



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/09579/2014

THE IMMIGRATION ACTS

Heard at: Field House  
On: 25<sup>th</sup> January 2016

Determination Promulgated  
On 26<sup>th</sup> February 2016

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

A O

~~(no anonymity direction made)~~

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Ms Hena, Counsel instructed by Virgo Solicitors  
For the Respondent: Mr Kotas, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant is a national of Turkey date of birth 1<sup>st</sup> April 1992. He appeals with permission<sup>1</sup> the decision of the First-tier Tribunal (Judge Kelly)<sup>2</sup> to dismiss his appeal against a decision to remove him from the United Kingdom pursuant to s10 of the

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<sup>1</sup> Permission granted by First-tier Tribunal Judge Levin on the 9<sup>th</sup> March 2015

<sup>2</sup> Determination promulgated on the 12<sup>th</sup> February 2015

Immigration and Asylum Act 1999. That decision followed from the Respondent's rejection of the Appellant's asylum claim.

2. The basis of the Appellant's claim was that he had a well-founded fear of persecution in Turkey for reasons of his political opinion. The Appellant is Kurdish and had in recent years become involved with the BDP (translated in the determination as 'The Peace and Democracy Party'). The First-tier Tribunal accepted that as a result of his open support for that organisation the Appellant had on three occasions been arrested and detained. The first time was in September 2013 when a meeting in a café was raided. The Appellant was held for two days during which time he was questioned about his support for the BDP and why he had gone to the meeting. He was released without charge. Undeterred by this he continued to attend meetings including one in December 2013 when he was arrested again. On this occasion he was held for almost two days during which time he was not given anything to eat or drink. Again he was released without charge but warned to desist from his political activity. The third detention took place in March 2014 following a *Newroz* demonstration in Nurdagi. The police had tried to break it up and the Appellant had remonstrated with them; this earned him three days in a rat-infested cell that smelled of urine. He was slapped and told that if he attended any more political events he would be sent to prison.
3. Having found those facts the Tribunal conducted a risk assessment in accordance with the still extant country guidance in IA and Others (Risk-Guidelines-Separatist) Turkey CG [2003] UKIAT 00034 as affirmed in IK (Returnees-Records-IFA) Turkey CG [2004] UKIAT 00312. It found that the BDP is not banned; that on each occasion that the Appellant was arrested he was released without charge; there was no evidence to suggest that the authorities viewed him as a separatist (i.e. a member of the PKK); he was not placed on any reporting charges; he was not facing any outstanding charges (as far as he was aware); he had no family connection to HADAP, DEHAP or KADEK; he had not been asked to be an informer; he was not a draft evader; he had remained in Turkey for a month after his last arrest and had not suffered any adverse interest from the authorities; crucially the Tribunal found that the Appellant had not suffered "any torture or lasting physical injury". The country guidance indicated that these factors would show no current risk for the Appellant. Applying the country guidance the only background factors to indicate risk were his Kurdish ethnicity and lack of a valid passport. Focusing on the risk at the point of return the Tribunal accepted that the Appellant would be questioned at the airport, but in light of his circumstances, there would be no risk of serious harm:

"Although deeply unpleasant, the ill-treatment he suffered during his detention was at the lowest end of the scale. However, I find that he is unlikely to be detained for more than a few hours before being released to go on his way" [at 29]

The determination then finds that the Appellant can return to his home area without risk, or in the alternative that he could relocate within the country. The appeal was thereby dismissed.

## Error of Law

4. On the 25<sup>th</sup> May 2015 the appeal came before myself and Deputy Upper Tribunal Judge Saini to determine whether the determination contained an error of law such that it should be set aside.
5. The grounds of appeal appeared to have been drafted by the Appellant himself. They boil down to two points:
  - i) No consideration had been given to the fact that the Appellant remains a supporter of the BDP/believer in Kurdish rights who would want to give effect to those political views if returned to Turkey;
  - ii) His return on an emergency travel document will alert the authorities to the fact that he is a failed asylum seeker making it reasonably likely that he will be questioned about his political views and thus placing him in a situation where he will be faced with a choice - reveal them and risk serious harm, or be "discreet" about them and thus suppress his own conscience.
6. At the error of law stage the Appellant was represented by Mr Spurling of Counsel. He expanded on the grounds to argue that the First-tier Tribunal failed to consider the specific submission that the Appellant would be at risk because he continued to hold political views antithetical to the Turkish state. He relied on HJ (Iran) and HT (Cameroon) v SSHD [2010] UKSC 31 and RT (Zimbabwe) [2012] UKSC 38. He referred to his skeleton before the First-tier Tribunal in which [at 15] the following point is made:

