



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

Appeal Number: PA/00200/2019

THE IMMIGRATION ACTS

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

**Decision & Reasons Promulgated
On 10th July 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVIDGE

Between

**MR K Y
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Jones, Senior Home Office Presenting Officer
For the Respondent: Mr B Ali (Counsel) instructed by Aman Solicitors.

DECISION AND REASONS

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

1. Anonymity having previously been ordered in the First-tier Tribunal and there being no application to remove the order, I see no reason to do so and the order remains in place. 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 their 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.

2. The Turkish appellant appeals the decision of First-tier Tribunal Judge Cary promulgated on 22 Feb 2019 whereby he dismissed the appeal against the decision to refuse to grant asylum or ancillary protection on the basis of his perceived political opinion through association with the Gulenist movement. Permission to appeal was granted at the First-tier Tribunal by Judge Parkes on 08 May 2019 on the basis that it was arguable that the First-tier Tribunal Judge had not given adequate reasoning in respect of the asserted raid on the father's home and the issuance of an arrest warrant.
3. In substance the 1st ground is a challenge to the judge's credibility findings.
4. The first particularisation complains that having identified at paragraph 37 that the Gulenist movement is not a political party nor a religion but accused of having the aim of toppling the Turkish government through insiders in the police and other state institutions, at paragraph 40 the judge was contradictory when he held against the appellant that he was unable to describe the political aims or motivation of the Gulenist movement. The ground mischaracterises the judge's consideration. Rather than being contradictory the judge shows in his decision that he had a thorough grasp of the nature of the Gulenist movement. Contrary to the grounds the judge was entitled to find that the appellant was vague in his descriptions of his activities and motivations. There is no suggestion that the evidence to which the judge refers at paragraph 40 and 41 is inaccurately stated and his statements that "they support education and support students" and his reference to "the constant activities that they arrange such as picnics, expeditions and because they help people who are in difficulty" can properly be described as vague and lacking detail. Further the paragraph is but one small part of the judge's consideration of the entirety of the appellant's evidence of his actual and perceived association with the movement which extends over several pages and many more paragraphs, with cogent explanations as to why the judge found that his evidence lacked coherence and consistency (41,40, 42,43, 44,45).
5. The next criticism is that the judge is speculative at paragraph 41 when he criticises the appellant for describing a Gulenist charitable organisation Kimse Yok Mu as little more than a local charity when in fact it is an international aid organisation with world wide activity. Again the ground mischaracterises the judge's consideration. The judge has accurately summarised the difficulties with the appellant oral evidence at 9 and 10 before his consideration at paragraph 41, which extends to a second paragraph at 42, and accurately describes the limitations of the appellant's own evidence about his activities in the organisation, and notes that that lack of detail is mirrored in the letter of support from the organisation, the author of which is misnamed by the appellant, and that

the details about obtaining the letter appear incoherent in the context of the appellant's own chronological account, compounded by the fact that the writer of the letter does not assert any risk to the appellant on the basis of his activities, and who although in the United Kingdom did not attend his hearing.

6. The 3rd challenge complains that the judge should not have criticised the letter the appellant produced from the Dialogue Society because the respondent did not question him about it. That ground fails to recognise that the appellant chose to rely on the letter, it was before the judge, he was under a duty to assess it. But in any event paragraphs 14 and 15 revealed he was asked about his activities in the UK at the hearing, and the judge was entitled to find at 43 that it was noticeable that when he was asked he made no mention of his membership of the Dialogue Society.
7. The 4th challenge criticises the judge's rejection of the Photograph Identification Record that the appellant relied on to show that one of his friends had been arrested and named him, identifying him as a Gulenist. The ground oversimplifies the judge's consideration when stating that it was rejected on an irrational basis because it was not an original and there was delay. Whilst contrary to the grounds both are valid criticisms, the reasoning for rejecting the evidence set out between paragraphs 44 to 46, and again at 48. is far more wide-ranging and detailed than the ground suggests. The appellant's claim is that the friend who has named him had been interviewed in 2016 and the record is dated 2018, with the document only produced at the hearing in February 2019. The incoherence and inconsistency with the appellant's account are clearly identified as well as issues of provenance. The judge's consideration follows correct self-direction in respect of the case Tanveer Ahmed v SSHD [2002] UKIAT 00439.
8. At paragraph 6 the grounds complain that the judge failed to make a finding as to whether or not the police and gendarme visited the appellant's home looking for him in September 2018. At 47 the judge notes the contrary evidence that the arrest warrant the appellant claims was handed to his father at the time of the raid had been thrown away/mislaid, the failure of the father to make any mention of the arrest warrant in his letter, or in that of the uncle, as well as the failure of the Istanbul lawyer to mention any such. The grounds complain that even if there was no arrest warrant the judge should have expressly found whether or not the visit from the police occurred, because as the judge correctly self-directed, it is possible for the judge to find that the appellant lacked credibility in part of his account but was telling the truth about the another and so accordingly even though the arrest warrant did not exist the judge might have thought that the visit occurred and needed to say expressly one way or the other. A fair reading of the decision clearly reveals that this warrant was not a peripheral part of the appellant's account which if disbelieved might nonetheless leave the core of his account intact. The judge has done more than enough to explain why at

paragraph 53 he concluded that he had rejected the appellant's claim that the authorities came looking for him on September 21, 2018.

9. The final particularisation complains that the judge has put weight in paragraph 50 on the fact that the authorities are not interested in him because there is no evidence the authorities have rescinded his passport. The grounds they that the judge had not taken that into account as it is not clear how people who are abroad find out that their passports have been rescinded. Again the ground simplifies the judge's consideration by failing to take account of the preceding paragraph at 49 to the point that the appellant was issued with his passport and used it to leave, which clearly shows that in the context of his simply being a military student who the government decreed should transfer from a presumed Gulenist sympathetic educational institution to the Turkish government educational institution, did not put him as any risk and contrary to the claim that the judge has failed to identify the source of that information the judge clearly sets out the reference to the 2000 CPIN at paragraph 49 and 50.
10. The grounds also fail to recognise the force of other adverse credibility findings which are not challenged including for example his claim in interview that he went to Moldova and protested against President Erdogan, a trip organised through the encrypted app Bylock, itself said to be a Gulenist indicator, although it subsequently transpired that he did not, and the only explanation he has is that he said it because of nerves, which as the judge notes is no explanation at all.
11. The 2nd ground is that the judge failed to have regard to the current country guidance case of Turkey IK (Returnees - Records - IFA) CG [2004] UKIAT 00312. The grounds do not explain what the case says that would be relevant in the context of the case as it was argued before the judge, and it had not been referred to. Before me Mr Ali submitted that the country guidance case sets out a process that the judge must adopt in assessing what questions are likely to be asked during an investigation on return and how a returnee would respond without being required to lie. Quite how that fitted in with the case as it was being made for the appellant is unclear because his own evidence was that his risk did not arise from being a transferred military student but because of being identified to the authorities as a significant Gulenist by others so that he was the subject of an arrest warrant. His claim was disbelieved. Before me it was not explained how if the appellant were to reveal the facts as found by the judge he would be at any real risk, so that the complaint appears irrelevantly formulaic rather than having any substantive merit.

Decision

12. I find no error of law and the decision of the First-tier Tribunal dismissing the Appellant's appeal stands.

Signed 
Deputy Upper Tribunal Judge Davidge

Date 28 June 2019