



**Upper Tribunal
(Immigration and Asylum Chamber)
AA/05236/2014**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at: Field House
On: 18th November 2014**

**Decision Promulgated
On 8th January 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE BRUCE

Between

**Mohammad Aralikci
(no anonymity direction made)**

Appellant

and

Secretary of State for the Home Department

Respondent

For the Appellant: Ms Mughal, Counsel instructed by Montague Solicitors
For the Respondent: Ms Kenny, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Turkey date of birth 12th December 1994. He appeals with permission¹ the decision of the First-tier Tribunal (Judge Griffith) to dismiss his appeal against the Respondent's decision to remove him from the United Kingdom. That decision followed rejection of the Appellant's claim to international protection.
2. The basis of the Appellant's claim was that he faced a well-founded fear of persecution in Turkey for reasons of his imputed political opinion and ethnicity (Kurdish). He claimed that the gendarmes and police in his local area accused him of helping the PKK and that he was put under pressure to become an informer. He was detained but

¹ Permission granted on the 3rd October 2014 by Designated First-tier Tribunal Judge French

released by the court on the condition that he report. He did not do so and instead left Turkey unlawfully.

3. The Respondent rejected the claim for want of credibility. In a determination dated the 10th September 2014 the First-tier Tribunal did the same. Judge Griffiths took into account that the Appellant was only 17 when he was first interviewed and 19 when he gave his substantive interview, but nevertheless found the account to contain substantial discrepancies and inconsistencies with the country background material. He took account, as he was bound to do, of the fact that the Appellant destroyed his passport en route to the UK and failed to claim asylum in France or Belgium, despite being apprehended by the authorities in both countries and being advised about being able to claim there. He found it to be implausible that the Appellant's school would have called the gendarmes in to question him about speaking Kurdish, given the background material indicating that Kurdish has been officially taught in schools since 2012. The Appellant said that he had encountered gendarmes on four occasions whilst in the mountains and had described their uniforms as "blue, brown, burgundy and plum" camouflage; Judge Griffiths rejected this evidence since he had before him a photograph of the Turkish gendarmerie uniform which "is nothing like" the description given by the Appellant. Further it was not clear why they would ill-treat him or accuse him of anything just because he was in possession of a bottle of water. Finally the Tribunal found that even if the Appellant had been required to report the authorities have shown no interest in him since October 2013, indicating that there is no current risk. Judge Griffiths found it more likely that the Appellant had been sent here by his parents - to live with his brother - because he did not wish to undertake military service. The appeal was dismissed.
4. The Appellant now appeals the decision of the First-tier Tribunal on various grounds. I deal with each in turn.

My Findings

5. Paragraph 8 of the grounds reads as follows:

"At paragraph 30 of the determination the Immigration Judge takes against the Appellant for not being able to recognise the uniform of the gendarmes. With respect the Appellant had stated that it was soldiers that he had encountered in the mountains that were wearing tabards which were in camouflage. With respect the Immigration Judge appears to discount this evidence; this is even more surprising given that the bundle contained evidence of the gendarmes in tabards. However, of more concern is the Immigration Judge's finding that the Appellant was not apprehended. There appears to be no cogent reasoning behind this finding."

Having read paragraph 30 of the determination, and this ground, I am none the wiser as to what this challenge exactly is. The point that the Judge makes is that the Appellant described the gendarmes who approached him in the mountains as wearing a camouflage uniform of various colours. That description was at odds with the photograph in the bundle which showed the uniform to be entirely plain. He therefore did not believe that he had had an encounter with any gendarmes, nor therefore that he was detained. The assertion in the grounds that the Appellant said it was soldiers who wore that uniform is completely incorrect: the description is found in response to Q61 of the interview where he is asked to describe the Turkish gendarmes uniform. Nor is it immediately obvious why tabards are relevant, since the tabard worn by the gendarme in the photograph is also completely plain. This ground has no merit.

6. The next paragraph in the grounds reads:

“The first part of paragraph 31 of the determination is confusing. The Immigration Judge then decides not to follow the ‘country guidance’ decision of [2004] UKIAT 00312 IK (Turkey). It is submitted that insofar as the Immigration Judge purports to find that on the basis of the most recent background material that arbitrary arrest and detention no longer takes place in Turkey or that there no longer occurs arbitrary violence during such detention that is misguided and simply perverse”.

The latter observation might be used to describe this ground. The determination is not in any way confusing. The Judge does not “decide not to follow the country guidance”. As paragraph 35 makes clear he specifically has regard to the decision in IK. He does not, anywhere in the determination, make a finding that the Turkish authorities have stopped arbitrarily detaining or ill treating people. It is just not accepted that *this* person has been subject to such persecution. Similarly the assertion in the grounds that the credibility findings are “predicated on the Immigration Judge’s misguided belief that arbitrary detention and ill treatment did not take place in Turkey in 2012” is not made out. I can find nowhere in the determination that the Judge makes such findings.

7. There is, in short, nothing wrong with the credibility findings in this determination. The Judge does not seek to depart from the country guidance, nor to make findings contrary to the country background material. A further point is taken in challenge to the ‘section 8’ findings which are said to be “extraordinary” and “not sustainable”. The argument appears to be that the Tribunal was not entitled to make section 8 findings against the Appellant because he was 17 and under the “complete control” of an agent. The Judge took the Appellant’s age into account in making his findings; the point was that when the Appellant was with the Belgian and French authorities he

was not under the control of any agent and presumably could have taken them up on their suggestion that he claim asylum were it not for the fact that he was coming to the UK in order to be with his brother.

Decisions

8. The determination of the First-tier Tribunal does not contain an error of law and it is upheld.

Deputy Upper Tribunal Judge Bruce
23rd December

2014