



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

Appeal Numbers: PA/51004/2020
(UI-2021-001523); IA/01776/2020

THE IMMIGRATION ACTS

**Heard at Field House
On the 7 June 2022**

**Decision & Reasons Promulgated
On the 26 August 2022**

Before

UPPER TRIBUNAL JUDGE REEDS

Between

**A
(ANONYMITY DIRECTION MADE)**

Appellant

AND

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Nnamani, Counsel instructed on behalf of the appellant.

For the Respondent: Mr Melvin, Senior Presenting Officer

DECISION AND REASONS

Introduction:

1. The appellant is a citizen of Turkey.
2. An anonymity direction has previously been made in this matter and neither party requested that it be set aside. He will be referred to as “A” in this decision. This is a matter concerning an application for international protection and I am mindful of Guidance Note 2013 No1

which is concerned with anonymity directions and confirmed that the starting point for consideration of such directions in this chamber of the Upper Tribunal, as in all Courts and Tribunal, is open justice. However, I observe paragraph 13 of the guidance note where it is confirmed that it is the present practice of both the First-tier Tribunal and this tribunal that an anonymity direction is made in all appeals raising asylum or other international protection claims. I am therefore satisfied that it is appropriate for the anonymity direction to continue in this matter. The direction is detailed at the conclusion of this decision.

3. This is a remade decision following the identification of a material error of law in the decision of the FtT (Judge Beg) promulgated on the 21 December 2021 dismissing the appellant's appeal against decision dated 2 July 2020 by the respondent refusing his protection and human rights claim.
4. In an error of law decision promulgated on 6 April 2022 I was satisfied that the decision of Judge Beg involved the making of an error on a point of law and set aside the decision.
5. The Upper Tribunal retained jurisdiction to determine the appeal and listed it for a de novo hearing.
6. Following that decision, the appeal was listed to be remade before the Upper Tribunal.

The factual claim:

7. The appellant is a national of Turkey. The appellant is a citizen of Turkey. The factual background to the appeal is set out in the decision of the FtTJ and can be summarised as follows.
8. The appellant arrived in the United Kingdom on 7 November 2019 by plane. He claimed asylum on the same date. He was previously granted a visit visa to the United Kingdom on 9 October 2019.
9. The basis of the appellant's claim for asylum is that he is an active member of the Gulen movement and has been involved with them for seven years. His family have also been involved with the movement and at paragraphs 6 - 10 of his witness statement he sets out the level of involvement each of his parents has had historically in the movement and presently. In relation to his own activity, he states that he was taken to activities for the movement by his parents and became active in his own right in 2013. He used to attend student accommodation belonging to the movement and took part in activities attending meetings and inviting others to join the movement. He claimed that he witnessed many of his friends being arrested and detained after his school closed down. He started xxxxx military school in 2015 however it was closed by the government in

2016 because many students at the school were involved with the Gulen movement. He describes having donated to charities affiliated with the movement (paragraph 11).

10. After leaving Turkey and entering the UK, the appellant has continued in support of the movement and of mentored students for an organisation affiliated to the movement and also worked for a charity similarly affiliated.
11. The appellant claimed that after he entered the United Kingdom his house was raided by the police on (date) 2020, because he shared a video of himself protesting against the detention of the military school students following a demonstration.
12. The appellant claims that on (date) in 2020, his father was called to attend the police station on (date) 2020, and he was interrogated about his activities for the movement. He was also questioned about the appellant. He was later released but court proceedings began against him on (x date) in 2020. The appellant's father has been prevented from leaving the country by a travel ban.
13. On (date in) 2021, his friend from the military Academy and who taken part in movement activities with him was detained.
14. The appellant fears that if he returns to Turkey he would be arrested by the authorities because he was a student at the military school which was closed down and his family have links with the Gulen movement, his father has been questioned by the police and faces an indictment and recent evidence obtained from a lawyer in Turkey having made further enquiries demonstrates that an open file is held against the appellant and an arrest warrant has been issued.

The respondent's decision:

15. In a decision taken on 2 July 2020 the application by the appellant was refused on all grounds.
16. The respondent considered the appellant's claim but refused it in a decision taken on 2 July 2020. The respondent considered that the appellant's own account was limited to attending events organised by the Gulen movement and had been vague about the activities. It was accepted that he had attended military school, but the respondent considered that he had no active role within the movement, and it was unclear why he would be arrested if he were simply at military school and that he would have been arrested in the 3 years after he remained in Turkey after the coup.
17. The respondent considered the objective evidence and that some arrests were still being made at the beginning of 2019, but the appellant did not know if anyone had reported him to the authorities.

18. As to events in January 2020, the respondent took into account that the appellant took part in an event raising awareness about students held in Turkey for participating in the coup. However the appellant was not wearing any military uniform in the photographs. As to the claim that the house was raided and the authorities asked about his whereabouts, the respondent considered that as the appellant had claimed his father had lost 2 jobs due to his involvement in the Gulen movement and his mother had received a travel ban, it was unclear why his parents were not questioned further.
19. When assessing the issue of risk, the respondent took into account the objective material of the numbers currently imprisoned in Turkey but that the appellant's affiliation was not high-profile, he had not come to the attention of the authorities in Turkey, his activities were limited, and he had faced no problems in leaving Turkey and thus there was no evidence that he was wanted by the authorities. His claim was therefore refused.

The hearing:

20. The hearing took place on 7 June 2022. The appellant was represented by Ms Nnamani of Counsel and Mr Melvin, Senior Presenting Officer represented the respondent.

The evidence:

21. In relation to the evidence relied upon by the appellant, I have the bundles of documentation that was before the First-tier Tribunal on the digital file and in addition the documentation which formed the Rule 15"A application namely the documents and copy of CPIN Turkey: Gulenist Movement version 3.0 dated February 2022.
22. In addition, Ms Nnamani indicated that she relied upon her original skeleton argument filed before the First-tier Tribunal.
23. Mr Melvin relied upon the written submissions provided on behalf of the respondent.
24. Mr Melvin also relied upon the previous bundle which contained copies of the asylum interview, screening interview, documents sent, and the decision letter dated 2 July 2020.
25. The appellant adopted his witness statement dated 26 February 2021. In addition he was asked how he had obtained the documents set out at E3 of the respondent's bundle and he confirmed that he obtained all the documents via his father through what's app messaging service and that he then forward them to his solicitor. As to the documents referring to his father he confirmed in his evidence that he had received them in the same way as before and they had come from his father.

