



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/00676/2020

**THE IMMIGRATION ACTS**

Heard at Field House  
On 8 July 2021

Decision & Reasons Promulgated  
On 11 August 2021

Before

UPPER TRIBUNAL JUDGE O'CALLAGHAN

Between

I S  
(ANONYMITY ORDER CONFIRMED)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Ms. N Nnamani, Counsel, instructed by Howe & Co Solicitors

For the Respondent: Mr. T Lindsay, Senior Presenting Officer

**DECISION AND REASONS**

**Introduction**

1. The appellant appeals against a decision of the respondent to refuse to grant him leave to remain in this country as a recognised refugee, or alternatively on human rights grounds. The respondent's decision is dated 17 January 2020.
2. The First-tier Tribunal (JFtT Kudhail) dismissed the appellant's appeal by a decision dated 24 March 2020. UTJ Gleeson granted the appellant permission to appeal to this

Tribunal by a decision sent to the parties on 5 August 2020. By a decision dated 22 February 2021 I allowed the appeal to the extent that the decision of the First-tier Tribunal was set aside, and the decision would be remade by this Tribunal.

3. At [22] of my decision I confirmed that the record of the appellant's evidence detailed at [17]-[21] of Judge Kudhail's decision was preserved. Ms. Nnamani confirmed at the hearing that the record was accurate and could properly be preserved.
4. Though not recited in full in this decision, I confirm that I have read the evidence presented by the appellant to Judge Kudhail with care, as I have when considering all of the evidence before me.

### **Anonymity**

5. An anonymity order was previously granted in this matter and no request was made by either party for such order to be set aside. I confirm the order at the conclusion of this decision. I do so as it is presently in the interests of justice that the appellant is not publicly recognised as someone seeking international protection: paragraph 13 of Upper Tribunal Immigration and Asylum Chamber Guidance Note 2013 No 1: Anonymity Orders.

### **Background**

6. The appellant is a Turkish national and presently aged 35. He is an ethnic Kurd. He secured entry clearance as a Tier 4 (General) Student and entered this country in March 2010. He subsequently applied for further leave to remain as a businessman under the EU-Turkey Association Agreement. The respondent refused the application by a decision dated 22 February 2011, observing that the appellant relied upon a letter from Mr. Dave Charlton in support of his application, but Mr. Charlton had confirmed to the respondent that that he was not the author of the letter. The application was therefore refused under paragraphs 245L and 322(1A) of the Immigration Rules.
7. The appellant appealed the respondent's decision to the First-tier Tribunal, and in so doing requested that the appeal be determined without an oral hearing: (IA/09358/2011). His then legal representatives filed relevant documentary evidence and a skeleton argument on his behalf.
8. The First-tier Tribunal dismissed the appeal by a decision dated 26 April 2011. JFtT Myers observed, at §7 of her decision:

'7. ... The Respondent contacted Mr. Charlton by telephone to ask him if he had written the letter and whether he intended to use the Appellant's business. However, Mr. Charlton did not recognise the Appellant's name. A copy of the letter was then sent to Mr. Charlton who sent the following typed response;

1. This person [IS] is unknown to me and I have no knowledge of him at all.
2. The letter which you state in your 11/2/11 letter is not a genuine letter from me and would appear a forgery.
3. I have no intention at all of using any service which this person states he is providing.
4. These matters were covered in my recent telephone call to your office.

The letter was headed with Mr. Charlton's address ...'

9. Judge Myers detailed at §8 that the appellant had filed what 'purports' to be a handwritten letter from Mr. Charlton stating that he had told the respondent that 'he did not know the Appellant because he knows him by his nickname of Ibo and did not remember his surname and at that time he could not give the matter his full attention because he was preoccupied with his sick father.' Judge Myers observed that this letter detailed that Mr. Charlton intended to use the appellant's services.
10. Judge Myers concluded at §§10-11:
  - '10. In my judgment the Respondent has discharged the burden of proof to show that the Appellant has used a false document. I attach weight to the fact that the Appellant has not taken the opportunity of having an oral hearing and calling Mr. Charlton to give evidence on his behalf. I also attach weight to the fact that the letter relied upon by the appellant is handwritten and does not give the writer's address, and the telephone number appears to be written by a different person, whereas the letter sent by Mr. Charlton to UKBA is typed and gives his address. Furthermore, I do not find it credible that a friend of the Appellant's, even if preoccupied by his father's illness, would not have realised that the Appellant and 'Ibo' were one and the same as the letter submitted to UKBA by the Appellant purporting to be from Mr. Charlton gives the name [IS]. I place little weight on the 2 letters addressed to Mr. Charlton purporting to demonstrate authenticity; there are numerous ways in which the Appellant could have obtained them.
  11. Furthermore, even if I accepted the Appellant's explanation, which I do not, this fails to address the issue of submitting a forged letter. Mr Charlton states categorically that the letter is not genuine and would appear a forgery. I therefore find that the Appellant has made false representations and used false documents.'
11. The appellant did not seek to exercise his right of appeal to the Upper Tribunal against Judge Myers' decision. I observe that he made another application for leave to remain under the EU-Turkey Association Agreement on 12 May 2011, less than 3 weeks after the promulgation of Judge Myers' decision. Ultimately, the appellant was unsuccessful in securing leave to remain in this country.

