



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

Appeal Number: PA/12481/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 17 June 2019**

**Decision & Reasons Promulgated  
On 03 July 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE HUTCHINSON**

**Between**

**MG  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms B Smith, Counsel, instructed by Leonard Cannings  
For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Background**

The appellant, a Turkish national of Kurdish ethnicity, was born on 1 May 1999 and is aged 19. He applied for asylum in September 2015. In a decision dated 10 October 2018 the Home Office refused his protection claim. In a decision promulgated on 2 April 2019 a panel consisting of Judge of the First-tier Tribunal G Browne and Judge of the First-tier Tribunal N J Osborne dismissed the appellant's appeal on all grounds.

The appellant appeals with permission on the grounds that, in summary:

the Tribunal erred in failing to assess the appellant as a vulnerable witness in the assessment of the evidence relating to his claim of possibly having been trafficked and the arrangements as to his passport and travel to the UK;

that the assessment as to his political activities was fundamentally flawed and that it was illogical and irrational to state that he had a reasonable geographical knowledge, given that he had worked as a shepherd;

that it was irrational to reject his claim of beatings in Turkey because there was no supporting objective or expert evidence;

that the rejection of the account because there were no supporting statements from family members in Turkey was an error of law.

### **Error of Law Discussion**

Although Ms Smith valiantly tried to persuade me otherwise, including attempting on a number of occasions to introduce new grounds of appeal which were not before me, I am satisfied that that the grounds amounted to no more than an attempt to re-argue the appeal.

The core of Ms Smith's submissions, including as set out in her skeleton argument, related to the panel's approach to evidence and vulnerability. What I found to be her main argument, was not a ground before me: she argued that in effect the panel did not properly interpret the expert evidence before it in respect of the appellant's vulnerability. However, that ground was not argued in the grounds for permission to appeal. Although Ms Smith reluctantly accepted this was the case, this did not prevent her from trying to shoehorn this ground into the existing grounds, albeit unsuccessfully.

In any event, even if this new ground was before me I am not satisfied that it is made out; the Tribunal undertook a comprehensive consideration of the appellant's appeal including extensive consideration of the appellant's vulnerability. This included at [12] and [13] the approach that was taken to the appellant's vulnerability.

The panel then went on to make detailed findings at [14] to [18] on the medical assessments in the UK relevant to the appellant's account, recall and credibility, including that a psychologist confirmed he did not meet the diagnostic criteria for a learning disability and that there were no significant symptoms of PTSD. Nevertheless, contrary to Ms Smith's submissions, the Tribunal did take into consideration the appellant's functional difficulties and his young age on arrival and considered how his difficulties may impact on the clarity of his answers including remembering dates but was entitled to find that a requirement for additional support in a learning environment did not significantly affect the appellant's understanding of questions and the clarity of

his answers or his memory of names and places. The Tribunal was also entitled to take into consideration as it did the appellant's ability to provide clear information at the hearing. The Tribunal took into consideration that there was evidence including from college tutors that the appellant is forgetful in relation to appointments and has concentration problems but that there was otherwise no medical evidence of a significant cognitive problem or memory problem and that he was not referred for a further memory test by the neurologist and that he was discharged, having made recommendations in relation to managing excessive daytime sleepiness. The Tribunal reviewed the evidence including that an MRI was normal, an endocrinologist had not diagnosed any abnormality and the neurologist did not verify the appellant's claim that he had had a head injury with no expert or medical evidence to confirm a head injury or lasting injuries.

There is no error, material or otherwise, in the Tribunal's very comprehensive approach to that evidence. The new submission that Ms Smith sought to introduce before the Upper Tribunal was an attempt to revisit the reasoned conclusions reached by the panel, because the appellant disagrees with them. Even if that ground were before me it is not made out, and I do not accept that the fact that the Tribunal did not mention each and every part of the expert evidence, means that they did not properly consider it where this panel undertook a particularly detailed consideration of the expert evidence in relation to the appellant's difficulties and reached evidence-based findings on the basis of that consideration. Weight was clearly a matter for the panel and there is no arguable error in the panel's consideration of the appellant's vulnerability. There is no merit in that submission.