26. As to the documents which related to T (his friend) (pages 38 - 45), when asked how he had received them, he confirmed that he had received them from his friend's father again sending them via the messaging service. He stated that his father's friend had written to him because he had been in contact with his friend whilst in the UK and following this his father wrote to him saying that he had been arrested. The appellant explained that as they were good friends he had asked his friend's father to send the documents to him. When referred to the documents in the supplementary bundle by Counsel, the appellant stated that his father had sent them to him via the WhatsApp messaging service which had been the way he had always obtained his documents.
27. In cross-examination, the appellant confirmed that prior to coming to the UK in 2019 he had attended a military academy between 2015 and 2016 and that it was an all-male Academy. When asked about attending meetings and raising funds between 2016 and 2019, the appellant stated that he had gathered and collected money for people who needed it and carried out meetings because of the incidents that had occurred in Turkey including people losing their jobs. He said that they were collecting money for them. He was asked if there had been any evidence from supporters in Turkey to show that he did this? The appellant stated that he had no evidence to show this but that after 2016 there were secret meetings that he attended and prior to that they "just gathered and had seen each other." When asked why he had not contacted Gulenist supporters in Turkey to obtain evidence for him, the appellant stated, "because they can have problems". He explained that his friend had attended the meetings and then he was arrested and that was "enough proof".
28. The appellant was asked why there was no witness statement from his father to confirm events. The appellant stated that when he came to the UK he never thought it would be important to have such a statement and that as he was a military student and family members had been arrested he thought this was enough evidence. He said he did not think it necessary to get a statement from his father in those circumstances. When questioned further, he stated that "I did not think it was relevant, I had submitted enough evidence that comes from the authorities to prove the case". When asked why he did not have the original documents, he stated that he could not have those documents as all the events occurred after his arrival in the UK. In his evidence he stated that if he had stayed in Turkey he was sure that he would have been arrested at a later date.
29. He was asked about his father and whether he had entered the United Kingdom. The appellant stated that he visited the UK in January 2020 and stayed for 4 days. He did not bring documents with him because it was only after his return to Turkey that he became aware of the interest in his father. He confirmed that there was no evidence that his passport had been cancelled by the authorities. Nor was there any

evidence that the Turkish government were in the process of extraditing him from the UK.

30. He was asked if he had provided evidence that he was in contact with his friend who he said was arrested? The appellant stated that he had contact with him by telephone but could not get copies of his arrest as those documents are not held. He said that he might be able to find some evidence from Instagram about contact with his friend. When asked whether there was recent evidence relating to his friend, the appellant stated that there were documents to show that he was being questioned about the “ FETO problem”.
31. The appellant was asked for an update concerning his friend as at June 2022. The appellant stated that he had been told that his friend had been sentenced to 6 years and 3 months imprisonment. He said he had no evidence of it but could obtain it from the friend’s father. It happened a few weeks ago and that he told a solicitor. He said he was not able to obtain the evidence because of the hearing date.
32. He was asked about the latest evidence relating to his father. The appellant stated that the investigation and the court proceedings were still on going and that the last document showed that he was wanted by the authorities. The appellant stated that he did not feel the need to ask original documents as he thought that he had already provided sufficient information. He was asked if he knew why his father had taken so long to undertake enquiries about any investigations that had been taken against him? The appellant stated that he had a decision from the Home Office and then when he was considering return his father said if you come back you will probably be arrested, and he said that he would investigate this. He referred to the authorities coming to his house on (a date) in 2020.
33. He was asked about the “tipoff” letter from 2016. He identified the person who provided the tipoff as a neighbour who was a schoolfriend’s elder sister. When asked why she would know about his activities, the appellant stated, “because they were our neighbours, and we did not keep secrets”.
34. It was put to the appellant that his father’s court case had been going on for a number of years. The appellant stated that this was an indication that there was a backlog, and it shows that from 2016 when they complained about him from the tipoff that the investigation took until 2020. It is a long time, but it was still continuing. He confirmed in his evidence that his father had not been to prison, but he had not been allowed to leave the country or go anywhere.
35. He was asked if he had made any adverse comments on social media since his arrival. The appellant referred to the demonstration in January 2020 and that the video was uploaded to the TV station. The

authorities said that FETO was in the centre of London and the video was on a channel which showed his face and that there was a screenshot to evidence that in the bundle.

36. He was asked if there was anything since January 2020, and the appellant stated that he always followed the military students and read Twitter and supported them by sharing Instagram stories. He said that he wrote something on Instagram about a friend's elder brother being prosecuted and that he had killed himself. He said that he did charity work in the UK for an organisation that was founded on Gulenist principles.
37. In re-examination he was asked about the "time to help" and the charity work and why he had become involved with the organisations. The appellant stated that he was involved because it was a service for the community and that he had joined this and that all the charities were related to the Gulen Movement and that they were inspired by them (see pages 46 - 47 both referred to the Gulen Movement).

The submissions of the parties:

38. I also heard oral submissions from the advocates, and I am grateful to Ms Nnamani and Mr Melvin for their clear oral and written submissions.
39. Mr Melvin relied upon his written submissions and the refusal decision dated 2 July 2020.
40. He submitted that evidence had been given about the documents that were said to emanate from Turkey and the provenance of those documents. He submitted that those documents should be treated with extreme caution as there was no evidence as to how they had arrived in United Kingdom. He submitted that there was a lack of evidence of the WhatsApp messages or copies prior to the appellant's phone being broken or since that time. Furthermore those documents arrived post decision letter and then had arrived sporadically. The appellant's evidence when asked about the provenance offered to provide the court with further documents but it is noted that those documents have come in a piecemeal way without any evidence from family members.
41. The appellant's father came to the UK in January 2020. It is said that his mother has a travel ban but there is no witness statement from either parent or family relatives remaining in Turkey. This is significant because in the recent CPIN if people are wanted by the Turkish authorities pressure will be placed on family members.
42. There is also no evidence from the friend in Turkey for example a witness statement stating that he was facing problems in Turkey. As to the "interrogation note" relating to his friend, there is no evidence of

the friend's father to demonstrate the document was reliable. Furthermore there was no evidence of any links to any fundraising claims prior to the appellant's arrival in the UK. There is no actual evidence of activities at the Academy when he was 14 to 15 years old and no written evidence from friends in the UK.