12. The appellant asserts that he left the United Kingdom and returned to Turkey in December 2016. He states that in undertaking his journey he used a travel document obtained from a Turkish Consulate as the respondent was in possession of his passport. Before me the respondent did not dispute that such document was secured and that such journey had been undertaken.
13. In respect of his application for international protection, the appellant asserts that from January 2017 he was a member of, and active on behalf of, the HDP (Halkin Democratic Partisi), a pro-minority, generally left-wing political party in Turkey. At the June 2015 general election, it became the third largest parliamentary group. Following the 2016 coup attempt, the MP status of seven HDP parliamentarians was revoked, and several party representatives remain under arrest.
14. The appellant states that he was arrested with another person in December 2017 whilst distributing party leaflets. He was detained for 2 days and ill-treated by police officers before being released without charge. The appellant addressed this detention at questions 80 to 109 of his substantive asylum interview held on 7 December 2019. He confirmed that he was asked about his links with the PKK. He detailed that during the course of his detention he sustained injuries. Upon his release he was required to sign a document, the contents of which he was unaware. He simply signed it and went home. The following day he attended a hospital where he remained for 3 hours, was treated and returned to his home.
15. By means of his witness statement, dated 29 May 2019, ('the 2019 statement') the appellant details, *inter alia*, at §§10-11:

'I was kept in detention for 2 days. During my detention, I was taken for interrogation on two occasions whilst blindfolded and handcuffed. I was questioned about my activities. I was also questioned about my friend's involvement with HDP. They accused me of being a PKK terrorist and having been involved in its illegal activities. However, I denied the accusations.

I was subjected to beatings and torture. They were verbally abusing me throughout. I was put back in the cell after the interrogations.'
16. He further states that he was arrested at home in October 2018 and detained for 3 days. He addressed this detention at questions 110 to 134 of his substantive asylum interview.
17. He details by means of his 2019 statement, *inter alia*, at §§13-14:

'My second detention was on the 10th October 2018. my house was raided around 11pm. There were many heavily armed and masked police officers. There were four police officers outside of my house. It was terrifying. I thought that they had come to kill me. Many people have been killed by police in Turkey.

They entered the house by force. My father, stepmother and sister were taken to the kitchen. I was pushed to the floor, and my hands were handcuffed behind my back. They also put a sack over my head. I was beaten, kicked and punched. ...'

18. He confirms that he was again ill-treated in detention, this time with the additional use of electric shock, before being released without charge. Having been subjected to threats to kill, the appellant states that he agreed to help the authorities in providing names of persons involved with the PKK.
19. He asserts that he left Turkey in November 2018 and arrived in this country 6 days later.

### **Hearing Before the FTT**

20. The appeal came before Judge Kudhail sitting at Taylor House on 28 February 2020. As noted above the record of the appellant's evidence presented before the Judge, as detailed at [17]-[21] of the Judge's decision, has been preserved.
21. The appellant repeated his position as to the evidence of Mr. Charlton, stating that Mr. Charlton had subsequently sought to confirm that he had authored the relevant letter and that had erred when informing the respondent that the document was a forgery. The appellant's examination-in-chief and cross-examination on this issue is detailed at [17]-[18] of the decision.
22. In respect of his political activism the appellant confirmed, as recorded at [19], *inter alia*:<sup>1</sup>
  - He was not politically active in the UK at the time [when he was first in this country] as he was in the UK illegally. He did attend meetings, but not active. It was more comfortable to be politically active in Turkey when he went back.
  - He did not mention he went to political meetings during his time in the UK prior to 2017 as he was not asked. He did not mention this in his statement as he was not asked, he was told to answer the questions.
  - He started to be politically active once he returned to Turkey as he had sympathy whilst in the UK but he was not very active. He did not mention his activity in the UK prior to going back as he was scared. He was arrested in Turkey for being associated with PKK and propaganda.
  - He joined the HDP within one month of returning to Turkey.

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<sup>1</sup> The appellant's evidence at [19] of Judge Kudhail's decision is recorded in 37 sub-paragraphs, running over 3 pages. Whilst I have read and considered the subparagraphs, I detail only 13 of the sub-paragraphs in my decision, in the terms authored by the Judge.

- Whilst in the UK he was a supporter of the Kurdish party HDP and had a picture of the leader Abdulla, who is the PKK leader. In Turkey, the HDP is a legal party and active. One can do what they like. Only if the person is related with the PKK will you get into trouble.
- He became a member of HDP due to his interests and political views. He was aware that the members registered online, so the government are aware of his membership. He was fundraising, attending rallies and going to demonstrations. He had his HDP membership sent, as this is all he has as evidence.
- The HDP have not provided a support letter as he left the country illegally, not everything he did with the HDP is recited/reported or documented.
- He went to the HDP party got the letter and left it at his father's [home]. His father sent the letter by post.