"His present views and actions in the past demonstrate that he is reasonably likely to wish to give effect to his political views by associating with like-minded people in the BDP. Although he might conceivably be able to avoid persecution by ceasing this activity, that would violate the principle in RT (Zimbabwe) ..."
7. The Respondent was represented by Senior Presenting Officer Mr Duffy, who realistically conceded that this submission had not been expressly addressed, even though it was recorded as part of the Appellant's case at paragraph 17 of the determination. Mr Duffy nevertheless made a robust defence of the determination, submitting that the situation in Turkey has improved, with police and security forces in cities like Istanbul receiving human rights training. In light of that it was open to the Appellant to relocate away from his home area in Gaziantep and continue to express his political views without risk of persecution. He submitted that overall this was an entirely adequate determination and that the Judge had given careful consideration to each of the risk factors set out in the albeit old country guidance.
8. We considered all of the submissions made. The determination of the First-tier Tribunal was detailed and cogent, and the reasoning clearly expressed. We were nevertheless satisfied that the decision must be set aside for the following reasons, which we set out in a written decision dated the 25<sup>th</sup> May 2015:

“First of all we would express some unease about the Tribunal’s conclusions about the degree of harm already suffered by the Appellant. The Appellant is a supporter of a legal party and as such is entitled in a democratic state to take part in activities such as attending meetings and demonstrations. He is Kurdish and is entitled to express his cultural identity by celebrating *Newroz*, the New Year. In exercising these rights he was subjected to three periods of what were by his account entirely arbitrary detentions, contrary to Article 9 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. During one of these detentions he was deprived of food and water for almost two days. During another he was slapped, and kept in a rat-infested cell smelling of urine. The determination describes these events as “deeply unpleasant” but apparently discounts the possibility that the treatment could amount to persecution on the basis that it was at the “lowest end of the scale”. Having had regard to Article 9 of the Qualification Directive<sup>3</sup> we are not satisfied that the Tribunal has properly turned its mind to whether such treatment could, for this Appellant, be a violation of Article 3. We find it to be at least arguable that deprivation of water - or sleep, as one might expect in a rat-infested cell - is capable of constituting inhuman or degrading treatment. That is particularly so where the recipient of such treatment does not know when it is going to end. Although this matter did not form a ground of appeal we regard it as *Robinson*<sup>4</sup> obvious and leave is granted to argue the point in the re-making.

The central matter in this appeal is the ‘HT/RT point’. It was the Appellant’s case before the First-tier Tribunal that he was so committed to the cause of the BDP/Kurdish political and cultural rights that if in Turkey he would continue to attend meetings and demonstrations. As evidence of this he pointed to the fact that he continued to do so even after being arrested on two occasions and the ill-treatment endured grew progressively worse. That this was argued before the Tribunal is apparent from the skeleton and paragraph 17 of the determination. In light of the country background material before the Tribunal (Mr Spurling placed particular reliance on the Respondent’s Operational Guidance Note) and the findings of fact already made, it was incumbent upon the Tribunal to consider whether the Appellant would continue to exercise his basic civil and political rights in the manner asserted and whether he was reasonably likely to suffer serious harm as a result; if it was found that he would refrain from doing so, consideration had to be given to whether he would be constrained by his fear of persecution. That was not done. Although in the final analysis the Respondent may be right to rely on internal flight, we are not satisfied that this point was addressed, or that there was any analysis, for instance, to the effect that the Appellant could express his political views without fear of harm in Istanbul. To that extent the decision is set aside to be re-made. The findings of fact are unchallenged and preserved”.

### **The Re-Made Decision**

9. The matter came back before me to be re-made on the 25<sup>th</sup> January 2016. Mr Kotas who appeared for the Respondent had only received the papers at 9.30 that morning, because his colleague with conduct of the case had fallen ill. I gave Mr Kotas some

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<sup>3</sup> COUNCIL DIRECTIVE 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted

<sup>4</sup> Ex Parte Robinson [1997] 3 WLR 1162

additional time to familiarise himself with the papers and at the outset of the hearing he indicated that he was content to go ahead.