43. He submitted that the appellant given evidence that his friend had been sentenced to 6 years and 3 months in prison no evidence of this had been provided and therefore it should be treated with extreme caution. Alongside the lack of evidence in relation to the father's ongoing prosecution, the letter from the lawyer should be treated with caution. The appellant's evidence is that there is no Turkish Bar Association, but it will be surprising if there is no legal body that the lawyer can be attributed to. There is no card to show he is a member.
44. There is also little evidence of any sur place activities in the UK. There was a picture of the appellant at an event, but he did not appear in military uniform and there is nothing to show that he has been opposed to the Turkish authorities.
45. Mr Melvin submitted that the tribunal should treat the documents about his investigation with caution as is no evidence to say that family members have not been contacted about his whereabouts. Nor has he been prosecuted in absentia.
46. The evidence of the tipoff is not credible. It is difficult to see how a neighbour would tipoff the authorities that a young boy was involved in terrorist activities as an air cadet at an Academy without any documentary evidence and as such would be unlikely to be relied on in court.
47. The appellant does not provide an explanation as to why documents have been sent by lawyer and is unwilling to provide other documents other than by WhatsApp. None of the original documents had been provided. Thus the documents are not reliable when taking into account the decision of Tanveer Ahmed.
48. When looking at the CPIN at paragraph 6.4 there is a non-exhaustive list of risk factors. Drawing together those matters, there is insufficient evidence to show that the appellant would be at risk on return for the support of the Gulenist movement.
49. Ms Nnamani relied upon her earlier skeleton argument dated 4 March 2021 which she relied upon before the First-tier Tribunal.
50. In addition she made oral submissions which can be summarised as follows. When looking at the decision letter, much of his account had been accepted by the respondent. Many documents in the respondent's bundle (C1 onwards), which included his military card had been accepted on behalf of the respondent. They had been

received by the method of transfer by the Whats app messaging service from his father and accepted as reliable documents by the respondent.

51. In the decision letter it was accepted that the appellant had attended the military school and that it was closed down by the authorities on the basis that it was believed to be a Gulenist school. It was further accepted that he attended there between 2015 - 2016 as he provided evidence of this, and they were provided by his father using the WhatsApp method. It is also accepted paragraph 35 that military students were arrested following the coup in 2016. The respondent argued that the appellant was not targeted at the time, but paragraph 38 sets out the external evidence and that it was accepted that people still being targeted as recently as 2019.
52. Ms Nnamani submitted that the appellant provided documents in the appellant's bundle in support of his claim. Page 36 (6/5/20) regarding the tipoff was a credible and reliable document. As regards its content, it states that there were no proceedings earlier due to workload. That is consistent with the appellant's account in interview when asked how he had lived in Turkey without any problems, he explained that the campaign against Gulenists was not progressed at the time and whilst there was a tipoff made in 2016 due to workload it did not progress until later. Therefore the timing of the investigation starting after the appellant had left Turkey is consistent with the appellant's evidence.
53. She submitted that his account was also consistent and believable when seen in the context of the relevant CPIN. It was submitted that there was little evidence used by the authorities to prosecute Gulenists and the risk factors set out in the CPIN included attending a school closed by the authorities. Another risk is a "By lock application" which was used by his father. Therefore there was very little required to illustrate a suspicion of being involved with the Gulenist movement. The evidence demonstrated arbitrary arrests were frequent, and that whilst it was submitted he could return and instruct lawyers on his behalf, when assessing this in the light of the CPIN there was a reasonable likelihood that he would be detained and illtreated. This was also supported by his work for charity and relief organisations based on Gulenist principles in the UK which had been evidenced.
54. As to the documents provided by the appellant, Ms Nnamani submitted that they were reliable documents. Whilst he was asked questions in cross examination as to how he received them, the appellant stated his phone was broken and could not access the Whats app messages. It was also raised on behalf of the respondent that there were no witness statements from his father and mother. However if such statements had been provided it is likely that the respondent would have stated that they are "self-serving" documents.

The evidence of the appellant was that he was concerned to provide documents from official sources which would have had more impact than a witness statement from his father. She submitted that this was completely reasonable response and that this provided more cogent evidence.

55. Ms Nnamani submitted that it was important to consider whether his narrative was consistent with the material in the respondent's bundle and the CPIN. When viewed in this way the core of his account is consistent with that material.
56. In relation to the evidence relating to his friend T, the appellant made it clear that he received that evidence, and his account was reasonable and believable. He had contact with his friend as they were contacting each other. The friend's father had told the appellant had been arrested and provided documents in support. Asking for a witness statement is tantamount to asking for corroboration.
57. She submitted when looking at the recent documents in the supplementary bundle, the lawyer's letter had a stamp with the lawyers details on it. Those had been provided to the respondent in good time and no checks had been undertaken and no objections in writing had been made to that letter. This was sent by a lawyer who had given details by giving his full name address and identification numbers. There is no reason to doubt the reliability of the lawyers letter which states the appellant is being investigated and fears prosecution. The letter also refers the "tipoff" which links to the initial documents provided to the respondent. Most of the documents were accepted by the respondent despite the fact that they were received via the WhatsApp messaging service from his father. If the respondent had previously accepted documents provided in this method as reliable documents, any other documents sent by this method should also be considered to be reliable documents.
58. Ms Nnamani submitted that the appellant had demonstrated he had continued his support for the teaching of Gulen when in the United Kingdom (pages 46 and 47 of the appellant's bundle) and that is relevant to how he would be viewed by the authorities and also speak to his support when in Turkey. It is accepted on behalf of the respondent that he attended the protests (see E4 and E7 of respondent's bundle).
59. When assessing the factual account given, it is the appellant's case that he attended at the Cadet College which was then closed by the authorities as being identified in being involved with terrorism and Gulenist ties. The neighbour tipped off the authorities in 2016. He was questioned in cross examination about as neighbours, but they knew that he attended the Academy, and it was not something that could be hidden. The appellant had given a credible account in his interview and provided material evidence in support. There were no

discrepancies in his account, or any identified in the decision letter. The appellant has been consistent in relation to his claim and has provided corroborative evidence in support.