23. As regards the circumstances of his second arrest the appellant's evidence is recorded at [19], *inter alia*:

- ... the second detention was at his home and he cannot recall how many people were in his house at the time as they were having a meeting. There was around 15 people.
- The police suspect he was giving a speech on the PKK but they did not arrest others at the meeting. They said they were doing terrorist propaganda and that is why they arrested him.
- Only he was arrested as he was the leader in the group. They wanted information from him so asked him many questions such as who is coming and leaving, who is living in the mountains and giving them food.
- The police were not suspicious of others in the house as the meeting had finished and people had gone home. It was only him and his family in the flat.
- He did not mention that others in the meeting had already left in the [substantive asylum interview] as the immigration officer asked him to only answer the questions asked.

### **Evidence before this Tribunal**

24. At the hearing Ms. Nnamani confirmed that she had had sight of or had had copied for her various documents that had been placed before the First-tier Tribunal. They consisted of:

- i) A refusal letter issued by the respondent on 22 February 2011, refusing the appellant's EU-Turkey Association Agreement application dated 9 November 2010.
- ii) Notice of decision issued by the respondent on 1 June 2011, refusing the appellant's EU-Turkey Association Agreement application dated 12 May 2011.
- iii) Notice of decision issued by the respondent on 20 February 2012, refusing the appellant's EU-Turkey Association Agreement application [date unknown]
- iv) A letter of the respondent dated 24 September 2012, maintaining the decision to refuse the appellant's EU-Turkey Association Agreement application dated 20 February 2012 following a request for reconsideration dated 20 August 2012.

25. The appellant attended the hearing before me and gave evidence.
26. He explained that he had attended five treatment sessions with ICope Islington, a psychological therapy service, from August to September 2019. A letter from ICope dated 9 August 2019 confirms that the treatment sessions were offered so as to permit him to focus on his low mood/depression. The appellant informed me that the sessions were one-to-one, and he was provided with techniques to help him mentally relax. He was having difficulty in sleeping and was depressed. In addition, the sessions were designed to help him not to relive flashbacks and to help him conquer his fears. At the conclusion of the five sessions, he was encouraged to undertake sporting activity. The appellant confirmed that the sessions aided him in efforts to change his lifestyle.
27. In evidence, the appellant revisited his interaction with Mr. Charlton, explaining again that Mr. Charlton had offered to write the letter on his behalf and then informed the respondent that he did not author the letter. The appellant was clear before me in asserting that he was not to blame for the problem. Rather, Mr. Charlton was someone who would say 'yes' to your face but 'no' behind your back.
28. In respect of why he became politically active the appellant initially stated that he had 'political thoughts', that he had 'aims' and that he liked the HDP. When asked by Mr. Lindsay to provide greater detail as to his political thoughts, the appellant simply stated that he wanted 'a freer, calmer lifestyle. Freedom of thought. Freedom of movement.' When asked again by Mr. Lindsay to detail his political thoughts the appellant responded that there were bad things happening and so he became involved as he 'wanted to be heard by others'. He explained that he participated politically by being involved in 'walks' - which Ms. Nnamani and Mr. Lindsay agreed was a reference to marches - demonstrations and meetings.

29. The appellant informed me that he had participated in demonstrations both in the United Kingdom, prior to leaving in 2016, and in Turkey. When reminded that he had informed Judge Kudhail that he had not been politically active beyond attending meetings when in this country between 2010 and 2016 he responded that he was 'always participating' in politics and during such time had attended an office of a Kurdish organisation in Haringey, London.
30. He confirmed that he had been arrested twice in Turkey. Mr Lindsay asked several questions in respect of the second detention. The appellant confirmed that he was arrested at around 11pm whilst at home. Also present were his father, his stepmother and his sister. He was reminded that he had informed Judge Kudhail that a political meeting had taken place at his home prior to his arrest. He denied that this was the case. He explained that the political activists had gathered earlier in the afternoon at a coffee shop. By the evening everyone went their separate ways and he returned home. Everyone at his home was preparing to go to bed when the police knocked on the door. When asked by Mr Lindsay as to why he had informed Judge Kudhail that 15 people had engaged in a political meeting at his home, and not as now asserted earlier in the day in a coffee shop, the appellant informed me that he had told the Judge only that the authorities had taken him from his home.

#### *Medical evidence*

31. Upon confirming that the decision of the First-tier Tribunal was to be set aside consequent to material error of law I adjourned the hearing in February 2021 having been informed by Ms. Nnamani that the appellant wished to file an addendum witness statement updating matters since he attended before the First-tier Tribunal. I was informed that such evidence would primarily address his mental health.
32. A short two-page witness statement dated 23 June 2021 ('the 2021 statement') was subsequently filed with the Tribunal. It addressed historical events concerning Mr. Charlton and did not, as I had expected, engage with ongoing health concerns. There was no updated medical evidence beyond that relied upon before the First-tier Tribunal, which consisted of a medico-legal report authored by Dr Hajioff, dated 2 December 2019; a photograph of a prescription issued to the appellant in Turkey on 8 December 2017 and its English translation; a photograph of a prescription issued to the appellant in Turkey on 13 October 2018 and its English translation; a prescription issued to the appellant in this country, dated 7 February 2019 and a photograph of three boxes of medication issued to the appellant between February and June 2019.
33. I gave Ms. Nnamani time to obtain instructions as to whether the appellant wished to secure and file up-to-date medical evidence. Ms. Nnamani returned after a short break and informed me that the appellant was content to proceed with the hearing.

