



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-001964
First-tier Tribunal No: PA/53024/2021
IA/07527/2021

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 17 May 2023**

Before

UPPER TRIBUNAL JUDGE CANAVAN

Between

M N D
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S. Akinbolu, instructed by CK Solicitors
For the Respondent: Ms A. Everett, Senior Home Office Presenting Officer

Heard at Field House on 07 February 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity because the case involves protection issues. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant appealed the respondent's decision dated 20 June 2021 to refuse a protection and human rights claim. The appellant was granted a short period of leave to remain in line with the respondent's policy on unaccompanied asylum seeking children.
2. First-tier Tribunal Judge Doyle ('the judge') dismissed the appeal in a decision sent on 27 March 2022. At the date of the hearing on 22 March 2022 the appellant was nearly 18 years old but still a child. The witnesses (the appellant and his four paternal uncles) adopted their statements, but their evidence was not tested because the respondent did not send a representative to the hearing [5]. The judge summarised the main elements of the appellant's asylum claim [8]. He also provided a general summary of the political situation and the situation for Kurdish people in Turkey with reference to the background evidence [10].
3. When the judge turned to make his findings, it seems that he accepted the appellant's claim that he suffered discrimination as a Kurd. However, he did not accept the appellant's claim that he would be at risk from the Turkish authorities if returned. The judge found the appellant's claim that the authorities had raided his house looking for him shortly before he left Turkey to lack credibility. First, the appellant was a child and did not claim to have been politically active or to have had a history of arrest or detention by the authorities. Second, the appellant's account was vague and lacked detail. Third, the appellant did not mention it in the SEF statement prepared with the assistance of legal representatives. He only mentioned what should have been an important element of his case at a later stage when he was interviewed about his reasons for claiming asylum [12(l)].
4. As part of a holistic assessment, the judge noted the appellant's further claim that, since he came to the UK, his father was arrested in another raid on their home. The judge found that the appellant gave a 'half-hearted' account and had not produced any evidence from his parents to explain what had happened [12(m)]. The judge also considered the evidence given by the appellant's four uncles in their witness statements [12(o)-(p)]. Although some evidence had been produced to indicate that one of his uncles had been charged with an offence of supporting the PKK when he returned to Turkey for a visit in 2018, the judge noted that he had not mentioned this incident in his witness statement. If his uncle was charged and subsequently released and able to return to the UK, it was unlikely that the appellant, who had not been politically active, would be at risk if returned to Turkey [12(p)].
5. In summarising his conclusion relating to risk on return, the judge found that the appellant had only given a consistent and credible account of having suffered discrimination in the past and not of treatment amounting to persecution. He was a young Kurdish man whose parents remain in Turkey. He did not have a political profile. The judge found that the 'weight of evidence indicates that it is only Kurds with high-level opposition political profiles who are at risk from the authorities in Turkey' [12(q)]. The judge concluded that the appellant had failed to discharge the burden of proving that he is a refugee [13].
6. The appellant applied for permission to appeal to the Upper Tribunal on the following grounds:
 - (i) The First-tier Tribunal failed to make any clear finding in relation to the appellant's claim that the authorities had raided the family home since he

came to the UK, which was relevant to a proper assessment of risk on return.

- (ii) The First-tier Tribunal failed to consider the credibility of the appellant's account in the context of the most up to date background evidence referred to by the appellant's representative. Nor did he refer to relevant country guidance in *IA and Others (Risk - Guidelines - Separatist)* [2003] UKIAT 00034.

7. I have considered the evidence that was before the First-tier Tribunal, the First-tier Tribunal decision, the grounds of appeal, and the oral submissions made by the legal representatives at the hearing. It is not necessary to set out those submissions because they are a matter of record. I will refer to any relevant arguments in my findings.

Decision and reasons

8. I have reversed the grounds of appeal as originally pleaded because it makes more sense to deal with the error alleged in relation to the facts of the case before turning to consider whether more detailed reference to the background evidence was needed.

9. Having considered the First-tier Tribunal decision as a whole I am satisfied that the judge made adequate findings in relation to the appellant's claim that his family home had been raided and that his father had been arrested and detained. It was open to the judge to find that the appellant had only given a scant account of this event. Even though the appellant is still in contact with his family in Turkey, no date was given for this event, and no meaningful description of what happened was provided.

10. It was argued that the evidence given by the appellant's paternal uncles supported this claim, but this is not supported by the evidence contained in those statements, which was equally as vague as the appellant's evidence and in places inconsistent with his account. None of the statements were more than two pages long.