The Tribunal properly directed itself as to the appellant's vulnerability. Whilst I accept, as Ms Everett did, that a self-direction in itself does not mean that a Tribunal might not subsequently fail to follow that direction or otherwise fall into error, that is not what this panel did.

It is more than evident that, having made reasoned and sustainable findings as to the extent of the appellant's difficulties: including finding at [18], that they took into account the appellant's functional difficulties together with his young age when coming to the UK in their findings on credibility; including that they considered whether his difficulties affected the clarity of his answers at every stage of his claim and might, when coupled with trauma, affect his recall of past events; including accepting that the appellant may have difficulties remembering precise dates; and then going on to otherwise find that the appellant's visual problems and requirement for additional support in a learning environment did not significantly affect his understanding of questions and the clarity of his answers or his memories of names and places. The panel took into account that the appellant could recall information at his oral hearing without any apparent difficulty and was able to provide clear information in answer to all the questions and that although he required reasonable rest breaks required no other adjustments at the hearing.

The panel went on to take into consideration the appellant's vulnerability throughout the Decision and Reasons, and this was accepted by Ms Smith. The

grounds as pleaded take issue with the panel's conclusions including where they found the appellant not to be credible. I agree with Ms Everett that it was the role of the panel, having found the appellant to be a vulnerable witness and having made reasoned findings in relation to the extent and effect of that vulnerability, to go on to assess the evidence, through that prism, and make findings. I further agree that Ms Smith's characterisation of the grounds at the oral hearing seemed to suggest that in effect those vulnerabilities meant that no weight could be placed on the various discrepancies and difficulties with the appellant's evidence outlined by the panel, although Ms Smith disavowed such a submission.

The grounds argue that at [37] to [44] the Tribunal had erred in its consideration of the screening interview and states that the Tribunal commented adversely that there was no further supporting information to confirm that the appellant was suspected of having been the victim of trafficking and that this explained why he had not provided supporting details of his claimed political activities and why he had provided contradictory information in his initial screening interview to his subsequent asylum claim. Although Ms Smith drew my attention to the respondent's bundle at B9, 4.4, where it is recorded in answers that the appellant was not allowed to have contact at this time with his family in Turkey, I agree with Ms Everett that this does not in any way address the Tribunal's finding that there was no supporting information which might confirm such a claim where such ought to have been available.

Whilst the grounds note that the initial interview recorded that the appellant was distressed and unable to explain his reasons for claiming asylum, the panel clearly took this into consideration as recorded at [42] and again took into account his vulnerability as they did throughout their deliberations.

The panel was entitled to reach the reasoned conclusions it did in relation to the multiple difficulties with the appellant's evidence and claim, notwithstanding his vulnerability.

It is simply not the case, as argued at paragraph 4 of the grounds, that despite acknowledging the appellant's age and that he was a vulnerable witness that the Tribunal appeared to have had "no regard" to this in its assessment of the appellant's evidence when such regard is given not only in the very detailed assessment of his vulnerabilities as referred to above but throughout the decision including as mentioned above at [42] and again at [55].

It cannot be properly said that the panel failed to properly take into account the appellant's vulnerabilities. Such an argument flies in the face of the findings and perhaps explains why Ms Smith attempted to change the grounds to introduce her, ultimately flawed, argument that the expert evidence was not properly considered.

Equally, whilst at paragraph 5 of the grounds it was argued that the Tribunal erred in its consideration of the issues surrounding the appellant's passport whilst acknowledging that the appellant may well have been following

instructions, yet going on to state that it was surprised the appellant would throw away his passport, there was no inconsistency in that reasoning. The Tribunal went on to find that the appellant had time to consider his actions and plan his route and arrangements were made to undertake the last part of the journey clandestinely. It is not the case, as submitted by Ms Smith, that this led to a negative credibility finding in itself whereas the Tribunal's reasoning demonstrates that this was taken into consideration with other factors.

The Tribunal undertook a detailed consideration of all aspects of the appellant's claim including his journey to the UK, events since coming to the UK, his asylum claim grounds and screening interview, his passport identity documents, his 2018 asylum interview, his political activities and claimed police involvement, his involvement with the Turkish authorities, his knowledge of Kurdish issues, of political involvement and his claimed political activities with detailed findings set out on each of these issues. There has been no real challenge to the majority of those findings, which comprehensively find the appellant not to be credible.