#### *Report of Dr Hajioff*



34. As to Dr. Hajioff's report, I note that he is a registered medical practitioner and a consultant psychiatrist. It is understood from his report dated 2 December 2019 that whilst qualified in surgery and general medicine, he has worked in the field of psychiatry for more than 30 years.
35. The appellant attended upon Dr Hajioff at a consultation held on 29 November 2019 which was, according to the appellant's evidence before Judge Kudhail, conducted for approximately 40 to 45 minutes. Dr Hajioff was provided with the appellant's 2019 statement.
36. The medical evidence before Dr Hajioff was limited to two medical prescriptions: one dated December 2017, the other October 2018. He was provided with no other medical evidence, such as GP notes.
37. Dr Hajioff opined that the appellant was suffering from PTSD. He assessed the appellant to be someone who had been through traumatic experiences, observing that he was less active than normal, had a poor appetite, had lost weight, suffered disturbed sleep and had impaired concentration.
38. Dr Hajioff concluded that scarring on the appellant's hands was typical of defence injuries. Dr Hajioff further opined that a scar on the appellant's right upper arm and a scar on the right knee were consistent with injuries from blunt instruments. It is not explained how this could be the case in respect of the scar on the knee which the appellant asserted at the meeting had occurred from being pushed downstairs and was not inflicted by a blunt instrument.
39. I observe that Dr Hajioff made no enquiries as to the appellant's history of employment. Ms. Nnamani kindly informed me at the hearing that the appellant had worked as a farmer whilst in Turkey and as a handyman in this country.
40. The appellant was asked before me as to whether he had informed Dr Hajioff that he had been attending sessions with ICope in respect of low mood/depression and difficulties in sleeping. He replied that he had disclosed this information. He expressed his opinion that Dr Hajioff simply forgot to refer to it in his report.
41. The appellant provided a copy of a prescription and a photograph of boxes of medication. The identifiable prescribed medication are Zopiclone, a sleeping tablet, and Sertraline, an anti-depressant. The later was prescribed at 50mgs which is a typical dose and below the maximum of 200mgs.
42. I observe that the appellant informed Dr Hajioff at their meeting in November 2019, some five months after the photographed box of Zopiclone was dispensed, that he was no longer taking his prescribed medication. The appellant complained to Dr Hajioff that he was enjoying variable sleep, having nightmares about once a week, suffering anxiety, required a small nightlight when sleeping and had troubles with concentration. However, before me the appellant confirmed that he had stopped

taking his medication in 2019 because his lifestyle was going in a good direction, and he believed that he did not require the medication prescribed to him. He confirmed that at the time he decided to forgo his medication he was feeling good in himself and living with both his cousin and his cousin's family.

#### *GP records*

43. The appellant did not accept in answer to a question from Mr. Lindsey that he had failed to provide medical records including his GP records. He was adamant that he had handed them to his present legal representatives. I simply note that the very limited nature of the medical evidence filed with this Tribunal as detailed above.

#### **Decision**

44. It is for the appellant to prove, on the lower standard, that he is at risk on return to Turkey of serious harm such as would constitute persecution, entitle him to humanitarian protection or engage article 3 EHRC. In assessing the evidence of the appellant, I am mindful of the guidance in *KB & AH (credibility – structured approach) Pakistan* [2017] UKUT 00491 (IAC) and that provided by the Court of Appeal in *SB (Sri Lanka) v. Secretary of State for the Home Department* [2019] EWCA Civ 160.
45. In relation to my assessment of the documentary evidence provided, I adopt the approach in *Tanveer Ahmed v. Secretary of State for the Home Department* [2002] Imm AR 318, at [35].
46. Ms. Nnamani requested that I consider the appellant to be a vulnerable witness. She drew my attention to the Joint Presidential Guidance Note No 2 of 2010: 'Child, vulnerable adult and sensitive appellant guidance' and as well as the guidance provided by the Court of Appeal in *AM (Afghanistan) v Secretary of State for the Home Department* [2017] EWCA Civ 1123; [2017] Imm. A.R. 1508. She placed reliance upon the medical evidence filed with the Tribunal, in particular the report of Dr Hajioff.
47. Ms. Nnamani agreed that ultimately the question of vulnerability requires a holistic assessment. This has recently been re-affirmed by the Court of Appeal in *MN v Secretary of State for the Home Department* [2020] EWCA Civ 1746, [2021] 1 W.L.R. 1956, at [121(1)]. Thus, the decision whether the account given by an appellant is in essential respects truthful has to be taken on the totality of the evidence, viewed holistically.
48. I observe that the findings of Dr Hajioff are to be treated as part of the holistic assessment, not as an 'add-on', and that medical evidence can be critical in explaining why an account might be inconsistent. I note that the highest standards of procedural fairness are to be applied when assessing vulnerability. In the circumstances, with the respondent not accepting the appellant's stated personal history after he returned to Turkey in 2016, my assessment of the appellant's vulnerability is properly to be considered when undertaking the holistic assessment.

