



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/02734/2018

**THE IMMIGRATION ACTS**

Heard at Field House  
On 11 July 2018

Decision & Reasons Promulgated  
On 14 August 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE I A LEWIS

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

E A Y

(ANONYMITY DIRECTION MADE)

Respondent

**Representation:**

For the Appellant: Ms Z Ahmad, Home Office Presenting Officer

For the Respondent: Mr G Denholm of Counsel instructed by Ahmed Rahman Carr

**DECISION AND REASONS**

1. This is an appeal against the decision of First-tier Tribunal Judge Clarke promulgated on 17 April 2018 in which she allowed the appeal of EAY on protection grounds against a decision of the Respondent refusing asylum in the United Kingdom.
2. Although before me the Secretary of State for the Home Department is the appellant and EAY is the respondent, for the sake of consistency with the proceedings before the

First-tier Tribunal I shall hereafter refer to the Secretary of State as the Respondent and EAY as the Appellant.

3. The Appellant is a citizen of Turkey. His personal details are a matter of record on file and are not repeated here in keeping with the anonymity direction. He originates from the town of Afsin in Kahramanamaras province. He claims to have left Turkey on 12 March 2016, arriving in the UK on the same day. He claimed asylum on arrival. A screening interview was conducted on the same day, and in due course a substantive asylum interview was also conducted. The Respondent refused the Appellant's claim for protection for reasons set out in a 'reasons for refusal' letter ('RFRL') dated 12 February 2018.
4. The Appellant appealed to the IAC.
5. The appeal was allowed for the reasons set out in the 'Decision and Reasons' of Judge Clarke.
6. The Respondent sought permission to appeal to the Upper Tribunal, which was granted by First-tier Tribunal Judge Pickup on 8 May 2018.
7. I do not propose to rehearse the full details of the Appellant's asylum claim - which are a matter of record and are set out both in the RFRL and the Decision of the First-tier Tribunal. I will refer to such matters as is incidental for the purposes of this document.
8. The Respondent's grounds of challenge - which assert "*a material misdirection of law*" - are, so far as is material, in the following terms:-
  3. *The Judge found that the Appellant faces ill-treatment in his home area. This is based upon his alleged history of detentions. However, it is respectfully submitted that the Appellant is not wanted by the authorities in his home area. At its highest, the Appellant's evidence shows that he has to report to the police. It is submitted that this is not a persecutory act and the Appellant does not suffer ill-treatment as a result of it. That being so, he does not face persecution.*
  4. *In the alternative, it is respectfully submitted that the Judge has failed to consider internal relocation. The Appellant has relatives in Istanbul, almost 1000 km from his home area. The Judge has not explained why the Appellant could not stay with them or rebuild his life with them. There is no indication that the Appellant is wanted in Istanbul. Indeed, the only evidence provided by the Appellant was that he was of interest to the authorities in his local area. Even if he was reporting to*

*the authorities, this was a local rather than national initiative. The Appellant could quite easily live in Istanbul."*

9. In granting permission to appeal Judge Pickup stated:

*"It is arguable that the Judge erred in law by failing to adequately explain why the Appellant would be at risk on return, given the evidence that he is not wanted by the authorities and at the most has to report to a police station. Further, it is arguable that the Judge omitted to consider internal relocation, given that the only interest in him was in his local area."*

10. In my judgement the grounds of challenge are not made out.

11. The First-tier Tribunal Judge has adequately explained the nature of the risk on return, and has thereby identified the manner in which she found the Refugee Convention to be engaged.

12. I note in particular the following features from the First-tier Tribunal Judge's findings:

(i) The Appellant was detained and ill-treated in Turkey on three occasions.

(ii) The Judge characterised the Appellant's treatment on the most recent occasion, in December 2015, as "*egregious torture*" (paragraph 12).

(iii) The Appellant was released from detention on this last occasion with a conditions that he should report to the authorities. He was also told that he would be expected to act as an informer. The Judge concluded that this demonstrated an ongoing interest in the Appellant, and also that the authorities suspected him to be a separatist (paragraph 12).

(iv) The Judge found that the Appellant had breached the requirement to continue reporting to the authorities by his action in departing Turkey.

(v) The Judge also found that the Appellant would return to Turkey on an emergency travel document "*because he did not have a passport and he is recorded as a draft evader*" (at paragraph 12).

(vi) The Judge considered the consequences of the foregoing:

*"...the Appellant will be stopped at the airport and I must consider the likely questions asked of him. I accept the Appellant will be likely to be asked his reasons for leaving, details about his asylum application, the reason it was refused and what organisations he*

*has contacted in the UK, and in particular, illegal organisation. The Appellant cannot be expected to lie and I find there is a real risk that he will arouse suspicion which will result in checks in his home area, and this will lead to his situation on departure becoming known. This will lead to a real risk of detention and torture.”* (paragraph 11).

13. In such circumstances it seems to me it is not sustainable to suggest – as does paragraph 3 of the Respondent’s Grounds – that risk was to be evaluated only by reference to a requirement to report to the police.
14. Further, it seems clear that it was not necessary for the Judge to consider internal relocation away from the Appellant’s home area because the Judge found the Appellant would be at risk at the point of return, and such risk emanated from state agents.
15. I note that in a brief amplification of the grounds Ms Ahmad directed my attention to certain passages in the decision of **IK (Returnees - Records - IFA) Turkey CG [2004] UKIAT 00312**. The Judge made reference to this case at paragraph 13, and characterised it as “*guiding authority*”, which she considered to underscore the notion that there was “*a reasonable likelihood that the security forces in Istanbul will have access to [the Appellant’s] adverse history in his home area*”.
16. Ms Ahmad emphasised, with particular reference to paragraph 63 of **IK**, that the GBTS computer system only recorded incidents where there had been some sort of court intervention: “*It does not include detentions by the security forces that have not resulted in some form of court intervention*”. Because the Appellant’s own encounters and detentions had not been accompanied by court intervention, Ms Ahmad suggested that there would be no reason to consider that the Appellant would be shown on the GBTS system.
17. In the abstract, Ms Ahmad’s observation is well made. However, it is clear that at paragraph 11 of the Decision the Judge is not relying upon the notion that the Appellant might come to the attention of the authorities on his return by reason of a past detention showing on the GBTS. The Judge in terms refers to the circumstances of the Appellant’s return on an emergency travel document, and his profile as a draft evader. Mr Denholm in his turn emphasised that draft evasion as a potential indicator of profile on return was identified in the summarising paragraphs of **IK** as potentially being recorded on the GBTS - see paragraph 133(1): “*the... ambit of the computerised GBT system... comprises... possible draft evasion*”.

18. Accordingly I am not persuaded that the Judge departed from the country guidance in **IK**. Indeed, as Mr Denholm emphasised, the Judge's evaluation of the Appellant's circumstances at paragraph 12 mirrors the guidance in the case of **IA and others (Risk-Guidelines-Separatist) Turkey CG [2003] UKIAT 00034**, cited with approval in **IK** (albeit under the name **A (Turkey)**).
19. In all of the circumstances I find that the Secretary of State for the Home Department has not made out the bases of challenge. There being no other grounds or arguments advanced before me, I find that the Secretary of State has failed to impugn the decision of the First-tier Tribunal which accordingly stands.

### **Notice of Decision**

20. The decision of the First-tier Tribunal contained no errors of law and stands.
21. The appeal remains allowed on protection grounds.

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

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his 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.

*The above represents a corrected transcript of ex tempore reasons given at the conclusion of the hearing.*

Signed:

Date: **1 August 2018**

**Deputy Upper Tribunal Judge I A Lewis**