



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2024-004571

First-tier Tribunal No: PA/59116/2023  
LP/05731/2024

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 9 January 2025**

**Before**

**UPPER TRIBUNAL JUDGE O'BRIEN  
DEPUTY UPPER TRIBUNAL JUDGE DAYKIN**

**Between**

**BT  
(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr. B Hawkin (Counsel, instructed by Kreston Law Ltd)  
For the Respondent: Mr. N Wain (Senior Home Office Presenting Officer)

**Heard at Field House on 12 December 2024**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant and her family members are granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant and her family members. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

1. This is an appeal brought by the appellant against a decision of First-tier Tribunal Judge L Nolan (“the Judge”) dated 8<sup>th</sup> August 2024, in which the appellant’s protection and human rights appeals were dismissed.
2. In summary, the appellant’s claim is that she was targeted and mistreated by the Turkish authorities due to imputed political opinion because she attended a school that was associated with the Gulen movement. The respondent accepted that she would be at risk of persecution if the appellant were perceived as a Gulen supporter, but her claim was rejected because of adverse credibility conclusions based on internal inconsistencies.
3. The Judge heard evidence from the appellant and her brother but concluded that the appellant had fabricated an account to bolster her asylum claim and therefore had failed to show, even to the lower standard of proof, that she would be at risk of persecution or serious harm upon return to Turkey.
4. Mr Hawkin for the appellant adopted his written grounds of appeal and amplified those grounds in the hearing before us. The first ground contended that the Judge fell into error by failing to refer to any country background information when assessing the credibility of the appellant’s account.
5. The second ground took issue with five findings regarding inconsistencies as either incorrectly couched or incapable fairly of being said to be central to credibility. First, that the Judge was incorrect to find that the appellant stated she was arrested during a raid at her school in her screening interview. Second, that the difference between 3, 4 or 5 days that the appellant said she was detained cannot reasonably be said to be pivotal in the context of the ill-treatment and sexual abuse she described took place in front of her brother. Third, the inconsistency regarding reporting after release is explained by the impact of the abuse in detention on her mental health. Fourth, the appellant had explained in her oral evidence that Ferhat had not taught her directly but all the teachers had espoused Gulen ideology. Finally, it cannot reasonably be said that there was an inconsistency between the appellant’s evidence that Ferhat was her brother’s customer who became a friend and her brother’s evidence that Ferhat was a customer.
6. The third ground contended that the Judge had failed to take account of the fact that the appellant and her brother had simply transited at a Turkish airport from Cyprus to the UK and that they were acting under the supervision of an agent.
7. The fourth ground is that the Judge misunderstood the appellant’s submission regarding the relevance of the GP records being a recent and consistent complaint of a highly unusual circumstance of sexual abuse in front her brother whilst in detention.
8. The fifth and final ground is that the Judge was in error to reject the credibility of the appellant’s brother as a consequence of rejecting the appellant’s credibility.
9. Mr Wain for the Respondent confirmed that there was no rule 24 response to the grounds but that the Secretary of State opposed the application.
10. In response to the first ground, it was unclear what background evidence the Judge was referred to but, in any event, there was no dispute regarding the

background evidence. Rather, the internal credibility of the appellant's account was in issue.

11. The second and third ground was said to amount to disagreements with the findings. The Judge referred to the appellant not being stopped leaving for Cyprus before she was under the control of the agent.
12. As for ground four, the Judge was following JL (medical report-credibility) China [2013] UKUT 00145, specifically point 3 of the headnote.
13. In respect of the final ground, Mr Wain contended that the Judge dealt with the witness appropriately based on how the case was presented. The brother had given limited information about the account and had in effect repeated the appellant's account and didn't give any additional information. Therefore, in terms of credibility standing or falling with the appellant, the Judge dealt with it appropriately.

## Conclusions

14. The fifth ground very clearly articulates a material error of law, sufficient in and of itself to require the entire decision to be set aside and remade. The unusual circumstances of this case were that the Judge had before them as a live witness, the appellant's brother, to past persecution, specifically, serious sexual abuse being committed by agents of the state of the Turkey against the appellant whilst in detention. The only reason the Judge gave for rejecting the credibility of the brother's evidence was rejection of the appellant's credibility [15]. As such, the Judge failed to consider all of the evidence in the round prior to reaching their conclusion contrary to Mibanga v Secretary of State for the Home Department [2005] EWCA Civ 367 at [24].
15. We also consider there are material errors of law as contended in points one, two and five of ground two. The copy of the screening interview in our bundle does not record the appellant stating that she was arrested from the school and there was no reasonable basis for the judge to find that the appellant had thereby been inconsistent. We are not satisfied that the appellant gave a materially differing account of the period of detention but in any event, we agree with Mr Hawkin that in the circumstances of the detention as described, such a minor inconsistency cannot reasonably be said to seriously damage her credibility. There was plainly such little difference between the appellant's evidence and that of her brother about how they came to know Ferhat to make any impact on credibility.
16. There is no indication in the Judge's decision that they appreciated that the appellant simply transited through a Turkish airport from Cyprus under the supervision of an agent. This is a material fact relevant to the assessment which has not been taken into account; as such ground three is made out.
17. Although ground four would be insufficient alone to undermine the Judge's decision and the Judge does make correct observations in line with JL (China), it does appear to us that the Judge misunderstood the appellant's submission as to the relevance of the GP records, which recite the unusual circumstances of the sexual abuse and the appellant's brother being witness to the same.
18. The remaining challenges either amount to disagreement with permissible conclusions or otherwise fail to identify errors of law. However, given our

conclusions above, it is necessary for the appeal to be remitted to the First-tier Tribunal with no findings preserved.

**Notice of Decision**

19. The decision of the First-tier Tribunal involved the making of a material error of law and is set aside in its entirety.
20. The appeal will be remitted back to the First-tier Tribunal for remaking to be heard by a different judge.

**E Daykin**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

23 December 2024