Mr Charlton

49. I observe the decision of Judge Myers and her findings of fact that the appellant made false representations and used a false document during the course of his EU-Turkey Association Agreement application. The appellant repeated his evidence before me that Mr. Charlton had authored the reference letter provided to the respondent.
50. This is not an element of the appellant's case said by Ms. Nnamani to be potentially affected by vulnerability, as events took place before his return to Turkey.
51. I observe the approach to be adopted in respect of judicial findings of fact established by the Tribunal in the decision of *Devaseelan (Second Appeals - ECHR - Extra-Territorial Effect) Sri Lanka* \* [2002] UKIAT 00702; [2003] Imm AR 1. I was not dissuaded from adopting this approach by Ms. Nnamani or Mr. Lindsay.
52. I have considered the appellant's 2021 statement with care, as well as his oral evidence before me. There are significant concerns as to the evidence presented by means of this document, which is focused upon his interaction with Mr. Charlton. Underpinning the appellant's evidence is his assertion that Mr. Charlton did not recognise that the letter presented to him by the respondent concerned the appellant because Mr. Charlton only knew him as 'Ibo'.
53. Previously, the appellant asserted by means of a letter to the respondent from then instructed solicitors that previous representatives had misrepresented his case by submitting a letter signed by Mr. Charlton; the letter having been pre-prepared for Mr. Charlton to sign. By a letter dated 24 September 2012 the respondent observed that the appellant had provided no evidence that he had placed his former representatives on notice of such allegation and that no complaint had been made to the relevant professional regulator to investigate the matter. The respondent observed that the failure to provide such evidence raised questions as to the credibility of the assertion. In the circumstances the respondent concluded that the appellant's application was correctly refused under paragraph 21 of HC510, and the decision of 12 May 2011 was maintained.
54. By means of his 2021 statement the appellant adopts a different version of events. He details that Mr. Charlton had wanted to help him and so wrote the reference on his behalf. There is no assertion that Mr. Charlton simply signed a pre-prepared letter. Rather, the appellant's evidence as now presented to me is that Mr. Charlton authored the letter. On this version of events, it must be that he knew the appellant's full name as he detailed it in the letter. The appellant must, on this version of events, have personally provided Mr. Charlton with his full name. Therefore, if Mr. Charlton genuinely wrote the letter, he must have been aware of the full name of the person he knew as 'Ibo'. The appellant's evidence before me on this issue is simply nonsensical, as recognised by Judge Myers at §10 of her decision.

55. I am satisfied on balance that Mr. Charlton was honest when informing the respondent that the letter was not genuine upon considering the document presented to him. He would be expected to recall having authored the letter or having been provided with a pre-prepared copy to sign. I am satisfied that the failure by the appellant to make a complaint against his previous legal representatives, as observed by the respondent in her letter of 24 September 2012, was due to his being aware that a properly conducted investigation would establish that the legal representatives had not acted in the manner asserted. The fact that the appellant has not repeated this allegation before me, but rather adopts a different version of events, strongly suggests that such allegation possessed no merits.
56. I conclude that the appellant made false representations to the respondent and willingly used a false document in seeking to secure further leave to remain in this country. I further find that the appellant has proven willing to make serious, and unfounded, allegations against his former legal representatives and has proven willing to vary and amend his evidence whenever previous false assertions have been identified. I further find that he has sought to exercise manipulative behaviour.
57. However, that he adopted such an approach with regard to his application for leave to remain in 2011 does not *per se* mean that he has adopted such approach in this matter. I therefore proceed to consider his present claim with appropriate anxious scrutiny.

*Decision on claim for international protection*

58. I note Mr. Lindsay's acceptance on behalf of the respondent that the appellant's account is consistent with background objective material and therefore plausible. However, as observed by Mr Lindsay, plausibility does not necessarily equate to credibility. Ouseley J observed in *MM (DRC - plausibility) Democratic Republic of Congo* [2005] UKIAT 00019; [2005] Imm AR 198 that while it is correct that the assessment of credibility may involve an assessment of plausibility of what has been said, such assessment is not a separate stage in the assessment of credibility. A story can be implausible and yet be taken as credible, and vice versa. A decision as to whether an appellant is credible should properly be founded on the totality of the evidence, including consistency on essentials or major inconsistencies, omissions and details, improbabilities or reasonableness.
59. Adopting a holistic approach, I initially proceed to consider the evidence of Dr Hajioff. The weight to be given to an expression of opinion by a medical expert will depend on the circumstances of the particular case. It is for the Tribunal is to decide in each case to what extent its value can appropriately be discounted.
60. The Court of Appeal confirmed in *MN*, at [121(6)], that a factor bearing on the weight to be given to an expression of opinion by a doctor that the appellant's reported symptoms support their case that they were persecuted is whether there are other

possible causes of those symptoms. Underhill LJ observed that 'there may very well be obvious other potential causes in cases of this kind. If the expert has not considered that question that does not justify excluding it altogether ... It may diminish the value that can be put on their opinion, but the extent to which that is so will depend on the likelihood of such other causes operating in the particular case and producing the symptoms in question.'

