



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2021-000325  
First-tier Tribunal No:  
PA/02765/2020

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

2<sup>nd</sup> February 2024

**Before**

**UPPER TRIBUNAL JUDGE RINTOUL**

**Between**

**N C**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr S Martin, Virgo Solicitors

For the Respondent: Mr Mullen, Senior Home Office Presenting Officer

**Heard at George House, Edinburgh on 3 August 2022**

**DECISION AND REASONS**

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Montgomery, promulgated on 12 April 2021. That was an appeal against a decision of the Secretary of State made on 2 February 2020 to refuse his protection and human rights claims.
2. The appellant is a citizen of Turkey, of Kurdish - Alevi background. His case is that as a supporter of the People's Democratic Party (HDP), he is at risk of serious ill-treatment on return. The Secretary of State did not accept that for the reasons set out in the refusal letter.
3. On appeal, the judge heard evidence from the appellant and two witnesses - the appellant's maternal aunt and maternal uncle.

4. The judge found that the appellant was neither Kurdish, nor Alevi, was not and never had been a support of HDP, had not come to the adverse attention of the Turkish Authorities and would not be at risk on return [44]. She also find that his credibility was damaged by his failure to claim asylum on route to the United Kingdom [82] to[84].
  - (i) The appellant had left Iran illegally and had entered the United Kingdom on 20 November 2015 [26];
  - (ii) The appellant had attended demonstrations in London as claimed [28];
  - (iii) The appellant had not provided evidence of his Facebook anti-regime activity or media interest in the demonstrations [34]
  - (iv) But, [46] the appellant's anti-regime activities would not give rise to a risk on return to Iran , nor, lacking a profile, would he be at risk even having left illegally and as a Kurd.
5. The appellant sought permission to appeal on the grounds that the judge had erred:
  - (i) In reaching findings of fact and as to credibility without having proper regard to the evidence of the witnesses;
  - (ii) In reaching findings as to whether the appellant is Kurdish or Alevi without proper regard to the evidence;
  - (iii) In discounting the appellant's evidence about HADEP/HDP as was in the public domain but without any evidential basis for that conclusion.
  - (iv) In failing to evaluate the risk to the appellant.
6. On 14 December 2021, UTJ Kamra granted permission to appeal.

### **The Hearing**

7. I heard submissions from both representatives.
8. I am satisfied that decision of the First-tier Tribunal did involve the making of an error of law for the following reasons.
9. The judge did not adequately explain why she did not accept the evidence of the appellant's uncle and aunt which confirmed his ethnicity and religion; what is said at [64] is insufficient. Given that the witnesses were blood relations, more was needed to explain why they are not of the same ethnicity. That was an important part of the findings as to credibility. Further, the observations at [65] do not adequately explain why their evidence was discount.

10. In addition, much of the findings as to whether the appellant was a supporter of HDP were based on plausibility, and at [71] speculation. Nor, at [78] are there sufficient reasons given for discounting evidence as vague or implausible.
11. Taking all of these factors into account, I conclude that the grounds are made out and I set the decision aside.
12. As the findings as to credibility are unsafe, I consider that all the relevant findings well need to be remade and accordingly, it is appropriate to remit the appeal to the First-tier Tribunal for the appeal to be heard de novo. .

**Notice of Decision**

- (1) The decision of the First-tier Tribunal involved the making of an error of law and set it aside.
- (2) The appeal is remitted to the First-tier Tribunal to be determined afresh.
- (3) Note: this decision was dictated shortly after the hearing but, owing to an administrative error, was lost and has had to be recreated from memory.

Signed

Date: 1 February 2024

Jeremy K H Rintoul  
Upper Tribunal Judge Rintoul