10. The parties agreed the issues as follows:
  - i) Was the ill-treatment suffered by the Appellant in the past (as summarised at paragraph 2 above) sufficiently serious to amount to persecution?
  - ii) Is there a real risk that the Appellant would be subject to persecution on return to his home area of Gaziantep today? This would include consideration of the 'HT/RT' point.
  - iii) If so is there a reasonable internal flight alternative for this Appellant?
11. Both parties made submissions on the evidence.
12. The Appellant's case is that he is a Kurd from Sakcagozu, Antep. When he was in Turkey he was an active supporter of the BDP and as a result was arrested and detained on three occasions. He fears that if returned to Turkey today there is a reasonable likelihood that if he returned to Antep the local security services would arrest him again (not least because of his absence). He fears ill treatment and arbitrary detention. He avers that he is opposed, on grounds of conscience, to serving in the Turkish military as he is bound by law to do, his enlistment date being 2016. He submits that he will not be safe anywhere in Turkey as he is reasonably likely at some point to come into contact with the authorities, and at that point cannot be expected to conceal his political views.
13. On the facts as found by the First-tier Tribunal the Respondent submits that at its highest the Appellant's case is that he was a supporter of the BDP who attended several meetings. He has no links to the PKK, nor do the Turkish authorities have any evidence to suggest that he does. The current assessment of conditions in Turkish prisons (as reflected in paragraph 3.15.10 of the OGN) is that they are not likely to reach the threshold required to violate Article 3 ECHR. There is no risk of the Appellant going back to a rat-infested cell. If the Appellant did not want to return to Gaziantep he could safely live in Istanbul.

#### *Country Background Information*

14. The last country guidance case on Turkey was IK in 2004. The headnote reads:
  1. *The evidence of Mr Aydin (paragraph 32) accurately describes the defined and limited ambit of the computerised GBT system. It comprises only outstanding arrest warrants, previous arrests, restrictions on travel abroad, possible draft evasion, refusal to perform military service and tax arrears. "Arrests" as comprised in the GBTS require some court intervention, and must be distinguished from "detentions" by the security forces followed by release without charge. The GBTS is fairly widely accessible and is in particular available to the border police at booths in Istanbul airport, and elsewhere in Turkey to the security forces.*
  2. *In addition, there is border control information collated by the national police (Department for Foreigners, Borders and Asylum) recording past legal arrivals and*

*departures of Turkish citizens, and information about people prohibited from entering Turkey as a result of their activities abroad, collated by MIT.*

3. *The Judicial Record Directorate keeps judicial records on sentences served by convicted persons, separate from GBTS. The system is known as "Adli Sicil." It is unlikely that this system would be directly accessible at border control in addition to the information in the GBTS.*
4. *The Nufus registration system comprises details of age, residence, marriage, death, parents' and children's details, and religious status. It may also include arrest warrants and if any of the people listed have been stripped of nationality. There is no evidence that it is directly available at border control.*
5. *If a person is held for questioning either in the airport police station after arrival or subsequently elsewhere in Turkey and the situation justifies it, then some additional inquiry could be made of the authorities in his local area about him, where more extensive records may be kept either manually or on computer. Also, if the circumstances so justify, an enquiry could be made of the anti terror police or MIT to see if an individual is of material interest to them.*
6. *If there is a material entry in the GBTS or in the border control information, or if a returnee is travelling on a one-way emergency travel document, then there is a reasonable likelihood that he will be identifiable as a failed asylum seeker and could be sent to the airport police station for further investigation.*
7. *It will be for an Adjudicator in each case to assess what questions are likely to be asked during such investigation and how a returnee would respond without being required to lie. The ambit of the likely questioning depends upon the circumstances of each case.*
8. *The escalation of the violence following the ending of the PKK ceasefire reinforces our view that the risk to a Kurdish returnee of ill treatment by the authorities may be greater if his home area is in an area of conflict in Turkey than it would be elsewhere, for the reasons described in paragraphs 90 and 116.*
9. *The Turkish Government is taking action in legislative and structural terms to address the human rights problems that present a serious obstacle to its membership of the EU. It has made its zero tolerance policy towards torture clear. However the use of torture is long and deep-seated in the security forces and it will take time and continued and determined effort to bring it under control in practice. It is premature to conclude that the long established view of the Tribunal concerning the potential risk of torture in detention as per **A (Turkey)** requires material revision on the present evidence. However the situation will require review as further evidence becomes available. For the time being as in the past, each case must be assessed on its own merits from the individual's own history and the relevant risk factors as described in paragraph 46 of **A (Turkey)**.*
10. *Many of the individual risk factors described in **A (Turkey)** comprise in themselves a broad spectrum of variable potential risk that requires careful evaluation on the specific facts of each appeal as a whole. The factors described in **A (Turkey)** were not intended as a simplistic checklist and should not be used as such.*
11. *A young, fit, unmarried person, leaving his home area and seeking unofficial employment in a big city, may not feel the need to register with the local Mukhtar, at least at the outset. Many do not. However, given the range of basic activities for which a certificate of residence is needed, and which depend upon such registration, we conclude that it would in most normal circumstances be unduly harsh to expect a person to live without appropriate registration for any material time, as a requirement for avoiding persecution.*