61. In respect of the scars to the right arm, said to be consistent with a blunt instrument injury, and on the hands, identified as being typical of defence injuries, Dr Hajioff confirms in his report that he made enquiries as to other possible causes for these injuries. However, there is no express consideration as to whether such injuries were consistent with someone who had worked on a farm or as a handyman. In such circumstances I find that the failure to assess the appellant's employment history as a possible cause of the injuries lessens the weight that can be placed upon Dr Hajioff's medical opinion upon the causes of these injuries.
62. As previously observed, Dr Hajioff identified the scar on the appellant's knee to be consistent with injuries from 'blunt instruments', when the appellant informed him that it was caused after he was pushed downstairs. I conclude that no weight can be placed on Dr Hajioff's opinion on this scar.
63. I proceed to consider the appellant's evidence being aware that some weight may be placed upon Dr Hajioff's opinion in the holistic assessment.
64. I observe the appellant's HDP membership form placed within his appeal bundle confirming that he became a member of the party on 15 January 2017. Mr. Lindsay did not address the document and I am satisfied that this is a genuine document. However, it does not establish determinatively that the appellant was a committed activist on behalf of the party in Turkey, nor that his stated history of arrest and detention is genuine. However, I place some weight upon the document. I also observe the letter from the Kurdish People's Democratic Assembly in Britain, dated 5 February 2020, confirming that the appellant volunteers at a community centre and actively joins in cultural, political and educational activities. The document is one that can only enjoy limited weight, presenting very limited aid in assessing the credibility of the appellant's stated personal history in Turkey.
65. I turn to the appellant's second detention as there is on its face clear inconsistency in his evidence as to events. As I observed to the representatives at the hearing the appellant's evidence at his substantive interview held on 7 December 2019 lacks clarity as to the events of 10 October 2018, particularly in respect of when and where the political meeting was held. The answer to Q110 commences with, 'I was in the village during the day and meet [sic] my party friends from the neighbouring villages to helping [sic] the party.' The answer then proceeds, 'Our home is 2 stories and I saw from the balcony that our home has been surrounded by the police.' It is unclear from the record of interview as to when and where the meeting was held. It is unfortunate that the interviewer did not ask for further detail on this matter.

66. As is clear from her decision letter dated 17 January 2020, the respondent understood the appellant's evidence to be that he was the only person arrested in the midst of a political meeting being held at his home.
67. The appellant details in his witness statement of 29 May 2019 that his detention occurred when his house was raided by the police at around 11pm. He does not address the respondent's understanding that he was arrested at a political meeting held at his home. However, at §§11-12 of his witness statement dated 13 February 2020 ('the 2020 statement') the appellant states.
- '11. The Home Office then considers my second detention. However, it shows a lack of understanding of what we political activists face in Turkey. Just because the police detained me, it does not mean that they will arrest everyone at the gathering. I was one of the leading figures there, so that is why I was targeted.
12. With regard to being of interest to the police, the fact that they came to my family home looking for me confirms that I wanted. If I were returned, I would be arrested immediately.'
68. I am satisfied that the appellant's second witness statement confirms his evidence at the time to be that he was arrested at a political meeting held at his home. I observe that there is no assertion that the respondent's decision letter incorrectly understood events.
69. Judge Kudhail records the appellant's evidence in cross-examination that he was at home when detained, 'but cannot recall how many people were in his house at the time as they were having a meeting. There were around 15 people.' I again observe counsel's acceptance at the hearing in February 2021 that the Judge's record of the appellant's evidence was accurate and could properly be preserved. At [35] the Judge extrapolates the appellant's evidence as being that the arrest took place after the meeting ended.
70. The appellant's evidence before me significantly differs to the history previously advanced. It can properly be identified as one of several versions advanced by the appellant during the course of his claim: (i) he was arrested at a meeting held at his home; (ii) a meeting was held at the house, but attendees had left before the police arrived; and (iii) the meeting was held in a coffee house earlier in the day and when it ended, he returned home and was subsequently detained. I was informed that only family members were present in the house when he was arrested. The appellant denied previously stating that the political meeting took place at his house.
71. Having considered the evidence carefully, I find that the appellant sought to amend his evidence before me. I am not required to decipher why the appellant changed his evidence on an issue important to his appeal, but I am satisfied that he is untruthful when asserting that he had not previously stated that he was arrested after a political

meeting had been held at his home. It is clear to me that his oral evidence before Judge Kudhail was correctly recorded, and the appellant was not truthful in his denial of such fact.

