Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/04527/2019 (P)**

THE IMMIGRATION ACTS

Decided under rule 34	**Decision & Reasons Promulgated**
On 27 May 2020	**On 29 May 2020**

Before

UPPER TRIBUNAL JUDGE KEKIĆ

Between

SY
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

Background

1. This appeal comes before me following the grant of permission to appeal by Upper Tribunal Judge S Smith on 30 January 2020 against the determination of First-tier Tribunal Judge Cooper, promulgated on 27 November 2019 following a hearing at Taylor House on 7 October 2019.

2. The appellant is a Turkish national born on 16 May 1978. His claim is that he would be at risk from the Turkish authorities for being involved in the Gűllenist movement.

3. Two grounds were put forward by the appellant to the Upper Tribunal in his permission application. The first argued that the judge had not treated the appellant's previous persecution (i.e. two detentions) as a

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serious indication of the risk of serious harm in the future and failed to give reasons for this. The second argued that the judge erred in his consideration of the evidence; specifically, that he focused on the lack of independent evidence of an arrest warrant instead of applying Tanveer Ahmed principles and evaluating the evidence in the round.

4. Article 8 was not pursued.

Covid-19 crisis

5. As a result of the Covid-19 pandemic and need to take precautions against its spread, directions were sent to the parties on 17 April 2020. They were asked to present any objections to the matter being dealt with on the papers and to make any further submissions on the error of law issue within certain time limits. As of today, the time limits having passed, the Tribunal has only received written submissions from Ms S Jones for the respondent.

6. I can, therefore, only assume that the appellant does not object to a paper decision and has nothing further to add to the grounds put forward when the application for permission was filed. I now proceed to consider the material on file and to make a decision on whether or not the judge materially erred in law such that his decision should be set aside.

Discussion and Conclusions

7. I have considered all the evidence, the grounds for permission and the respondent's submissions.

8. The appellant entered the UK in October 2017 as a visitor with his wife and child. This was after he had been arrested in August 2017. He was able to leave Turkey through the normal channels without any difficulties. Subsequently his wife sought to remain under the Ankara Agreement and then unsuccessfully claimed asylum. The appellant and his wife separated and the appellant claimed asylum following his return after a trip to Turkey when he claimed to have been detained on arrival at Ankara airport in September 2018 for two days.

9. The respondent accepted the appellant's identity and nationality, she accepted he was a low level Gűllen movement supporter, that there had been mass arrests of such persons and that the appellant's brother had faced problems from the authorities for his own involvement in the movement. She did not accept that he had problems with the authorities, however, because he had been unable to provide evidence of the warrant, he had been released twice without charge and he had been able to leave Turkey without any problems. Even taking the claim at its highest, she considered that he would not be at risk because he had destroyed all evidence linking

him to the movement and the authorities were now re-instating people who had previously been dismissed.

10. The judge is criticised for his approach to the evidence in the second ground. It is specifically argued that he did not apply Tanveer Ahmed principles and did not mention them when assessing the evidence. There is no merit in this argument. The judge properly directed himself (at 26 - 33) and specifically referred to Tanveer Ahmed and the need to consider evidence in the round (at paragraphs 33 and 34) immediately prior to commencing his assessment from paragraph 35 onwards. At paragraph 42 he confirms that the evidence has been considered in the round. It is difficult to see, therefore, how it can be maintained that he did not assess the evidence in the correct manner.

11. With respect to the first ground, the judge plainly approached the evidence with an open mind, making several positive credibility findings (at 37), accepting that despite minor discrepancies, the appellant had been coherent in his account. He accepted that the appellant's account of arrest was consistent with the country evidence which showed that tens of thousands were arrested following the attempted coup in July 2016 (at 38) and that he may well have been arrested and been interrogated (at 42). He accepted that the appellant's brother had been arrested and charged (at 39). He found, however, that even if the appellant had been arrested, the movement was one without membership or structure, that there were millions of followers and that the appellant was released without charge, "*indicating that he was not a person of concern and that no evidence had been found by the authorities of his AYSA account or any other evidence linking him to the movement*" (at 42). The judge noted that the appellant's evidence was that his other family members were all supporters of the government. He found that the lack of interest in the appellant was consistent with the evidence that indicated that the interest was mainly in members of the judiciary, police, journalists, lawyers and teachers (like the appellant's brother) (at 42). The judge considered that the appellant did not feel he was at risk as he voluntarily visited Turkey in September 2018 by which time his brother had been in detention for some two years awaiting trial (at 43). He noted that the appellant had been unable to produce copies of his alleged arrest warrant whereas he had been able to submit copies of his brother's (at 46). He also claimed there had been no need to check for evidence on his UYAP account (the e-judicial information management system available to all citizens) but that in any event he had forgotten the password (at 47). The judge rejected the appellant's excuses for not being able to instruct a lawyer to obtain evidence (at 47-51) and given that the appellant's own nephew was a lawyer, it was open to the judge to conclude that this was evidence that the appellant could reasonably have been expected to produce and that the letters from his siblings which stated that they had been told of the warrant was not independent evidence (at 52).

12. The appellant's evidence had been that his arrests had been "informal" (at 23), he had been able to leave Turkey after both occasions without any issue and despite his brother having been arrested and charged. The judge found that the evidence did not support the appellant's contention that individuals would be detained in this way many times before a formal arrest (at 53). He considered that the appellant had not fallen into the category of the vast majority of those held after the attempted coup and that whilst he may have been questioned about his brother's involvement when he returned to Turkey in September 2018, he was released without charge and was permitted to leave the country without hindrance after his holiday. The country information, on the other hand, showed that suspected Gűllenists were banned from leaving the country and had their passports confiscated (at 53).

13. It is not correct, as the grounds argue, that the risk issue was determined solely on the basis that there was no evidence of a warrant. As the respondent submits in her written submissions, paragraph 53 should not be read in isolation. It is plain from the summary of the judge's reasoning, set out in the preceding paragraphs, that there were several factors which the judge relied on when reaching his conclusions.

14. For all the above reasons, the judge was entitled to conclude that despite the appellant's past, even taking it at its highest, he would not be of adverse interest to the authorities in the future. Following the guidance in Shizad: (sufficiency of reasons: set aside) [2013] UKUT 00085, the determination contains adequate and sufficient reasoning and the loser can be under no doubt as to why his appeal was rejected. There are no errors in the judge's approach.

Decision

15. The decision of the First-tier Tribunal does not contain an error of law and it is upheld. The appeal is dismissed.

Anonymity

16. I continue the anonymity order made by the First-tier Tribunal.

Signed

R. Kekić

Upper Tribunal Judge

Date: 27 May 2020