*This does not necessarily preclude the viability of internal relocation for the reasons described in paragraph 133.13 below.*

12. *The proper course in assessing the risk for a returnee is normally to decide first whether he has a well founded fear of persecution in his home area based upon a case sensitive assessment of the facts in the context of an analysis of the risk factors described in A (Turkey). If he does not then he is unlikely to be at any real risk anywhere in Turkey.*
13. *The risk to a specific individual in most circumstances will be at its highest in his home area for a variety of reasons, and particularly if it is located in the areas of conflict in the south and east of Turkey. Conversely the differential nature of the risk outside that area may be sufficient to mean that the individual would not be at real risk of persecution by the state or its agencies elsewhere in Turkey, even if they were made aware of the thrust of the information maintained in his home area by telephone or fax enquiry from the airport police station or elsewhere, or by a transfer of at least some of the information to a new home area on registration with the local Mukhtar there. Internal relocation may well therefore be viable, notwithstanding the need for registration in the new area. The issue is whether any individual's material history would be reasonably likely to lead to persecution outside his home area."*
15. In view of the passage of time, and dramatic geo-political changes in the region, as well as in Turkey itself, the parties agreed that I would need to look beyond this guidance to determine current risk, and to have regard to more up to date evidence.
16. In this regard the Respondent relied on her Operational Guidance Note (OGN) issued in May 2013. This reports *inter alia* that thousands of members of the Turkish security forces have received training in human rights [2.2.3] but that impunity remains a problem where abuse still occurs [2.2.6]. Efforts to combat the use of torture began in 1999 when Turkey became a candidate to join the EU, a process which has also seen some relaxation of laws designed to suppress expressions of Kurdish identity and nationalism. The military conflict between the Turkish Army and the PKK has continued however, with 711 people killed in 2012 [2.2.12]. In respect of internal flight the OGN states that this is usually only going to be an option where the feared persecutor is a non-state agent:

*"Very careful consideration must be given to whether internal relocation would be a viable way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents"* [2.3.2]
17. The OGN considers the risk to supporters of Kurdish and/or left wing groups at section 3.9. This recognises that Kurds seeking to exercise their constitutional right to freedom of assembly are subject to harassment and detention, and sometimes prosecution. Between 2010 and 2013 police arrested an estimated 20,000 people on charges of belonging to the Kurdish Communities Union (KCK), described as "a part of the political organisation of the PKK terror group". Although there has been a decrease in the number of reported cases of ill-treatment the UN Committee Against Torture has expressed grave concerns about the continuing use of torture against political detainees, and the climate of impunity for those accused of ill-treating prisoners. The Respondent concludes from the evidence that supporters of Kurdish political groups may face police harassment; this will not generally be such serious

harm so as to amount to a violation of Article 3/persecution but all claims must be decided on a case by case basis.

18. The Appellant has submitted a report by Sheri Laizer, a recognised expert on Turkey. She writes that Sakcagozu, where the Appellant is from, is a mixed Kurdish-Turkish area where the Kurdish minority has long suffered ill treatment as second-class citizens:

“... political opinion is imputed by members of the security services on the basis of the reputation of Kurdish families and their known or documented political and ‘criminal’ history. Detention threats and release have long been a common pattern of intimidation as set forth by [AO] ... The aim is not specifically that of court prosecution but rather to induce fear such that the detainee agrees to abandon resistance under threat of worse to come” [at 3(v)]

19. Ms Laizer cites recent research into human rights abuses in detention, including the findings of the Turkish Human Rights Institution that the new anti-torture agency was deemed to lack authority, structure, resources, functional independence and legal protection to fulfil its duties.