60. In addition the CPIN was also supportive of his factual account. The respondent accepts that if the respondent has been listed as being investigated by the authorities by reference the background evidence that it is likely any prosecution that followed would lead to an unfair trial and he would be subjected to ill-treatment. The paragraphs set out in the CPIN identify arrest and detentions and that at the present time 80,000 people are in detention (8.1.1), and sets out the risk of arrest, pre-trial detention and risk of ill-treatment, 8.4 deals with treatment in detention, part 9 deals with lack of judicial independence.
61. At the conclusion of the submissions I reserved my decision which I now give.

The legal framework:

62. It is for an Appellant to show that he is a refugee. By Article 1A(2) of the Refugee Convention, a refugee is a person who is out of the country of his or her nationality and who, owing to a well-founded fear of persecution for reasons of race, religion, nationality or membership of a particular social group or political opinion, is unable or unwilling to avail him or herself of the protection of the country of origin.
63. Paragraph 334 of the Immigration Rules states that the appellant will be granted asylum if the provisions of that paragraph apply. The burden of proof rests on the appellant to satisfy me that he falls within the definition of a refugee in Regulation 2 of the Qualification Regulations, as read with Article 1(A) of the Refugee Convention. In essence, the appellant has to show that that there are substantial grounds for believing that he is outside his country of nationality by reason of a well-founded fear of persecution for a Refugee Convention reason and is unable or unwilling, owing to such fear, to avail himself of the protection of that country.
64. The degree of likelihood of persecution needed to establish an entitlement to asylum is decided on a basis lower than the civil standard of the balance of probabilities. This was expressed as a "reasonable chance", "a serious possibility" or "substantial grounds for thinking" in the various authorities. That basis of probability not only applies to the history of the matter and to the situation at the date of decision, but also to the question of persecution in the future if the Appellant were to be returned.
65. The Immigration Rules provide at paragraph 339L as follows:

'It is the duty of the person to substantiate the asylum claim or establish that they are a person eligible for humanitarian

protection or substantiate their human rights claim. Where aspects of the person's statements are not supported by documentary or other evidence, those aspects will not need confirmation when all of the following conditions are met:

- (i) the person has made a genuine effort to substantiate their asylum claim or establish that they are a person eligible for humanitarian protection or substantiate their human rights claim.
- (ii) all material factors at the person's disposal have been submitted, and a satisfactory explanation regarding any lack of other relevant material has been given.
- (iii) the person's statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to the person's case.
- (iv) the person has made an asylum claim or sought to establish that they are a person eligible for humanitarian protection or made human rights claim at the earliest possible time, unless the person can demonstrate good reason for not having done so; and
- (v) the general credibility of the person has been established.'

66. Helpful guidance on the judicial analysis of credibility was provided in KB & AH (credibility-structured approach) Pakistan [2017] UKUT 0049. The Upper Tribunal highlighted the dangers of overly focusing upon matters of plausibility or demeanour, especially where assessments are made about States and cultures unfamiliar to the judge, who will necessarily look at such matters through a UK – cultural lens. Sufficiency of detail, internal and external consistency, and plausibility provide a useful framework (but not a straitjacket) to assess credit ability in the round rather than affixing on a narrow dimension of the case to reach a broad finding of fact.
67. When considering the appellant's general credibility in the context of Paragraph 339 of the Immigration Rules and section 8 of the 2004 Act, I am conscious that section 8 is only an element to be considered in relation to the appellant's credibility and is not determinative.
68. Tanveer Ahmed v SSHD [2002] Imm AR 318 established the following principles in relation to the judicial assessment of documentary evidence:
- a) The appellant bears the burden of demonstrating that a document should be relied upon by the tribunal.
 - b) In reaching findings on the reliability of documentary evidence, the tribunal must consider the document in the context of all the evidence.

- c) It is not necessary to conclude that a document is a forgery before finding it to be unreliable.

The decision re-made:

- 69. I have considered the evidence, both documentary and oral, when undertaking an analysis of the evidence in this appeal and have done so by applying the requisite standard of proof of a “reasonable likelihood.
- 70. Ms Nnamani on behalf of the appellant set out the relevant issues at paragraph (C) of the schedule as follows:
 - (a) the appellant attended a military academy and is a supporter of the Gulen Movement and his father is being prosecuted on suspicion of being involved in the Movement, his friend has been arrested. Has the appellant attracted the adverse attention of the authorities?
 - (b) Is the appellant at risk of persecution on return to Turkey?
- 71. I therefore begin by addressing the evidence relevant to the appellant’s profile when living in Turkey. There is no dispute as to the appellant’s nationality and the history given by the appellant of having attended military school when in Turkey. This is accepted by the respondent (see the decision letter at paragraphs 30 – 34). The respondent also accepted that the appellant had given a detailed account of attending military school between 2015 – 2016 and had in addition provided documentary evidence as exhibited in the respondent’s bundle at C1 – C2 showing a military card with a photograph and diploma from the school.
- 72. The respondent also accepted the details given by the appellant concerning the military Academy and that it was consistent with the background evidence (see paragraph 32 of the decision letter).
- 73. It is further accepted on behalf of the respondent that the appellant is a supporter of the Gulen Movement (see respondent’s skeleton argument paragraph 6). However it is not accepted when in Turkey the appellant had an active role in the Gulen Movement and that his activities were limited to attending organised events (see decision letter and paragraph 7 of the skeleton argument).
- 74. Having considered the evidence, I am satisfied that the appellant has been a supporter of the Gulen Movement when in Turkey and came from a family who have a background in such support. The appellant has provided evidence that his father worked as a teacher in a Gulen school (see documents exhibited in respondent’s bundle G 15 (p48), and that his mother also taught in a Gulen school. Against that evidential background it is plausible that the appellant became involved in the Gulen Movement as a result of his parents which led to

his own activity in that regard in 2013. The appellant was questioned in detail in his substantive interview about his support and knowledge of the Gulen Movement and gave detailed answers concerning the level of support provided which included attending ISIK houses (student accommodation belonging to the movement) organising meetings and inviting others to join the movement. In evidence the appellant described that he had further subscribed to the Zaman and Burgun newspapers (affiliated to the movement) and that the appellant would read his father's magazines.