72. I find, in the circumstances, that the appellant has proven inconsistent on a key element of his evidence in respect of the second detention and is untruthful as to his having been arrested by the authorities on 10 October 2018. There was no arrest, detention and ill-treatment on that day. I consequently find that the appellant was not threatened with death, was not released on restrictive conditions and was not required to provide information in respect of the PKK following the purported arrest and detention on 10 October 2018.
73. Mr. Lindsay confirmed that the appellant's evidence as to his first arrest in December 2017 was plausible in light of relevant objective material. However, Mr. Lindsay detailed on behalf of the respondent that the appellant's credibility was undermined by the vague and inconsistent evidence he provided as to his political activity both in Turkey and in this country.
74. The appellant informed me that he had participated in demonstrations in the United Kingdom prior to leaving the country in 2016 and again subsequently in Turkey. He further detailed that he was 'always participating' in Kurdish political matters prior to returning to Turkey in December 2016. He joined the HDP the following month. He was not asked at his substantive asylum interview as to his political activity in this country between 2010 and 2016. His 2019 statement is silent as to any political activity during that time. In his 2020 witness statement, he is also silent as to political activity in this country prior to returning to Turkey. Before Judge Kudhail he confirmed that he was not politically active in the United Kingdom before leaving, though he clarified this by stating he did attend meetings but was not active: [19(e)]. I note the appellant's evidence before me that he was participating in demonstrations in this country prior to his leaving in 2016. Being mindful of the relevant low standard of proof, I do not accept that this evidence is true. I find that whilst the appellant may have attended some meetings within the Kurdish community in this country, he was not politically active in the six years up to 2016, nor did he engage in attending demonstrations. I find that he has made these false assertions to try to explain why he would become engaged in political activism so soon after his return to Turkey. I further find that his attendance at meetings between 2010 and 2016 was of such limited nature that there is no real likelihood, indeed no likelihood at all, that he aroused any interest in the Turkish authorities.
75. Ms. Nnamani tentatively suggested that the appellant being held on return to Turkey in 2016 for several hours and interviewed was suggestive that he was a person of interest. However, I find that having returned to Turkey on a document issued by a Consulate, and not being in possession of a passport, the authorities were concerned to establish that the appellant was who he said he was and that he was a Turkish national. Such procedure could properly take several hours. I find that the authorities had no interest in him save for establishing his identity and nationality.

76. In his interview the appellant detailed that the authorities were interested in him because of his membership of and his work for the HDP, and consequently he was identified by the authorities as 'belonging' to the PKK. He discussed the aims and leadership of the HDP party at questions 156 to 160 of his substantive asylum interview, identifying it as a left-wing political party. At the hearing the appellant was asked by Mr. Lindsay to explain why he became politically active, to elucidate his political thoughts and to provide an explanation as to why he became politically active upon his return to Turkey. I agree with Mr. Lindsay that the answers to these questions, detailed at para. 28 above, are very vague and it is striking that someone who states that they committed themselves to a political party that by 2017 was experiencing repression at the hands of the Turkish authorities would be incapable of coherently detailing his political views and the reasons as to why he engaged in political activity upon behalf of the HDP. I observe that it is the appellant's case before me that he was politically active in Turkey, speaking at events and being considered a local leader, but he has entirely failed to provide a reasonable depth of knowledge as to the HDP or his own political thoughts as would be expected by somebody who states that they were politically engaged over several months and years.
77. I am mindful of Dr Hajioff's opinion that the appellant has suffered from PTSD arising from serious ill-treatment and observe that in a holistic assessment such evidence could potentially aid the appellant in establishing his case to the appropriate standard of proof. I proceed to consider whether the inconsistencies and discrepancies identified above could arise from the appellant being a vulnerable witness.
78. In *SS (Sri Lanka) v Secretary of State for the Home Department* [2012] EWCA Civ 155, at [30] the Court of Appeal confirmed:
- '30. It is essential that those who are asked to provide expert reports, be they medical or otherwise, are provided with the documents relevant to the matters they are asked to consider. Failure to do so is bound to lead to the critical scrutiny of the expert's report, and may lead to the rejection of the opinions expressed in that report, as it did in this case.'
79. I observe that Dr Hajioff was provided with very little information as to the appellant's circumstances beyond a witness statement and two medical prescriptions. He was not made aware of the earlier judicial finding that the appellant had used deceit in his engagement with the respondent. Further, he was not provided with relevant GP notes or information provided by the appellant to secure his attendance at ICope.
80. On the appellant's evidence the treatment provided by ICope proved successful. Having heard the appellant discuss his treatment and its benefits in detail at the hearing I find that he did attend ICope for 5 weeks. Indeed, I observe that the strong detail he provided as to his engagement with ICope was in marked contrast to the



very limited detail he was able to provide as to his political thoughts and the reasons underlying his political engagement with HDP. I further find that his ability to secure such treatment was consequent to the information he provided as to his mental health, which I address below.