20. As to the risk of harm for those suspected of involvement with the PKK, Ms Laizer notes that Kurds in Turkey continue to join the organisation which is still perceived to be an active threat to the Turkish state:

“... the suspicion that motivates such detentions on the part of the gendarmes soldiers and police in Turkey is that the suspect supporting the BDP-HDP actually supports the PKK by extension or indeed may even be in active service of the PKK. Such a suspicion will remain alive until proven otherwise” [at 3(vi)]

The report goes on to state that where young Kurds go ‘missing’ from their home villages, the local security services assume that they have either joined the PKK or that they have gone to Europe to claim asylum.

21. Ms Laizer analyses the June 2015 election results as follows. The HDP took over 10% of the vote for the first time, whilst the vote of the ultra Turkish nationalist MHP increased by over 2 million votes, giving them 16.5% of the overall vote. Commentators in Turkey fear a return to the violent confrontations of the 1990s. If the state insists on the closure of the HDP such is sure to result in an intense spike in PKK violence with serious repercussions on the Kurdish and Turkish civilian populations and ordinary members of the HDP. The report cites several instances of serious violence between the state and the PKK during 2015, increased political tension and military confrontations including in Istanbul itself.
22. In respect of the possibility of relocation to Istanbul Ms Laizer’s highlighted the following factors for consideration:
- There are roadblock-checkpoints throughout rural Turkey and random ID checks made by police in the cities



- Police officers have access to a new security services data system called TEM-NET which has a wider remit than the GBTS considered in the past by the Tribunal<sup>5</sup>
  - TEM-NET contains information gathered by the state security and intelligence services and does not depend on there having been a formal arrest
  - Turkish law requires citizens to register wherever they are living
23. Addressing the Appellant's assertion that he does not wish to perform military service, Ms Laizer explains that once he receives his call up papers he will be required by law to report. If he fails to do so his name will be entered on the GBTS. She cites information supplied by a Turkish lawyer, Mr Levent Kanal. Mr Kanal states that individuals who express a conscientious objection to serving in the military are sentenced according to military law, and serve in a military prison where they are treated as military personnel. Turkish law does not provide for conscientious objection as a defence to draft evasion. Kurds who are perceived to have a political objection to the Turkish state face a sentence "far more fraught with difficulty": "he will face a greater danger to life in a military prison. I can state such to be apparent from many past examples. There are widespread allegations, whether those reported in the news or others that have been emerging from the testimonies of the victims, of a great many people who have claimed a Kurdish identity in the political sense have been killed and their deaths made to appear as suicide".

#### *Findings*

24. I remind myself of the accepted facts. The Appellant has demonstrated that he is a supporter of the BDP who attended five or six meetings and as a result was detained on three occasions, for two days in September 2013, in December 2013 when he was verbally abused and denied water and food for almost two days and in March 2014 when he was held for three days in a rat infested cell smelling of urine. On this latter occasion he was slapped by those interrogating him.
25. The applicable standard of proof is "real risk". The burden lies on the Appellant to show that there is a "real risk", or "reasonable likelihood" that if returned to Turkey today he would face ill treatment serious enough to be classed as persecution.
26. The Appellant is undocumented, having left Turkey and entered the United Kingdom illegally. He would therefore be returned to Turkey on a document either issued by the Respondent, or by the Turkish authorities in the UK. Either way he would be identifiable on return as someone who has been in the UK without a passport or visa. I regard it as reasonably likely that in those circumstances checks would be conducted on arrival by receiving officials. I note that since IK the records available to security personnel have expanded from the GBTS system scrutinised in that decision. Ms Laizer cites evidence of the use of TEM-NET, a record system with

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<sup>5</sup> See IK v SSHD [2004] UKIAT 00312 above

a far wider remit. Security intelligence not dependent on any formal arrest or conviction would therefore be available to an official conducting an enquiry. It is therefore reasonably likely that an official at the airport would quickly establish a) that the Appellant is a failed asylum seeker b) that the Appellant is Kurdish c) that he is from Antep and d) that he has in the past been detained for involvement with the BDP. In IK the Tribunal determined that there is a reasonable likelihood of failed asylum seekers being transferred to the airport police station for further enquiry. There is no evidence before me to suggest that this system has changed.