In that context, it is not the case, as was argued at paragraph 6 of the grounds, that the appellant's claim for asylum was found to be contrived because of his journey, whereas the Tribunal took this into account as one of the factors, and was entitled for the reasons it gave, to not accept the appellant's claim.

Although again it was argued that from [53] to [59] (paragraph 7 of the grounds for permission) that the Tribunal erred in failing to treat the appellant as a vulnerable witness, this is manifestly not the case. As already noted, despite having comprehensively considered the vulnerability issue the panel went on to consider it again at [55] and to take that into consideration. It was clear that the vulnerability of this particular appellant was at the forefront of the panel's mind.

Whilst it was argued on the appellant's behalf, that at [56] it was illogical for the panel to reach the conclusion that the appellant has a reasonable geographical knowledge because he worked as a shepherd, that is to take the findings out of context. The Tribunal considered, at [56], the appellant's evidence to be conflicting. The appellant's father hid him in a house of a family friend in the mountains after the meeting house had been raided but the appellant could not name the area where the house was located or the nearest village despite staying there for a month.

The Tribunal was entitled, considering all the evidence in the round, to not accept this argument including taking into consideration the appellant's answers to other questions about places in Turkey and that, given he was a shepherd, he might have a reasonable geographical knowledge. The appellant had not proffered any adequate explanation to explain why he could not remember, other than his vulnerabilities, which the Tribunal adequately considered and made sustainable findings on including that he did not meet the diagnostic criteria for a learning disability and that there were no significant symptoms of PTSD.

At paragraph 9, the final ground in the grounds for permission, it was argued that the Tribunal accepted at [59] that the appellant had given accounts of beatings which were “broadly similar”. It was further argued that the Tribunal was irrational to go on to reject this aspect of the account. However, it was open to the Tribunal to find as it did that these ‘broadly similar’ accounts were self-serving. The Tribunal properly directed itself that corroboration in relation to harm suffered and the risk of harm in Turkey is not a requirement. Equally, the Tribunal was entitled to find as it did, that where evidence including objective or expert verification of past harm and injury was not available, the Tribunal had to make findings on the appellant’s assertions which it found not to be credible. It is not the case that the panel rejected the appellant’s account due to lack of evidence, rather the panel, have considered the evidence properly and in the round, rejected the appellant’s claim on the basis of the evidence before it.

There was further discussion before me in relation to an additional ground added by the permission judge, arguing that the panel arguably erred in failing to give reasons, at [48], why it was unlikely that the appellant would face severe beatings, death threats, yet not be arrested.

Even if that ground were before me, which I am not satisfied it was (see including **AZ (error of law: jurisdiction; PTA practice) Iran [2018] UKUT 00245 (IAC)**) the Tribunal had set out the background country information summary at [5] to [8], which included that members of opposition groups continued to be arrested and charged, which is consistent with the finding at [48] that it is unlikely that he would face such severe beatings and threats without being arrested whereas the appellant claims to have just been detained. In any event, any arguable error could not be material, given the extent of the panel’s credibility findings including on this issue, which went on to find at [48] that there were further difficulties with his account of his claimed beating and his account including that none of his other family members faced trouble from the authorities despite their claimed political affiliation.

In the context of all the evidence considered in the round, as the Tribunal did, considering the Decision and Reasons holistically and fairly, the panel was entitled to reach the finding it did that the appellant’s claims, including as set out at [48], were an attempt to bolster his claim that he would be of interest to the Turkish authorities over three years later.

The Tribunal also made findings, which were not substantively challenged, that in any event, it would be unlikely he would be of any interest due to the lapse in time since his alleged activities. There is no error in those findings.

### **Notice of Decision**

The decision of the First-tier Tribunal does not contain an error of law and shall stand.

**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

Date: 27 June 2019

Deputy Upper Tribunal Judge Hutchinson

**TO THE RESPONDENT**  
**FEE AWARD**

No fee was paid or payable so no fee award is made.

Signed

Date: 27 June 2019

Deputy Upper Tribunal Judge Hutchinson