



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: UI-2022-002583

PA/52112/2020; IA/01444/2021

THE IMMIGRATION ACTS

**Heard at Field House
On the 19 October 2022**

**Decision & Reasons Promulgated
On the 23 January 2023**

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

**MEHMET GUNER
(ANONYMITY ORDER NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Frances Allen, counsel

For the Respondent: Ms Cunha, counsel

DECISION AND REASONS

1. The Appellant, a national of Turkey, appealed against a respondent's decision dated 22 October 2020 whereby he sought refugee status and Humanitarian Protection in the United Kingdom. The adverse decision of

the Respondent was the subject of an appeal which came before First-tier Tribunal Judge G Richardson in which his appeal was dismissed. On 25 May 2022 First-tier Tribunal Judge Seelhoff gave permission to appeal the Judge's decision.

2. At the appeal before me, Ms Allen concentrated particularly with greatest emphasis upon errors the Judge had made in the assessment of the Appellant's evidence, particularly at paragraphs 26 to 27 and 29 and 30 of the decision. Essentially it is said the Judge failed to appreciate the perceived relationships, by the Turkish Government, between the HDP, the party the Appellant supported, and with the PKK which remains a terrorist organisation proscribed in Turkey and elsewhere. Ms Cunha essentially said that this was a good example of the Appellant differing with the conclusions reached by the Judge: Essentially trying to re-argue the issue as to the reliability of the evidence and to some extent the way the evidence was then applied to the basis of claim and risk on return.
3. The Upper Tribunal may have interfered in First-tier Tribunal decisions because there was disagreement with the conclusions the First-tier Judge reached and by doing so demonstrated a difference of opinion and conclusion. In this case I am alert to that risk but I find having considered the parties' submissions that this is a case where adverse credibility findings were drawn in unusual circumstances and in this respect this is no criticism of Ms Cunha. It seemed to me that the Respondent's review, which was provided prior to the appeal hearing before the First-tier Tribunal did not, much as she would prefer to infer it and as instructed, really raise the issue with clarity as to the lack of detail in the accounts of the Appellant's detentions in 2016 and 2019. The Appellant's credibility were not sufficiently addressed by the Judge.
3. The inferences that were drawn by the Judge were clearly central to the issue of risk on return: For the Judge did not accept that the Appellant had been detained as claimed on the two occasions and by reason of that dismissed risk on return but the risk on return to HDP supporters is slightly

more than just a fact of detention and related to the perceived relationships between HDP and the PKK.

4. In the circumstances I conclude that unfortunately this is a case where the Judge made an error of law. It will have to be re-made in the First-tier Tribunal not before First- tier Tribunal Judge Richardson. No findings of fact by First-tier Tribunal Judge Richardson to stand.
5. No anonymity direction is made.



Signed
Deputy Upper Tribunal Judge Davey

Date 27 October 2022

TO THE RESPONDENT

FEE AWARD

As I have allowed the appeal and because a fee has been paid or is payable, I have considered making a fee award and have decided to make no fee award. The matter can be addressed in the First-tier Tribunal.



Signed
Deputy Upper Tribunal Judge Davey

Date 27 October 2022