



IAC-AH-KRL-V1

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

Appeal Number: AA/02288/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 18 February 2016**

**Decision & Reasons Promulgated
On 31 March 2016**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**DG
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Kadic, Shervins Solicitors

For the Respondent: Ms Brocklesby-Weller, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, DG, was born in 1985 and is a female citizen of Turkey. She had applied for asylum in the United Kingdom on the basis of her claimed membership of the Kurdistan Workers' Party (PKK) and on account of her Kurdish ethnicity. Her

application was refused by the respondent in a decision dated 23 January 2015. The respondent also decided to make directions for removal from the United Kingdom. The appellant appealed against that decision to the First-tier Tribunal (Judge Clarke) which, in a decision promulgated on 22 July 2015 dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The judge's findings and conclusions are set out at [68] *et seq.* The judge was not satisfied that the appellant was, as she claimed, at risk on account of a blood feud [71]. He, the judge found that the blood feud did not exist at all. Further [75] the judge rejected the appellant's claim to have been involved with the PKK. The appellant had claimed that she had been a recruiter for the PKK (screening interview) but later denied (witness statement) that she had ever been a recruiter or indeed a member of the PKK. The appellant also claimed that she had been arrested by the Turkish police, a claim which the judge rejected. At [81] the judge concluded that, even if he were wrong and the appellant had been a sympathiser with the PKK/previously arrested/the victim of a blood feud, she would be able to avail herself of protection from the Turkish authorities. The judge found that she would be able to relocate [82] to larger cities in Turkey if she did not wish to return to her own village.
3. There are two grounds of appeal. I shall deal with the second ground first. This ground challenges the judge's assessment on the basis that the judge had failed to follow the guidance of *IK (Turkey) CG* [2014] UKIAT 00312. The grounds assert that the appellant would be subject to inquiries upon return to her home area which "will likely show that [she] was detained on suspicion of PKK activities." This ground is without merit. If the judge's findings on credibility are sound (and I find that they are – see below) it follows that the appellant will not be at risk for the previous PKK activities because she has not been involved in any such activities. In essence, the judge found everything that the appellant had told him was untrue.
4. The first ground of appeal is a challenge to the fairness of the hearing before the First-tier Tribunal. The appellant was seven months pregnant at the date of the Tribunal hearing on 12 June 2015. She gave birth prematurely to a child on 22 June 2015. The appellant asserts the judge should not have proceeded with the hearing in such circumstances (the appellant was not represented legally before the First-tier Tribunal) and that the credibility assessment is unreliable.
5. There is no medical evidence concerning the appellant's condition on 12 June 2015, the date of the hearing. Ms Kadic, for the appellant, submitted that the judge should have drawn a "reasonable inference" that the appellant was unfit to give evidence at the hearing. However, Ms Brocklesby-Weller, for the respondent, pointed out that the appellant had not sought help at all at court and yet the judge [67] gave the appellant "the opportunity to make submissions on her own behalf." The judge notes that those submissions were "brief". Prior to hearing those submissions, as recorded at [51], the judge noted the appellant's request for an adjournment of the hearing "as she did not feel well." The appellant had attended the hearing with two male supporters [49]. The hearing began at 3:15 p.m. I note that it had been listed

(with the other cases for that day) at 10 a.m. When the judge questioned the appellant regarding her adjournment application he was told that the appellant had not sought “any assistance from court staff or telephoned her own GP or sought medical advice for assistance.” The judge looked at the appellant’s antenatal records which she had brought with her to court. The judge noted that the appellant had attended hospital on 29 May 2015 but that the hospital had recorded “nil concern noted.” [52]. The judge had directed himself to paragraph 2 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 and decided “that it was in the interests of justice and fairness to proceed with the hearing.”

6. I make the following observations. It is clear from the Record of Proceedings and the decision that, having refused the adjournment application the appellant did not exhibit any obvious discomfort or distress when she answered the questions put to her in cross-examination. She appears to have given detailed answers to questions put to her. Secondly, a number of the difficulties the judge found in the appellant’s evidence emanated from written evidence submitted by the appellant prior to the hearing, for example the screening interview [76]. There were also inconsistencies between the appellant’s screening interview and other written evidence, including her witness statement (also submitted prior to the hearing). Had the appellant been unable to give answers or had perhaps given confusing answers to questions put to her at the hearing, it is possible that her condition may have had some impact upon her ability to give evidence. However, there is no suggestion at all in the Record of Proceedings or decision that her physical condition affected her ability to give evidence. This fact, coupled with the fact that the judge did not find the appellant credible on account of inconsistencies in items of evidence submitted prior to the hearing, leads me to reject the appellant’s grounds of appeal. Had the appellant been in real distress, I find that she would have sought the assistance of medical professionals at court during the time that she was waiting for her hearing to start. The fact that the appellant subsequently gave birth prematurely (and the fact the birth was accompanied by some medical complications) does not necessarily indicate that she was in such distress at the hearing before the First-tier Tribunal that she could not give coherent evidence. Finally, the judge’s findings as regards internal flight and the sufficiency of protection in Turkey have not been challenged. Even if the judge had not encountered any difficulties with the appellant’s evidence and, indeed, had believed her account, he would still have dismissed the appeal on the basis of the availability of internal flight and for the reasons he gives in the decision.

Notice of Decision

7. This appeal is dismissed.

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 her or any member of

her 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 10 March 2016

Upper Tribunal Judge Clive Lane

TO THE RESPONDENT
FEE AWARD

No fee award.

Signed

Date 10 March 2016

Upper Tribunal Judge Clive Lane