



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-002631

First-tier Tribunal Nos: PA/55268/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 4th of October 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE GRIMES

Between

BILAL DARI
(NO ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms M Thirumaney instructed by Shervins Solicitors

For the Respondent: Mr N Wain, Senior Home Office Presenting Officer

Heard at Field House on 6th September 2023

DECISION AND REASONS

1. The Appellant, a national of Turkey, appeals to the Upper Tribunal against a decision of First-tier Tribunal Judge Bartlett dated 21st April 2023 dismissing the Appellant's appeal against the Respondent's decision to refuse his application for asylum dated 20th October 2021.
2. The Appellant appealed on two grounds and permission was granted by First-tier Tribunal Judge Chowdhury on 13th July 2023.

Ground 1

3. The first Ground of Appeal is that the judge erred in admitting an unreported decision relating to the Appellant's brother (ID) from 2016. It is contended that this was an unreported decision which may not be cited in reported cases. The judge considered this matter at paragraphs 2 to 6 of the decision. The Presenting Officer sought to admit the decision of the First-tier Tribunal in the Appellant's brother's case into evidence. The Appellant's representative objected to the admission of this document as ID's permission had not been obtained. However, the judge decided to grant permission to admit the document.
4. I note paragraph 8 of the Presidential Guidance which states that an unreported decision may not be cited unless:
 - (a) the person who is or was the Appellant before the Tribunal, or a member of that person's family, was a party to the proceedings in which the previous decision was issued; or
 - (b) the Tribunal gives permission.
5. In this case the decision related to the Appellant's brother who was a party to those proceedings. Further, the First-tier Tribunal gave permission for the admission of that document.
6. In these circumstances I consider that the judge made no error of law in his approach to the admission of that decision. I further note that the Appellant objects to the admission of that document because ID, the Appellant's brother, made further submissions to the Home Office and the refusal of those submissions was the subject of an appeal before the First-tier Tribunal in January 2023. It is stated that at the date of the hearing in the First-tier Tribunal the decision in ID's appeal had not been made. It was therefore contended that there was no finality in the decision of ID. I consider that there is no merit to this argument as there is no evidence that the 2016 was appealed or overturned on appeal, therefore that decision stands as the final determination of the Appellant's brother's asylum claim at that time. There is no evidence as to the nature of the further submissions which could relate to a completely different matter or a further claim on fresh grounds which may not be relevant to the 2016 appeal. In any event, unless it is overturned that decision stands as an assessment of factors in relation to the Appellant's brother's case at that time.

Ground 2

7. In the second ground it is contended that at paragraph 20 the judge accepted that the Appellant was detained for one day in April 2017, two days in November 2017 and two days in July 2018. It was accepted that the Appellant was a low level supporter of HDP. It is contended that, the judge having accepted that the Appellant was a low level HDP supporter and that he was detained on three occasions and his brother is a refugee who is being sought by the Turkish authorities, the decision is not consistent with the country guidance. It is contended that many of the risk factors outlined in **IA HC KD RO HG (Risk-Guidelines-Separatist) Turkey CG [2003] UKIAT 0034** are met by the Appellant in this case.
8. In the Rule 24 response the Respondent contends that the judge's findings at 23(i) were that the Appellant had no involvement at all with HDP other than attending Newroz celebrations.

