



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

Appeal Number:  
AA/04606/2014

**THE IMMIGRATION ACTS**

**Heard at: Field House**

**On: 7<sup>th</sup> November 2014**

**Determination  
Promulgated**

**On: 13<sup>th</sup> November 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**Secretary of State for the Home Department**

**and**

**Ali Palas**

**(no anonymity direction made)**

Appellant

Respondent

For the Appellant: Mr Kandola, Senior Home Office Presenting Officer  
For the Respondent: Ms Nnamani, Counsel instructed by Sutovic and Hartigan

**DETERMINATION AND REASONS**

1. The Respondent is a national of Turkey. On the 12<sup>th</sup> August 2014 the First-tier Tribunal (Judge Herbert) allowed his appeal against the Secretary of State's decision to remove him from the United Kingdom pursuant to s10 of the Immigration and Asylum Act 1999 following a refusal of asylum. The Secretary of State now has permission<sup>1</sup> to appeal that decision.

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<sup>1</sup> Granted by First-tier Tribunal Judge Levin on the 9<sup>th</sup> September 2014

2. The basis of the Respondent's claim was that he was a Turkish Kurd who had suffered recent persecution for reasons of his political opinion. He claimed that he had been detained and ill-treated by the security services in his home area of Gaziantep and had been questioned *inter alia* about his support for the PKK. He had come under pressure to act as an informant for the authorities.
3. The Secretary of State issued an unusually detailed and cogent refusal letter on the 16<sup>th</sup> June 2014. From paragraph 19 to 34 numerous reasons are given for doubting the claimant's credibility as a witness. These included:
  - i) The contradiction in the claim that the Respondent went into villages to talk to people about the PKK when he never supported the armed struggle of the PKK;
  - ii) The inconsistent evidence about whether he had talked about the PKK or the BDP;
  - iii) Whether he had ever distributed leaflets or not;
  - iv) Vague evidence in respect of core matters such as his detention and torture;
  - v) Apparent conflicts in his account of his arrest on the 4<sup>th</sup> April 2011;
  - vi) Conflict between the claim that he was detained whilst a minor and the country background material;
  - vii) Plausibility of the gendarmes asking him to become an informant when he was very young and had been able to provide them with absolutely no evidence during three previous detentions.
4. In his determination of the 12<sup>th</sup> August 2014 Judge Herbert finds the evidence to have a "high level of consistency"; he did not consider the Respondent to have exaggerated any element of his claim; he found the evidence was to some extent corroborated by a witness, the Respondent's cousin who gave evidence before him; and the account was consistent with the background material. Applying the lower standard of proof he allowed the appeal.
5. The Secretary of State now makes two, inter-related complaints about the way in which the First-tier Tribunal approached the appeal. First, it is submitted that the Tribunal failed to resolve conflicts in the evidence that were clearly set out in the reasons for refusal letter; secondly there was a failure to give adequate reasons.
6. I have given careful consideration to the submissions made on behalf of the Respondent, and in particular to Ms Nnamani's thoughtful, cogent and articulate response to the grounds. I am nonetheless satisfied that this decision must be set aside.
7. Had the reasons for refusal letter been less detailed, and the

challenges to the Respondent's credibility couched in more general terms, I daresay the reasoning at paragraphs 59-75 of this determination would have been sustainable. In this case there was however a very detailed refusal letter, wherein specific challenges are made to the account given. The Secretary of State is entitled to understand why the Tribunal did not attach weight to those points. Ms Nnamani may be correct to say that there were points raised as to peripheral matters; it might have been unfair to characterise the Respondent's evidence as "vague". We cannot know because the determination does not address the reasons for refusal letter, in detail or at all. There is no duty on the Tribunal to go through each and every point made, but the losing party must be able to understand why he or she has lost. A finding that there has been a "high level of consistency" is hard to understand if no examples are given, and no mention is made of the various inconsistencies raised in the Secretary of State 's submissions. For that reason I set the decision aside.

8. The parties agreed that in the circumstances the most appropriate disposal, having regard to the extent of judicial fact-finding required, was to remit the matter to be determined *de novo* at Taylor House before any Judge other than Judge Herbert.

### **Decisions**

9. The determination of the First-tier Tribunal contains errors of law and it is set aside.
10. The matter is to be re-made before the First-tier Tribunal at Taylor House on the 24<sup>th</sup> November 2014.

Deputy Upper Tribunal Judge Bruce  
7<sup>th</sup> November

2014