11. The statement prepared by the appellant's uncle Mehmet was extremely limited in nature. He asserted that the appellant's house was raided by the police, but this amounted to nothing more than a bare statement. No detail was given as to whether this was before or after the appellant came to the UK. There was no mention of the appellant's father being detained.

12. The appellant's uncle Abdullah only made a bare statement that the appellant's home was raided before he left Turkey without giving any detail whatsoever. Despite saying that he has spoken with his brother several times since the appellant came to the UK, Abdullah did not mention any problems that his brother might have suffered since the appellant arrived here.

13. The appellant's uncle Ismael did not mention any problems that he might have faced before coming to the UK. He did mention that, when he last spoke to his brother, he told him that his home had been raided by the police. He did not mention his brother being arrested and detained. Ismael's evidence was devoid of any meaningful detail and amounted to nothing more than a bare statement. Contrary to the appellant's own evidence, Ismael asserted that the authorities

were interested in the appellant because he 'was involved in protesting and supporting for HDP and involved in politics.'

14. The appellant's uncle Okkes' statement contained even less information, merely asserting that the appellant would be arrested on return to Turkey due to the family being members of HDP/DPP. He gave no account of his own arrest when he returned to Turkey, and it is not clear from the underlying documents relating to the charges whether they were even pursued by the authorities. The evidence indicated that it was likely that he was granted bail pending investigation, but even if he was detained, there is no account of what happened.
15. The judge considered the appellant's evidence and the evidence given by his uncles. Given the vague and limited nature of the evidence, it was open to the judge to reject the appellant's claim that he was of interest to the Turkish authorities before he left Turkey or that he had been of continuing interest [12(l)]. It was within a range of reasonable responses to the evidence for the judge to conclude that the authorities were not likely to have any interest in a 15-year-old boy (at the date when he left Turkey) who had no history of political activity. Having acknowledged that there was some limited evidence to suggest that his uncle Okkes might have been charged when he returned to Turkey for a visit for having posted a photograph on Facebook that appeared to show support for the PKK, it was also open to the judge to conclude that there was insufficient evidence relating to this incident. On the face of it his uncle was released and was able to return to the UK. There was no account of serious ill-treatment amounting to persecution that might indicate that this incident might place the appellant at any risk as an extended family member.
16. Having found that the judge's finding that there was insufficient evidence to show that the authorities were likely to have an interest in the appellant does not disclose an error, the second ground cannot succeed. I acknowledge that the judge's summary of the background evidence was generic and did not make specific reference to evidence that went beyond the coup attempt in 2016. Nevertheless, it seems clear from the judge's summary at [10(e)] that he was aware of the evidence showing large scale arrests of those who were perceived as opponents to President Erdogan in the period after the failed coup attempt.
17. Even if the judge had considered the evidence referred to in the appellant's skeleton argument, I find that it would not have made any material difference to his assessment of the reliability of the appellant's account of events. The evidence continued to show harassment and arrest of those who are perceived to have associations with separatist groups. The evidence contained in the CPIN showed that the HDP can be associated with separatist groups such as the PKK although many members of the HDP do not approve of the methods used by the PKK. Although one cannot discount the possibility that some family members might be suspected by association, Ms Akinbolu was unable to point to anything in the background evidence to suggest that family members of those involved in support for the Kurdish cause are targeted on a regular basis.
18. In my assessment the background evidence was not capable of making any material difference to the judge's findings even if it had been referred to in more detail. The judge's credibility findings relating to the appellant's claim that the authorities would have an adverse interest in him would not be affected by the evidence showing that there are widespread arrests of those suspected of separatist or opposition activity. The appellant's age, his own evidence that he

had not been politically active, and the vague and inconsistent account given by the appellant and his supporting witnesses would inevitably have led to the same conclusion that the appellant had failed to produce sufficient evidence to show that the authorities would have any adverse interest in him.

19. Similarly, it is not arguable that the failure to make specific reference to a country guidance decision that is now over 20 years old (albeit still technically extant) would have made any difference given the findings relating to risk on return when the appellant engaged so few of the potential risk factors beyond being a Kurd with no passport. The judge found that the authorities were unlikely to suspect him of involvement in a separatist organisation, the appellant had never been detained, there was little evidence beyond bare statements that any family members had connections with organisations that might be perceived as separatist, and the judge had rejected his claim that the authorities had an interest in him, let alone a continuing interest.
20. For the reasons given above, I conclude that the First-tier Tribunal decision did not involve the making of an error on a point of law.

Notice of Decision

The First-tier Tribunal decision did not involve the making of an error on a point of law

M.Canavan
Judge of the Upper Tribunal
Immigration and Asylum Chamber

24 April 2023