9. In submissions at the hearing Ms Thirumaney submitted that the judge's findings at paragraph 20 are clear in that it was accepted there that the Appellant was detained on three occasions. She submitted that this is the one paragraph where the judge made a limited finding in relation to the Appellant's three detentions. She referred to the Appellant's witness statement where at paragraphs 11, 12, 14, 16 and 17 the Appellant set out the detentions and the judge in her submission did not reflect a proper assessment of the three detentions. In her submission, at paragraph 20 the judge accepted the Appellant's claim at its highest in cursory, general terms. In her submission at paragraphs 23 the judge accepted that the Appellant was a low level supporter of HDP. She further submitted that the judge accepted that the Appellant has a brother who has refugee status in the UK which is referred to at paragraph 26(vi). In her submission, looking at the CPIN of 2019, even low level activities would create a risk for the Appellant.
10. In his submissions Mr Wain submitted that the judge said at paragraph 20 that he was taking the Appellant's claim at its highest. He submitted that the fact-finding at paragraph 23 is clear. In his submission it is clear that at paragraph 23(ii) where the judge said that he did not accept that the Appellant was detained and persecuted as claimed in 2015 he was referring to the claimed detentions in 2017 and 2018. He highlighted the judge's findings at paragraphs 20, 21 and 22 in relation to discrepancies and inconsistencies in the Appellant's account. In his submission the judge only accepts that the Appellant was generally detained as a member of a group. He submitted that the judge undertook a proper assessment of the risk on return in light of those findings.
11. In response Ms Thirumaney submitted that paragraph 23(ii) provides no clarity as to what the judge does and does not accept. In her submission these are material matters around the circumstances of detention. She submitted that when the Appellant was detained in 2017 he was asked about his brothers and that in her submission this was not reflected anywhere in this decision. These are core matters central to this determination. She submitted that the judge did not properly apply referred to the decisions in **IK (Returnees - Records - IFA) Turkey CG [2004] UKIAT 00312** and **IA** and claimed that the judge did not properly apply these authorities.
12. It seems to me that the key issue in this appeal is determining the judge's findings of fact. I note the judge's assessment of the Appellant's oral evidence at paragraphs 17 to 19. I consider that this is key to the judge's decision. At paragraph 19 the judge said that he set out in some detail the Appellant's oral evidence because his answers were contradictory and confused and in relation to key issues he did not answer the question asked. It is clear from paragraph 17(i) that the judge considered that the Appellant's evidence as to his activities in 2015 was not credible. I have considered the judge's findings at paragraph 20 when the judge took an overview of the Appellant's case at its highest and said that at most the Appellant alleges that he was detained with others and therefore was not individually targeted and was instead rounded up with groups of other people. I do not consider this to be a clear finding of fact or acceptance of the Appellant's claimed detentions in 2017 and 2018. At paragraph 21 the judge highlighted the Appellant's inconsistent and vague answers about his activities. At paragraph 22 he refers to the Appellant's brother MT's case which referred to an older brother who was not politically active who the judge considered to be the Appellant. At paragraph 23(i) the judge considered that the Appellant's evidence as to his alleged HDP activities in Turkey was inconsistent and vague

and found “in reality he did not carry out activities for them beyond attending Newroz celebrations”. The judge recognised that the HDP activities can blend into social and community activities in the Kurdish community and that the Appellant had not identified anything more than participating in these.

13. At 23(ii) the judge did not accept that the Appellant was detained and persecuted as claimed in 2015. At 23(vi) the judge found that the Appellant had not carried out any activities for the HDP in the UK. The judge also took into account the letter from the Appellant’s mother, rejecting the claim that the authorities are looking for him as claimed.
14. The judge considered all of the evidence at paragraph 25 and found that the Appellant had at best exaggerated his claim. The judge found that he suffered from some discrimination as occurred in Turkey but has tried to extend this into something further in order to claim asylum and overall he said he did not find the Appellant’s account credible. At paragraph 26(ii) the judge again said that, even taking the account of the Appellant at its highest, he was only detained as part of the local authorities’ actions rounding up a group of Kurds in the local area. I do not consider that taking the claim at its highest indicates that the judge accepted the Appellant’s case in any other way. The judge considered the fact that the Appellant’s brother had been granted asylum in the UK but decided that this would not increase the risk for the Appellant for the reasons given at paragraph 26(vi). Again, at paragraph 28 the judge reiterated that he had found the Appellant to be not credible.
15. I have considered all of the paragraphs of the judge’s decision as set out above and consider that the decision read as a whole is sufficiently clear that the judge rejected the Appellant’s claim in its entirety.
16. Paragraph 20 considered the Appellant’s claim at its highest but this was not an acceptance by the judge that the Appellant had been detained as claimed in 2017 and 2018. I consider it clear that the judge found that, even if the Appellant was detained as claimed, he was not individually targeted and was rounded up with others. The judge therefore considered the Appellant’s case in the context of the risk factors set out in the case law, for example paragraph 46 of **IA** where the tribunal emphasised the need for assessment of the circumstances of the particular Appellant saying in relation to past arrests:
 - “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....”

17. It is clear that this is exactly how the judge assessed the Appellant's claim at its highest, considering his claimed detentions, in the context of the circumstances of the claimed detentions and the connection to the Appellant's departure.
18. Reading the decision as a whole I am satisfied that the judge made adequately clear findings and, in light of his finding that the Appellant's claim was not credible, the finding based on the background evidence, that the Appellant would not be at risk at return, was open to the judge.
19. In the circumstances I find that there is no material error of law in the First-tier Tribunal's decision.

Notice of Decision

For the foregoing reasons my decision is as follows:

- (a) **The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law and I do not set aside the decision but order that it shall stand.**

A G Grimes

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

27 September 2023