75. Whilst the respondent submitted that the appellant had not provided evidence in support, that is not a fair assessment of the evidence as set out above and I accept his account that there is a history of family involvement in the movement, that he was involved himself and was active during his time whilst in Turkey. There is sufficient evidence both in his oral and documentary evidence to demonstrate that the appellant has been involved in the movement not only by being a supporter but having been involved through his family by taking part in a number of activities. He is also provided evidence of attending the Turkish Olympiad as part of the movement (see photograph of this exhibited in the respondent's bundle).
76. In relation to his conduct in the UK, it is not challenged by the respondent that the support he has shown for the Gulen movement is not genuinely held. The appellant has attended meetings in the UK and has provided documentary evidence of his activities such as mentoring students affiliated to the movement and provided documentary evidence of his volunteering and assistance to charities affiliated to the movement (see page 46 and 47). The evidence demonstrates that this is not a new activity but one that his activities in the UK started shortly after his arrival in the UK in 2019.
77. There is also no dispute that he has demonstrated against the authorities and their treatment of military students whilst in the United Kingdom (see the details of the demonstration in London in January 2020 and accompanying video at E7).
78. Having considered the totality of the evidence, I am satisfied that the appellant's account is plausible and reasonably likely to be true that he has demonstrated his support and been involved in the movement both in Turkey and in the UK and that it is genuinely held and continues to be so and that he is properly described as an active and genuine member.
79. The events that the appellant asserts led him to being of interest the authorities relate to the coup in 2016. Both parties have provided country materials concerning the events in 2016 and they have been well documented in those country materials. The Country Policy and Information Note (CPIN) Turkey: Gulenist Movement version 3.0 dated February 2022 sets out the history of events.

80. The Gulenist Movement is a term used to describe a worldwide cultural and educational initiative which is rooted in the values of Islam inspired by Mr Fethullah Gulen. It is not a political party, neither is it a religion. The movement is believed to have a large number of sympathisers in Turkey; some estimate the number to be in the millions (see 2.3.1). Fethullah Gulen has been accused by leading Justice and development party lawmakers and by the President of Turkey as forming and heading a terrorist organisation with the aim of toppling the Turkish government to insiders and the police and other State institutions (see paragraph 2.3.3).
81. The coup attempt of 15 July 2016 was attributed by the Turkish government to members of the Gulenist Movement and in May 2016 the Turkish government declared that the Movement was an illegal terrorist organisation and in June 2017 the Supreme Court of Appeal ruled that the Movement was an armed terrorist organisation (see 2.4.2). A state of emergency was put in place in Turkey a few days after the coup attempt and this had been renewed every 3 months until it was ended on 18 July 2018 (see 2.4.3).
82. It is recorded that in September 2021, Turkey's interior minister announced that a total of 62,646 people been the subject of investigations and 301,932 had been detained, while 96,000 others had been jailed due to alleged links to the Gulen Movement since the failed coup. The Minister said that there were 25,467 people in Turkey's prisons who were jailed on alleged links to the movement (see paragraph 2.4.5). It is further recorded that following the coup attempt, the authorities cancelled 230,000 passports and reported a number of passport as lost or stolen (2.4.23). In June 2020 passport restrictions were lifted for 28,075 people in addition to those lifted for 57,000 people in 2018 but it is unclear how many people remain unable to travel. It is further recorded at 2.4.24 that the government also used anti-terrorism legislation to target family members of suspected Gulenists.
83. In light of the country materials, it is accepted by the respondent in the decision letter that the appellant's account of the military school he attended being closed after the coup attempt was plausible and credible (see paragraph 35). The military school was closed by Emergency Decree 669 as it was believed that the military students there had links with the Gulen Movement and therefore were linked to the coup. The respondent accepts that the external evidence demonstrated that many cadets were arrested following the coup attempt in 2016.
84. I find that the appellant's military school was closed as a result of the Emergency Decree that followed the coup in 2016. The respondent does not challenge the evidence provided by the appellant concerning his mother's profile. The documentary evidence demonstrates that the school she taught at was closed by the Emergency Decree and

that she received a travel ban in 2016. This is consistent with the country materials and the CPIN at para. 2.4.23. The documentary evidence in the respondent's bundle relied upon by the appellant and set out at E 28 and E 29 page 43 confirms the closure of the school.

85. When assessing the appellant's profile in Turkey and in light of the events in 2016, his family support and links to the movement, I take into account the appellant's history thereafter. It is common ground that the appellant left Turkey in November 2019 and entered the UK having obtained a visa. There is no evidence that the appellant came to the attention of the authorities in Turkey between the events of the coup in 2016 and the date that he left Turkey which is a period of 3 years. Despite the appellant's account of having continued to support the Gulen Movement and coming from a family background of such support and having attended a military school which had been closed down due to suspected links to the movement, the appellant was able to obtain a Visa and leave on his own passport. I am therefore satisfied that at the time the appellant left Turkey notwithstanding those links, the appellant was not of interest to the Turkish authorities.
86. I now turn to the evidence relied on by the appellant to demonstrate that since his arrival in the UK he has become of adverse interest. The appellant relies upon events between 2020 - 2022. The appellant claims that he attended a demonstration of (x date) January 2020 in London and that as a result his family home was raided on (x date) 2020 with the authorities asking about the appellant's whereabouts. Since that time, his father has been called to attend the police station on (x date) 2020 and has been interrogated about suspected links or activities for the Gulen Movement and was questioned also about the appellant. He was later released but court proceedings began against him with an indictment dated (x date) 2020. It is said that a "tipoff" was made in 2016 relating to the appellant's father and which also made reference to the appellant. It is said that on (x date) 2021 the appellant's friend from the military Academy and who also had taken part in activities for the movement was detained. Recently it has been confirmed by evidence from a lawyer in Turkey that the appellant is of adverse interest to the authorities and a case has been opened against him.
87. In support of the appellant's claim he has produced a number of documents set out in the respondent's bundle and listed at E3 relating to the demonstration, the raid on the house and other material. In a supplementary bundle there are documents which it is said evidences the legal proceedings in Turkey against the appellant's father, his friend and the interest shown in him.
88. I have therefore considered those documents in the light of the decision of Tanveer Ahmed and considered the reliability of those

documents in the context of the totality of the evidence including the country materials.

