had released him on 22<sup>nd</sup> December 2016 on the condition that he agreed to become an informer for them, I find it unlikely that he would have been able to fly out of Istanbul's main international airport a week later using his own passport without being intercepted by the authorities. I accept that the Turkish border control may be more concerned with people travelling into the country than those leaving it, but I nevertheless consider it likely that a person who is the subject of an arrest warrant, or who is otherwise of significant adverse interest to the authorities, would appear on some sort of database accessible to the authorities at Ataturk airport."

13. The use of the phrase "subject of an arrest warrant, or who is otherwise of significant adverse interest" [my emphasis] indicates that the judge was using this as an illustration rather than suggesting that the appellant in this case was the subject of an arrest warrant. On closer analysis the judge's finding does not disclose a material error of fact. It was open to her to consider whether it was plausible that the appellant could leave the country in the way he described if he was of adverse interest to the authorities as claimed.
14. Having considered the evidence as a whole I am satisfied that any omissions in the judge's reasoning do not undermine her overall credibility findings to extent that they must be set aside.
15. The final ground of appeal attacks the judge's findings relating to risk on return [42]. At this stage the judge considered the appellant's claim at its highest with reference to up to date background evidence. The ground refers to the country guidance decision in *IK (Turkey)*, but fails to particularise how or why the judge's findings amount to an error of law.
16. I accept that country guidance decisions of the Upper Tribunal have long recognised that the Turkish authorities often target opponents through a pattern of short term arrest and then release from detention. I accept that in certain cases this could give rise to a well-founded fear of persecution. To this extent, the judge's finding that the mere fact of release shows no further interest would not be sufficient, if taken alone, to justify a conclusion that there was no risk on return. However, I have already outlined the nature of the appellant's previous detentions. None of them showed a pattern of


targeting. The judge was required to consider up to date evidence relating to the risk to low level HDP supporters, which she did. The evidence she referred to indicated that low level HDP supporters would not generally be targeted by the authorities. When ordinary members had problems, it was generally when they were participating in demonstrations and rallies. Having rejected the credibility of the appellant's account of the final detention in December 2016 it was open to the judge to conclude that there was no real risk of the appellant coming to the adverse attention of the authorities on return. It was open to her to take into account the fact that the appellant, albeit Kurdish, did not live in an area of separatist activity, and was unlikely to come under suspicion for that reason [44].

17. For the reasons given above, I conclude that the First-tier Tribunal decision did not involve the making of any material errors of law. There are no grounds to justify setting aside the decision.

## DECISION

The First-tier Tribunal decision did not involve the making of a material error of law

The decision shall stand

Signed   
Upper Tribunal Judge Canavan

Date 10 May 2018