27. The First-tier Tribunal accepted that the Appellant was a supporter of the BDP who was sufficiently committed to the cause to carry on attending meetings even after having been detained. I am satisfied that the Appellant genuinely holds political beliefs as stated, namely a belief in self-determination for the Kurdish people and by extension, the destruction of the Turkish state as it currently exists. Having regard to the findings in IK and the more recent material to which I have been referred I am satisfied that it is reasonably likely that the Appellant, when transferred to the airport police station, will be asked questions about his previous detentions, and whether these had any connection to his illegal exit from Turkey and his journey to the UK. It is difficult to imagine how the Appellant could respond to such questions without a real risk of a) revealing his political beliefs or b) concealing them in order to protect himself from ill treatment amounting to persecution.
28. If I am wrong and the Appellant manages to proceed through the arrival procedure without any difficulty I have considered whether there would be a real risk of harm in Sakcogozu. The Appellant submits that the most significant point of note about the three detentions he endured in the past is that the conditions and treatment were progressively worsening, on the last occasion involving inhuman and degrading conditions and actual physical violence. Whilst arbitrary detention is in itself a breach of the Appellant's human rights not every such detention will constitute persecution. Whether it does must be assessed on a case by case basis, having regard to such factors as the frequency, the level of ill treatment endured if any, and the resilience or otherwise of the detainee. I consider too the purpose of such detentions to be relevant. I note that the account, already accepted, is consonant with Ms Laizer's evidence that such short term detentions, often without charges being brought, are part of the *modus operandi* of the Turkish police, a policy pursued specifically in order to harass and frighten Kurds away from overt political activity and assertion of Kurdish minority rights. Having had regard to all of these factors I am satisfied that the last detention, following *Newroz 2014*, did in fact amount to serious harm. The features of that detention were clearly intended to instill fear in the Appellant: the violence, the rats, the urine soaked cell, and importantly the fact that the Appellant did not know when he would be released. These factors combine to create a severity of ill treatment such that the threshold of persecution is reached.
29. That past persecution – relatively recent persecution – is my starting point for consideration of risk on return to the Antep area. The Appellant is known to the security services there. He continues to hold the political beliefs which landed him in detention on three occasions in the past. The political climate in Turkey has not

materially changed since 2013-2014 save to note that the ceasefire between the Turkish army and the PKK is well and truly over, with frequent clashes between the two. I accept Ms Laizer's analysis that Turkish security personnel will often suspect supporters/members of legal organisations deemed to be fronts for the PKK of actual involvement in that group. There is no evidence to suggest that there has been a material change in circumstances such that persecution would not occur again. I am accordingly satisfied that there would be a real risk of persecution in the home area.

30. I now turn to consider whether there is a viable internal flight alternative for the Appellant. I am satisfied that the Appellant would continue to hold the political views that he does, and that he would wish to express them. As the First-tier Tribunal found, a series of confrontations and detentions did not persuade him to desist in 2013-14. There is therefore no evidential foundation to support a finding that the Appellant would simply choose to 'keep his head down' should he relocate to Istanbul. If he did choose to keep a low profile I am satisfied that this would be for reason of a fear of persecution. The OGN points out that where the agents of persecution are state actors "very careful consideration" should be given to whether there is a viable internal flight alternative. There is no reason for the Appellant to believe that the police in Istanbul, whether stopping him at a checkpoint or pulling him out of a protest, will act any differently from the police in Antep. Having given this matter such consideration I cannot be satisfied that Istanbul, nor indeed Ankara, would be a safe alternative for an individual with a record of dissent, clear political views about Kurdish rights and an unwillingness to "be discreet" about those views. The appeal must therefore be allowed.

### **Decisions**

31. The decision of the First-tier Tribunal contained an error of law and was set aside to the extent identified above.
32. The decision in the appeal is re-made as follows:  
"The appeal is allowed on asylum grounds.  
The Appellant is not entitled to humanitarian protection because he is a refugee.  
The appeal is allowed on human rights grounds."
33. I was not asked to make a direction for anonymity and on the facts I see no reason to do so.

Upper Tribunal Judge Bruce  
10<sup>th</sup> February 2016