89. Mr Melvin on behalf of the respondent in his submissions invited the court to view the documents with caution due to their arrival after the decision letter and that the appellant had not provided the WhatsApp messages to show that they had emanated from Turkey. Mr Melvin submitted that there was no evidence that the appellant had been prosecuted in absentia and that there was no evidence that family members had been contacted about his whereabouts. He further submitted that the original documents had not been provided.
90. By way of reply Ms Nnamani on behalf of the appellant submitted that the contents of the document should be viewed as reliable in the light of their content and in the light of the country materials. She submits that the appellant has given an explanation as to why they were provided by WhatsApp and that the documents submitted and indexed in the respondent's bundle at E3 were documents that were all sent by the same method via WhatsApp as documents and the respondent was prepared to accept those documents as reliable and had been sent from Turkey. Thus the respondent had previously considered that the appellant had provided reliable documentation by the same method.
91. It is against that background that I consider the documents.
92. In relation to events of (x date) in 2020, there is document at page 21 (translation of pages 13 – 20) entitled "suspect interrogation record" which sets out questions and answers given in an interview between the appellant's father and the authorities. It sets out that the prosecution is conducting an investigation against the appellant's father. The questions he was asked to refer to his background, telephone numbers and visits abroad. There is a document entitled "indictment" dated (x date) in 2020 (pages 26 – 28 with translation page 29) with alleged crime "membership of a terrorist group". Activities of the appellant's father are described including installing and using a ByLock app, and that digital material had captured the appellant's father's name on the list. References also made to the appellant having been sent to a military school. There is also a document entitled "tipoff" (pages 32 – 33) dated 2016 (referred to in the 2020 interrogation. The contents of the document referred to the appellant's father and also the appellant (see page 36 translation). Reference is made to the appellant being investigated but there is no record (page 36).
93. At pages 38 – 41 there is a document with a date of (x date) 2021. It is said that this document relates to the appellant's friend. He is described as a member of FETO and was asked about military school.

94. There are letters from a named lawyer and his Bar Association number is given. The letter states that X (the appellant's father) instructed the lawyer to find out if any investigation had been launched against the appellant and having taken steps had found an investigation had taken place and therefore obtained the information provided. The document refers to an arrest warrant being issued (annex 1 of the documents). The evidence from the lawyer also provided the earlier documents relating to the appellant's father and his involvement in legal proceedings.
95. In terms of the provenance of those documents there are no originals available and those available have been sent from the appellant's father via WhatsApp. While Mr Melvin submits that those documents should be approached with caution having been sent by WhatsApp, I take into account the submission made on behalf of the appellant that a large number of documents were previously sent to the respondent via this method, and they were treated as reliable documents (see E3 onwards and the number of documents provided which included documents from the authorities in relation to the Emergency Decree). No reasons have been given as to why the respondent has taken a contrary view to that previously taken and all documents have been available to the respondent in good time to undertake any checks should she wish to do so. That said the burden is on the appellant.
96. I have considered the reliability of the documents and that they should also be viewed in the light of their contents. The appellant was not cross-examined expressly on their contents, and I take into account the submission made in the respondent's skeleton argument that firstly the tipoff is dated 2016 and there is no indication why it has taken the authorities a number of years to follow it up. Secondly, in relation to the indictment, there is no evidence as to what is happening to the appellant's father since the proceedings began and thirdly, given the tipoff was dated 2016 there is no indication why the authorities have taken action against the appellant's father after the appellant entered the United Kingdom. As to his friend, there is no evidence that the appellant maintained contact with his friend since his arrival and therefore little weight should be given to those documents.
97. I have therefore considered the evidence in its totality when considering whether I can place weight on those documents. In terms of the chronology of evidence, there is no dispute that the appellant attended a protest in London on (a date) 2020 and this was against the authority's treatment of military students in Turkey. In his substantive interview the appellant gave an account of why he attended the demonstration that it was to raise awareness about 355 military students being held in prison. He described the demonstrators as forming a "symbolic prison" and that a video taken was posted on Twitter. He maintains that in Turkey it was publicised in a negative way referring to FETO military students having fled abroad

and organising protests. It is also stated that he is visible in the video that was publicised.

98. The respondent, whilst accepting that he was present on that demonstration, seeks to submit that it was not clear what his role was in the event as he was not wearing a military uniform.
99. The appellant has provided evidence in support of the demonstration he attended to the respondent and set out in the bundle at E4 - E6. There is a translation of the article, which refers to a group of students having fled abroad after the military coup attempt on 15 July introducing themselves as military students organising a demonstration in London. They were protesting about the treatment of military students in Turkey. It is stated " FETO is continuing its anti-Turkey activities abroad, they are carrying out a campaign for former military students who are dismissed following the coup. The group distributed leaflets under the headline "persecuted military students" and claimed 355 former military students are unlawfully imprisoned in Turkey. The group built a symbolic prison and distributed carnations whilst wearing military uniforms." At E6 there is a translation of a tweet criticising the demonstration . The article is dated 4 February 2020. This is clearly an event that was a demonstration or protest in a political way in support of the military students arrested and detained. I also accept the details and description of the demonstration and that it was publicised in a negative report (p60 report outlined). I further accept that there was a video made for a television station in Turkey and that this video clip was accessible to people in that country (see E7). The translation is set out at E8, again reference is made to FETO continuing activities against Turkey abroad.
100. Whilst I am satisfied that the appellant attended a demonstration which was viewed negatively in Turkey, I do not find that there is a reasonable likelihood that this event led to the raid on the appellant's family home on (x date) 2020. The evidence in support is listed at document E3 as "newspaper article regarding home raid". The document is set out at E9 - 10 and translated at E11 and refers to arrest warrants and 55 suspects were issued with warrants within the scope of investigations against FETO/PGY and that 36 people were captured. The entry date is given as 19 February 2020 and refers to an operation within 26 cities and that 36 of the 55 suspects were issued with arrest warrants. There is no reference in that newspaper article to the names of any of those who were arrested nor are there any details given of the circumstances or profiles of those arrested.
101. The appellant's account is that it was the demonstration that led to the raid is not consistent with the contents of the document he relies upon namely the document from the lawyer set out at page 2 where it is stated that after the tipoff the house was raided by the police. If the house were raided by the police as a result of the appellant's attendance at the demonstration, I am satisfied that the evidence

from the lawyer would have referred to this event as the one which led to interest in the appellant and his family members rather than the “tipoff”.

