



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

Appeal Number: PA/05675/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 12th January 2018**

**Decision & Reasons
Promulgated
On 6th February 2018**

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

**MR M O
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Moghal (instructed by Montague Solicitors)
For the Respondent: Mr S Kotas (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is an appeal to the Upper Tribunal, with permission, by the Appellant who is a Turkish man of Kurdish origin who had claimed asylum on that basis that he would be perceived as a PKK sympathiser. The appeal was heard at Taylor House on 13th July 2017 by Judge Farrelly and in a Decision and Reasons promulgated on 9th August 2017 he dismissed the appeal.

The grounds assert that the judge erred in failing to make findings and in failing to consider the risk factors set out in the country guidance case of IK (Returnees – Records – IFA) Turkey CG [2004] UKAIT 00312 and as further set out in the case of IA and Ors. (Risk – Guidelines – Separatist) Turkey CG [2003] UKAIT 00034.

2. Mr Kotas accepts that he is in some difficulties in defending the Decision and Reasons on the basis that it is so very brief. It is indeed brief. The Decision and Reasons runs to essentially four pages and the consideration and findings are just four paragraphs the first paragraph of which does not contain findings; in fact it just sets out what has to be established. There are no findings on the Appellant's claim itself; whether what he has claimed is credible or not credible. Even if it could be said that the judge considered the appeal taking the case at its highest there is still no engagement whatsoever with the country guidance even though it is referred to at paragraph 15. There is no consideration of this Appellant's possible risk factors. There is no assessment of risk on the basis of his background and what he says happened. Therefore I find the Decision and Reasons does contain material errors of law on the basis of an inadequacy of reasoning and a failure to engage with country guidance.
3. For that reason the decision has to be set aside in its entirety. It is appropriate, as no findings are preserved, for it to be remitted to the First-tier Tribunal for a full rehearing before a different Judge. The appeal to the Upper Tribunal is allowed to that extent.

Notice of Decision

The appeal is allowed to the extent that it is remitted to the First-tier Tribunal for a full rehearing on all issues.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 2nd February 2017

Upper Tribunal Judge Martin