



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: UI-2024-
000813**

First tier Number: PA/50441/2023

THE IMMIGRATION ACTS

**Decision and Reasons
Promulgated**

On 1st May 2024

Before

Deputy Upper Tribunal Judge MANUELL

Between

**Mr H G
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Heard at FIELD HOUSE
on 18 April 2024**

Representation:

For the Appellant: Mr A Gilbert, Counsel
(instructed by Montague Solicitors)

For the Respondent: Ms J Isherwood, Senior Home Office Presenting
Officer

DECISION AND REASONS

Introduction

1. The Appellant appealed with permission granted by First-tier Tribunal Judge L Murray on 29 February 2024 against the decision of First-tier Tribunal Judge C J Williams who had dismissed the appeal of the Appellant against the refusal of his international protection claim. The decision and reasons was promulgated on 19 January 2024.
2. The Appellant is a national of Turkey, of Kurdish ethnicity, born on 25 December 2006. He claimed in summary that he was at risk on return from the government of Turkey because of his actual or imputed political opinion. After reviewing the evidence the Appellant presented and the account he provided, including his immigration history, Judge Williams found that the Appellant was not credible.
3. First-tier Tribunal Judge Murray considered that it was arguable that Judge Williams had erred by failing to (a) analyse the Appellant's detentions or other relevant matters as set out in IK (Returnees, Records, IFA) [2004] UKIAT 312 and (b) consider the Appellant's evidence in accordance with his vulnerability and circumstances with reference to the Joint Presidential Guidance Note No 2 of 2010.
4. Notice under rule 24 dated 12 March 2024 had been served by the Respondent, indicating that the onwards appeal was opposed.

Submissions

5. Mr Gilbert for the Appellant relied on the grounds of onwards appeal and the grant of permission to appeal in the Upper Tribunal. In summary, counsel submitted that the Judge had erred by failing to consider that the Appellant was a child (which was not recorded). The reference at [20] of the Judge's decision was insufficient. The Appellant was 14 at the dates of his detentions in 2021 and 2022. The Judge's approach had been wrong. The Appellant's evidence had been recorded inaccurately and

was not contradicted by the CPIN as the Judge had stated. The Judge had referred to the reasons for refusal letter and not to the source material. He had ignored the Appellant's witness statement. It was accepted that the Appellant was a low level supporter of HDP and that had been the starting point.

6. IK (above) had not been followed and applied. The checklist of risk factors was not considered, e.g., the fact that the Appellant had left Turkey soon after his release from detention. It was likely that the Appellant would be detained again on return, another risk factor which had not been considered. The decision and reasons was unsafe and should be set aside and the appeal reheard before another judge.
7. Ms Isherwood for the Respondent submitted that there was no error of law, merely disagreement with a decision open to the judge. The fact was that the Appellant had been found not to be credible, so IK was inapplicable: the Appellant was not in the reporting system. The Appellant's age was not in dispute and had been sufficiently considered. The Judge had placed the Appellant's story within the context of the country background evidence . The appeal should be dismissed.
8. Mr Gilbert in reply referred again to IK and the dangers the Appellant would face on return. There was no dispute about the conduct of the hearing, only as to the failure to follow the Presidential Guidance.

No material error of law finding

9. The tribunal reserved its decision, which now follows. The tribunal is far from persuaded by the submissions as to material error of law made on behalf of the Appellant. In the tribunal's view, the errors asserted to exist in the decision are based on a failure to read the decision and reasons with proper attention.
10. The decision and reasons is in the new, concise form which First-tier Tribunal judges have been strongly urged to follow. The country background evidence for Turkey was not in dispute and IK (above) is country guidance of long standing as the situation for those perceived as separatists

has not changed. It was accepted that the Appellant was born on 25 December 2006, was of Kurdish ethnicity and was a low-level supporter of the HDP. It was not accepted that the Appellant had received adverse attention from the Turkish authorities. The appeal thus turned on the assessment of the Appellant's credibility.

11. As Ms Isherwood submitted, the Judge examined the Appellant's claims against the current country background evidence. The Judge gave cogent and weighty reasons for finding that it was not reasonably likely that the Appellant had been detained on two occasions: see [11] onwards of the decision. The Appellant's evidence was inconsistent, implausible when viewed against the CPIN report and also implausible in itself.
12. It was not necessary for the Judge to say more than "whilst I have considered the Appellant's young age in my assessment of his credibility", because the Appellant's entire story was predicated on his being only 14 at the time of his two alleged detentions and release without charge. The Appellant's case was that "This was the start of our political journey", i.e., that he was precociously politically aware and active: see his witness statement at [7]. The familiar Presidential Guidance did not need to be recited as its application by the First-tier Tribunal was mandatory.
13. The submission that the Judge cited the Appellant's evidence inaccurately is not well-founded. The Judge's quotations from the Appellant's asylum interview (mainly at [11], although the Judge had clearly studied the whole interview) are specifically tied to the record and are not selective. For example: Q.122 "Were any of the [HDP] members arrested? A.122 "No, I do not know that much of the detail." The Judge's summary that the Appellant's evidence was that no members of HDP were arrested is fair and correct. This was in the context of the Appellant's claimed first arrest and detention.
14. Similarly, the Judge was entitled to find that the Appellant's claim that HDP members working for the state cannot be questioned is flatly contradicted by the recorded arrests of 39 HDP mayors noted at 12.5.2 of the CPIN: see [12] of the decision and reasons.

15. As to the checklist in IK , that is familiar and required no recitation because the Appellant had been found not to be credible. Moreover, at [47] of IK it is stated: “We cannot emphasise too strongly the importance of treating these factors as some kind of checklist. Assessment of the claim must be in the round...” The facts which were not in dispute were in themselves insufficient to meet the key risk factors.
16. The judge conducted a full and careful review of the Appellant’s case, in a logical, structured manner. Perhaps even more importantly, on a fair and full reading of the decision, it is clear that the judge was constantly testing his conclusions, giving anxious scrutiny to the evidence. He specifically considered whether the accepted facts met the guidance in IA and Others (Risk-Guidelines-Separatist) CG [2003] UKIAT 00034. As the Judge found that the Appellant was not known to the authorities, he was not at real risk on return for any reason, including by implication lack of documents.
17. In the Tribunal’s view, the submissions advanced on the Appellant’s behalf amount to no more than a means of seeking to avoid the judge’s adverse findings of fact, all of which were soundly and fairly reached. The Tribunal finds that there was no material error of law in the decision challenged. The onwards appeal is dismissed.

DECISION

The appeal is dismissed_

The making of the previous decision did not involve the making of a material error on a point of law. The decision stands unchanged, including the anonymity direction.

Signed R J Manuell

Deputy Upper Tribunal Judge Manuell

Dated 23 April 2024