102. I therefore do not find that the appellant’s attendance the demonstration was the event which brought the appellant to the attention of the authorities. The respondent does not appear to challenge the appellant’s account that his family home was raided on (x date) in 2020 but that in the light of the appellant’s father having lost 2 jobs due to his support for the Gulen Movement and his mother’s travel ban the respondent states that it unclear why his parents were not questioned further. In this respect the appellant’s account is consistent with the documents as the appellant’s father was in fact further questioned on X in 2020 and later an indictment was filed.
103. Having considered the documentary evidence when taken with the country materials in the round I place some weight on those documents as reliable documents as I find that they are consistent with the contents of the country materials.
104. When applying the lower standard, I am satisfied that the appellant’s father was asked to attend the police station on (a date) in 2020 and was “interrogated” about his past and his activities. The translation of the document entitled “suspect interrogation record” sets out the type of questions asked, and answers given. He was asked about his personal background and asked about telephone numbers. He was also asked about visits taken abroad and all were listed. Those questions also include information that he had opened a bank Asaya account. The nature of the questions asked are consistent with the type of evidence the authorities would reasonably be interested in as set out in the country materials, for example, Bank Asaya is seen as a FETO/GM bank (see para. 2.4.19 and questions concerning visits made abroad is also relevant to eliciting evidence as to links with the Movement. It is also correct that a “tipoff” was provided dated July 2016 which concerns the appellant’s father but there is also reference made to the appellant attending a military school. There is also reference to a later tipoff in 2017 where telephone numbers are given purporting to link the appellant’s father to the Movement.
105. The background evidence is supportive of the military academy being closed by the authorities due to suspected Gulenist links and therefore military cadets were amongst those who were arrested and detained on suspicion of involvement with the movement. The evidence supports the submission made by Ms Nnamani that those with such a history were not just of interest at the time of the coup, but that arrests and detentions have carried on. I find from evidence that following this the appellant’s father was not detained but an indictment was instituted against him on (a date in) 2020. The contents of the indictment are also consistent with the background

evidence concerning the appellant's father's suspected activities which included a ByLock application, which is an encrypted communication app used by FETO (see para. 2.4.18). There was also evidence of his travel outside Turkey and that in the context of his son being at a military school, this was evidence which would likely be viewed to count against him.

106. I have considered the point raised by Mr Melvin that the tipoffs were made in 2016 and 2017 and that there was no interest in the appellant's father until 2020. In this context I accept the submission made by Ms Nnamani that the delay when viewed in the light of the country materials is consistent with the events in Turkey and the conduct of the authorities. It demonstrates that they continue to investigate links to those of the movement and continue to do so many years after the coup in 2016. The respondent accepted that the external evidence did demonstrate that. Furthermore, the contents of the document (page 36) refers to the lack of follow-up from the tipoff due to workload. Therefore having considered those matters in the light of the contents of the document I consider that to be a plausible explanation for the delay.
107. I further note that the document refers to the appellant being investigated (page 36) and shows that there was UYAP enquiry which was undertaken which showed no record. This was in 2016 and was consistent with the factual account of the appellant that he had no record at that time. It also states that there is "no criteria" as at 29 April 2020 and again that is consistent with the factual account with the appellant that it became of interest the authorities at a later stage.
108. Whilst Mr Melvin submits that that there have been no steps taken to extradite the appellant, any inaction in this respect does not undermine the appellant's account. The country materials refer to extradition requests (p.187), but the person described was some one who had given evidence to a select committee and the appellant does not have such a profile.
109. The evidence in relation to the appellant's father is supported by letter from the lawyer which annexes to his letter the documents previously provided on behalf of the appellant to show that he is subject to indictment dated (x date) in 2020 and refers also to the "tipoff". I observe in this context that the country materials at para.2.4.19 refer to factors that may lead to suspicion of involvement in the Gulenist movement includes information received from colleagues and neighbours. The tip off viewed in the context of that material lends support to the documents submitted and the appellant's' account. The document provides the name of the lawyer and his Bar registration number and given that the contents of the documents that are attached are those which have already been

provided, I accept that weight and reliance should be placed on those documents.

110. I do not consider that the evidence relating to the appellant's friend demonstrates that the authorities have an adverse interest in the appellant. The content of the document makes no reference to the appellant and none of the documents that have been produced by the lawyer demonstrate any links between the arrest of his friend and the investigation of the appellant.
111. Whilst the document from the lawyer refers to an arrest warrant being issued against the appellant and does so by reference to a document at Annex 1, that in fact refers to the appellant as a "suspect" and does not say that an arrest warrant has been issued. Further it says "open file" has been registered on (date in) 2020.
112. Having considered those documents in the round in the totality of the evidence, I am satisfied to the lower standard that the appellant's father is involved in legal proceedings instituted by the authorities as someone who has suspected involvement with the Gulen Movement. I also find the lower standard that the appellant, whilst referred to as a "suspect" is of interest to the authorities. The previous documents refer to him as having "no criteria" against him but the recent evidence referred to demonstrates that there is an "open file". Whilst I do not find that document suggests that an arrest warrant has been issued, it demonstrates that an open file still remains.
113. It is against that factual background that the issue of risk on return should be assessed and also in the light of the country materials. The CPIN version 3 referred to earlier is relied upon by both advocates. Mr Melvin has referred the tribunal to paragraph 2.4.6 and that the authorities make a distinction according to the level of involvement a person may have with the Gulen Movement and that only those above the 3rd level will be prosecuted. However the material goes on to state that several sources question to what extent such divisions are applied and that whilst it is suggested that those likely to be targeted are those in a position of power and influence, the actions taken are arbitrary and unpredictable.
114. The country materials demonstrate this at paragraph 2.4.5 and 2.4.24 and there is evidence that the government uses anti-terrorist legislation to target family members of suspected Gulenists. This would place the appellant in that category. The country materials at para. 2.4.25 also refers to the police holding an individual up to 12 days without charge and that 2.4.27 refers to reports that those with alleged affiliation to the Movement are more likely to face mistreatment in detention including long period of solitary confinement and unnecessary strip searches. It is recorded at paragraph 2.4.33 that even with a low profile people may face persecution as punishment which can be arbitrary. The evidence

refers to the crackdowns continuing post 2016 and reference is made to successive waves of detentions (see P175AB).

