



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

Appeal Number: PA/12448/2017

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 17 December 2018**

**Decision & Reasons Promulgated  
On 30 January 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVEY**

**Between**

**[N U]**

**(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms S Panaigioutopoulou, counsel, instructed by Montague Solicitors

For the Respondent: Mr T Lindsay, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant, a national of Turkey, appealed against the decision of the Respondent, dated 9 November 2017, to refuse an application for asylum and Humanitarian Protection made on 28 May 2017.

2. The appeal against that decision [D] came before First-tier Tribunal Judge Lucas (the Judge), who on 22 January 2018 dismissed his appeal on all grounds.
3. Permission to appeal that decision was given on 21 October 2018 by First-tier Tribunal Judge Povey.
4. The centrepiece of the Appellant's claim of fear on return was at the hands of the Turkish security forces associated with both the historical ill-treatment of other family members and also his own political activities.
5. At the hearing of his appeal the Appellant gave evidence, it seems, in accordance with his witness statement as did the witnesses, an uncle of the Appellant, [MO], and a cousin, [AU], both of whom have refugee status. [MO] has British nationality as well.
6. The Judge noted that he heard evidence from the two witnesses [D24 and D25] and noted [D40] that they had adopted their witness statements and being cross-examined, the Judge said, "nothing significant emerged in cross-examination."
7. The Judge, it is fair to say, may be making a passing reference to them [D54], in which he speculates as to whether or not the Appellant's claim had been effected with other witnesses who had the benefit of having successfully claimed asylum in the UK. Whether that is a reference to those two witnesses I do not know. I do not, for my part, speculate but insofar as the Judge was, if this was the case, drawing a conclusion that the Appellant's evidence had been tainted by association with family members. It would have been a great deal better if he had said so. Other than that, the Judge makes positive findings in relation to the two witnesses, also made reference amongst other things to their knowledge of the Appellant's political interests, and ethnicity as a Kurd.
8. It is trite law that a party to an appeal, be it the Respondent or the Appellant, is entitled at least to adequate and sufficient reasons why that claim has failed or succeeded. The substance of the grounds of challenge

are that essentially the Judge has failed to look at the evidence in the round before making the adverse credibility findings that he did and in considering the documentary evidence to look at that in the round: As opposed to having rejected the Appellant's credibility and therefore dismissed in the generality the reliability of the documents as adding weight to the claim. It is unfortunate the way the Judge has expressed himself in this respect because the decision does give the appearance of the Judge having reached an adverse conclusion on the Appellant's credibility and from that essentially dismissed the other evidence that formed part of the totality of the claim.

9. Additionally, the Judge has referred to and relied upon significantly answers given in the screening interview. The case law is clear that great care needs to be placed upon relying upon a screening interview, not least because its purpose is to at least establish whether or not there is some basis of a claim and specifically tells a claimant that they should briefly explain all the reasons why they cannot return to their country. The Appellant in this case presented the matter first and foremost as if it was an economic situation and political reasons. It was not clear to me whether or not as a fact the Appellant was saying that the economic situation was the first reason or whether he is saying that both the economic situation and the political reasons were the principal basis on which he was seeking to claim protection.
10. The answer is dealt with by the Judge in the decision on the basis that the Appellant had in effect only relied on the economic reasons for coming to the UK. He regarded that as undermining the Appellant's credibility. It is true to say that the Appellant did give in his statement, which was put before the Judge, a wider explanation of various adverse points against the Appellant both in relation to his misuse of his brother's passport to enter the United Kingdom and further as to the scope of the answers which he had given. The Judge, other than by the generality of rejecting the Appellant's credibility, did not descend into particulars to deal with those

other aspects or the extent to which the Appellant's claim was tied with those of [AU] and [MO].

11. I concluded that the Original Tribunal's decision in addressing the bases for adverse conclusions was open to the significant criticism of a failure to address the evidence as a whole in the round before reaching the adverse conclusions. It is clear that, as a matter of style, care needs to be presented in terms of writing decisions because inevitably they are going to have in effect issues to be addressed. A decision must not be taken apart as if to suggest that the Judge has not looked at matters in the round but in this case, I conclude that there are significant bases for doubt that the Judge did so.
12. It also seems to me that the issues raised in relation to the cases of IK [2004] UKUT 312 and IA (Turkey) [2003] UKIAT 34 [references to be added] identify, amongst other things, the need to assess, even if there are aspects of doubt about the claim as presented, whether or not there are qualities or characteristics of the returnee that will inevitably generate an interest and the possibility of detention, further questioning and ill-treatment. Those necessarily include the fact that the Appellant would not be returning on a Turkish passport. He is of Kurdish origins. He comes from an area of Turkey where there has been considerable activity involving the PKK and others. There was the evidence of the destruction of the family's homes by Turkish authorities and there was also the family profile of other relatives who have been involved. Finally, there may be, although it did not seem to me to be a point to which the evidence was particularly well addressed, a question of whether sur place activities in the United Kingdom would give rise to the basis of adverse interest to the Turkish authorities. I have not considered the evidence in detail but it seemed to me that those are factors that would need to be taken into account even if it was ultimately the view taken that the Appellant's centrepiece of his claim was not reliable. That is for another Judge on another day.

## **DECISION**

The Original Tribunal's decision cannot stand. The matter will have to be remade in the First-tier Tribunal.

## **DIRECTIONS**

- (1) No findings of fact to stand.
- (2) Relist for hearing two and a half hours.
- (3) Any further evidence relied upon to be served not later than five clear working days before the further hearing.
- (4) Further directions to be given if required in the First-tier Tribunal.
- (5) Kurdish Kurmanji interpreter from Turkey.
- (6) Not before First-tier Tribunal Judge Lucas.
- (7) List at Taylor House.

No anonymity order sought nor is one required.

Signed

Date 10 January 2019

Deputy Upper Tribunal Judge Davey