81. Dr Hajioff was significantly reliant upon the appellant being accurate in the reciting of his personal history and health concerns. Having read the medical report with care it is striking that there is no reference to the appellant's engagement with ICope. As explained to me by the appellant this service provided him with treatment sessions to enable him to mentally relax, and to permit him to focus on his low mood/depression. Dr Hajioff specifically addresses the appellant's medical history at §12 of his report and there is no reference to the recent treatment with ICope, which concluded some two months before the consultation. The appellant was specifically asked by Dr Hajioff as to his present state and his answers were recorded at §§32 to 38. I observe at §38 that the appellant refers to being advised by a psychologist to become more physically active. This could be an oblique reference to ICope, which provides psychological therapy services, but the information recorded by Dr. Hajioff is expressly concerned with physical activity and does not refer to the mental health treatment provided by ICope. The appellant states that he informed Dr Hajioff as to his treatment with ICope and that Dr Hajioff simply forgot to refer to it in his report. I observe Dr Hajioff's long history of providing reports in asylum matters. I am satisfied that Dr Hajioff would be aware as to the importance of beneficial mental health treatment when making his diagnosis and I am satisfied, on balance, that he was not informed as to the appellant's attendance at ICope and so was ignorant both of the treatment provided to the appellant and as to the decision to no longer rely upon prescriptive medication in relation to depression and sleep.
82. There is a clear inconsistency in this matter as to the appellant's evidence before me that having attended ICope he was feeling well enough to no longer require prescribed medication and the personal history he presented to Dr. Hajioff. The appellant was unable to detail a day or month on which he made his decision to no longer use his medication. However, it must have been on date after 20 June 2019, as I have been presented with a photograph of an open box of Zopiclone dispensed to the appellant on that date, and prior to his attendance upon Dr Hajioff on 29 November 2019.
83. Further, in the absence of GP notes and any other medical evidence postdating the appellant's attendance upon Dr Hajioff, I observe that there is no medical evidence before me establishing that the appellant has sought to resume pharmaceutical intervention in relation to depression or sleeping difficulties.
84. Despite having decided to no longer use the medication provided, the appellant informed Dr Hajioff that he was enjoying variable sleep, having nightmares about once a week, suffering anxiety, required a small nightlight when sleeping and had troubles with concentration. Having considered the evidence before me I am satisfied that the appellant deliberately decided not to inform Dr Hajioff as to his treatment

with ICope, and further that he deliberately withheld his true medical history at the assessment. I am satisfied that such deliberate acts were manipulative in nature. His primary intention was to persuade Dr Hajioff that he had PTSD arising from torture and serious ill-treatment at the hands of the Turkish authorities and therefore provided false information to secure his aim. In reaching this conclusion, I recall the appellant's willingness to engage in manipulation, deceit and untruths. I am therefore satisfied that no weight can properly be given to the report of Dr Hajioff because he was not provided with truthful information and was misled as to the appellant's symptoms. Further, I find that the appellant was not truthful in securing treatment from ICope. He is not, and have never been, a vulnerable person.

85. In such circumstances I return to my consideration of the first arrest. I acknowledge that the information provided to the respondent at the substantive interview is plausible in light of known country circumstances existing in Turkey at the relevant time. However, the appellant has been manipulative and untruthful in his engagement with a medical practitioner. He has exercised deceit and used false documents in the past. I therefore place limited weight on the Turkish prescriptions filed with the Tribunal. He has not been truthful to the Tribunal on various issues. Importantly, the appellant has shown very limited political knowledge as would be expected by someone asserting that they were a committed political activist. In such circumstances, whilst bearing in mind the low standard of proof to be applied in this matter, I find that whilst the appellant joined the HDP in 2017 his activities on behalf of the party were extremely limited. The noticeable lack of any substantive knowledge as to the party or even as to his own political thoughts clearly establish that he was not politically active. I find that he was not distributing leaflets in December 2017, was not arrested by the Turkish authorities along with a friend, was not detained and was not subsequently ill-treated by the Turkish authorities.
86. I conclude that the appellant has never been arrested by the Turkish authorities, nor has he been a political leader in his area or actively participated in meetings, marches and demonstrations. At most, he has been a passive member of the HDP with irregular attendance at meetings. He enjoys no profile that would lead to his arrest and detention upon his return to Turkey. Though some members of the HDP have been arrested and harassed by the Turkish authorities, it remains a legal and functioning political party and in light of his very limited political engagement the appellant's membership of the party, without more, is of no interest to the authorities.
87. In the circumstances, the appellant does not possess a well-founded fear of persecution. He will not be detained on return to Turkey. He is of no interest to the Turkish authorities. There is no real risk that he will be subject to treatment that will breach his protected article 2 and 3 rights upon his return home.
88. Ms. Nnamani confirmed that the appellant does not rely upon article 8.

**Notice of Decision**

89. The decision of the First-tier Tribunal involved the making of an error on a point of law and I set aside the Judge's decision promulgated on 22 February 2021 pursuant to section 12(2)(a) of the Tribunal, Courts and Enforcement Act 2007 ('the 2007 Act').
90. The decision in the appeal is remade.
91. The appeal is refused on asylum grounds.
92. The appeal is refused on humanitarian grounds.
93. The appeal is refused on human rights (article 2 and 3) grounds.

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

94. The anonymity order issued by the First-tier Tribunal is confirmed in the following terms:

Unless the Upper Tribunal or a court directs otherwise no report of these proceedings or any form of publication thereof shall directly or indirectly identify the appellant. This direction applies to, amongst others, the appellant and the respondent. Any failure to comply with this direction could give rise to contempt of court proceedings.

Signed: *D. O'Callaghan*  
**Upper Tribunal Judge O'Callaghan**

Dated: 23 July 2021