115. There are two decisions of the Tribunal, namely IK (Turkey) [2004] UKIAT 00312 and A (Turkey) [2003] UKIAT 00034, both country guidance cases, which set down certain principles to be taken into account when considering applications for asylum from Turkey. They were decided some time ago and prior to the coup in 2016 therefore should be read in line with those events.

116. Paragraph 46 of A sets out a number of factors which were described as potential risk factors for somebody returning to Turkey. It was emphasised that it was not intended to be a 'check list' and that all the factors should be considered in the round in the context of the existing political and human rights context. The relevant factors identified in that paragraph which might give rise to potential suspicion in the minds of the authorities are as follows:

"46. The following are the factors which in exhaustively we consider to be material in giving rise to potential suspicion in the minds of the authorities concerning a particular claimant.

- a) The level if any of the appellant's known or suspected involvement with a separatist organisation. Together with this must be assessed the basis upon which it is contended that the authorities knew of or might suspect such involvement.
- b) Whether the appellant has ever been arrested or detained and if so in what circumstances. In this context it may be relevant to note how long ago such arrests or detentions took place, if it is the case that there appears to be no causal connection between them and the claimant's departure from Turkey, but otherwise it may be a factor of no particular significance.
- c) Whether the circumstances of the appellant's past arrest(s) and detention(s) (if any) indicate that the authorities did in fact view him or her as a suspected separatist.
- d) Whether the appellant was charged or placed on reporting conditions or now faces charges.
- e) The degree of ill-treatment to which the appellant was subjected in the past.
- f) Whether the appellant has family connections with a separatist organisation such as KADEK or HADEP or DEHAP.
- g) How long a period elapsed between the appellant's last arrest and detention and his or her departure from Turkey. In this regard it may of course be relevant to consider the evidence if any concerning what the appellant was in fact doing between the time of the last arrest and detention and

departure from Turkey. It is a factor that is only likely to be of any particular relevance if there is a reasonably lengthy period between the two events without any ongoing problems being experienced on the part of the appellant from the authorities.

- h) Whether in the period after the appellant's last arrest there is any evidence that he or she was kept under surveillance or monitored by the authorities.
- i) Kurdish ethnicity.
- j) Alevi faith.
- k) Lack of a current up-to-date Turkish passport.
- l) Whether there is any evidence that the authorities have been pursuing or otherwise expressing an interest in the appellant since he or she left Turkey.
- m) Whether the appellant became an informer or was asked to become one.
- n) Actual perceived political activities abroad in connection with a separatist organisation.
- o) If the returnee is a military draft evader there will be some logical impact on his profile to those assessing him on his immediate return. Following Septet of course this alone is not a basis for a refugee or human rights claim."

117. In IK, the IAT considered what records would be available to the authorities of someone returning to Turkey. The tribunal heard extensive evidence about this. They were told of a GPTS computer system in Turkey. The tribunal concluded that there would not be evidence of detentions on that system unless they resulted in some form of court intervention. Information on the GPTS system would, however, be widely available. It is plain from the decision in IK that the absence of any record under the GBTS system is not dispositive as to the means which could be deployed for enquiring about the background of a particular returning failed asylum seeker. It is clear from paragraph 85, and the record there of the Home Office position, that it is incumbent upon the tribunal to reach a conclusion as to the nature of the questions which could be asked. The decision in IK reveals that, on returning with emergency documentation, there is a real risk that someone in the position of this applicant would be asked questions as to why he had left Turkey and the circumstances of his return. The tribunal in IK emphasised the importance of reaching conclusions as to the likely questions to be asked (see paragraph 86). It is also accepted in that passage of decision in IK that individuals, when asked about the circumstances in which they left Turkey and in which they are returning, are not expected to lie.

118. The CPIN at paragraphs 2.4.18-2.4.19 set out factors which may attract the adverse attention of the authorities. They are not a checklist nor are they an non -exhaustive list. They identify having a Bylock app on a mobile phone, using the Asya Bank, holding a subscription to Zaman newspaper, having books about the Gulenist movement; having attended, or sent children to a Gulenist school, membership of a trade union or association linked to the Movement, employment with a company or NGO linked to the movement , rapid promotion in public service or military; having donated money to a Gulenist NGO, information received from colleagues or neighbours. Family members of suspected Gulenists are targeted (see para. 2.4.24).
119. Having considered the country materials and in light of the factual analysis undertaken, whilst the appellant does not have a history of arrests and detentions as set out in IK, the following factors of risk are identified. The appellant attended a military academy. This was subsequently closed down following the coup in 2016 based on suspected links to the movement. The appellant has a background of support for that movement, and he continues to genuinely support it by maintaining links with organisations that are based on and support Gulenist principles. The country materials at 2.4.19 refer to a factor which may attract the adverse attention as an analysis of social media contacts and internet browsing history. The appellant has posted material on social media and has had material posted about him. He has family relatives with a background of support for the Movement including a father who is under investigation and the appellant is also of interest to the authorities himself via an open file.
120. It is likely that on arrival the appellant will be questioned about his absence from Turkey and his family links are reasonably likely to be established. It is further reasonably likely that the “open file” will become known and will lead to further interest in him. The country materials demonstrate that the authorities seek to question and detain those who may be suspected of association or membership of that movement and that the prison conditions are likely to infringe Article 3.
121. Even if the court documents could not be afforded any weight, I find that when questioned on return and when asked about the circumstances in which he left Turkey and circumstances in which he is returning, and is not expected to lie, there is a reasonable likelihood that the appellant’s family history, his previous attendance at a military school that had been closed due to suspected links and his continued support for societies which are founded on those principles, would be ascertained and there is a reasonable likelihood that he would be of adverse attention to the authorities.
122. Drawing together those matters, I am satisfied that the appellant has demonstrated to the lower standard that there is a reasonable

likelihood that upon return to Turkey that he will be at risk of persecution or serious harm.

123.I therefore allow his appeal under the Refugee Convention and on human rights grounds (Article 3).

Notice of Decision.

The decision of the First-tier Tribunal involved the making of an error on a point of law and therefore the decision was set aside and remade as follows: the appeal is allowed.

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. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed Upper Tribunal Judge Reeds

Dated 14 July 2022