

Federal Court



Cour fédérale

Date: 20250925

Docket: IMM-11050-24

Citation: 2025 FC 1580

Toronto, Ontario, September 25, 2025

PRESENT: Mr. Justice Diner

BETWEEN:

UGUR CETIN

Applicant

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The applicant seeks judicial review of a Refugee Appeal Division [RAD] decision dated May 30, 2024 [Decision], refusing the appeal of a decision of the Refugee Protection Division [RPD] which determined that the Applicant was neither a Convention refugee nor person in need of protection. I agree with the Applicant that the RAD erred, rendering an unreasonable decision, by failing to engage with contradictory documentary evidence. For privacy purposes, I have anonymized names of any other persons in the reasons below.

I. Background

[2] The Applicant, who is presently 23 years of age, is a citizen of Türkiye of Kurdish ethnicity. He alleges a serious possibility of persecution on return to Türkiye on account of his Kurdish identity and his political support of the Peoples' Democratic Party [HDP].

[3] The Applicant comes from a politically active Kurdish family. His cousin, M.C., was active in a pro-Kurdish labour union and faced arbitrary arrest and torture. The cousin's wife, A.B., was elected mayor of Ercis, but was imprisoned several times and removed from her position. The family has supported pro-Kurdish parties for decades. As for the Applicant, beginning in 2019 at the age of 17, he volunteered for the HDP. He distributed banners and flags, canvassed during local elections, and attended HDP meetings and Newroz celebrations.

[4] The Applicant testified before the RPD that he was fired from a construction job in 2020 after defending Kurds against accusations of supporting terrorism. His employer told him not to return, associating his support of the HDP with support for the Kurdistan Workers' Party [PKK]. (The PKK has waged an armed insurgency against the Turkish state since 1984 and is designated as a terrorist organization in Türkiye and in Canada). The RAD stated in its decision that "the objective evidence shows that during the last few years Turkish authorities have attempted to link the HDP political party with the PKK terrorist organization" (Decision at para 13).

[5] On May 28, 2020, while returning from a seasonal work trip in Iraqi Kurdistan, the Applicant states that he was detained. He alleges that police accused him of associating with

terrorists, subjected him to racist insults, and questioned his loyalty to Türkiye. He was released after several hours.

[6] Following these events, and in light of the deteriorating situation for Kurds and HDP supporters, the Applicant left Türkiye in September 2021. He travelled through Mexico and the United States before making a refugee claim in Canada.

II. Analysis

[7] The Applicant challenges the RAD's findings with respect to his failure to assess the risk of future persecution based on the Applicant's Kurdish ethnicity and political opinions. The issue raised by the Applicant is reviewable on the standard of reasonableness, in which the central question to be addressed by the Court is whether the Decision is based on an internally coherent and rational chain of analysis in relation to the facts and law bearing upon it (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85 [*Vavilov*]). A reviewing court must not set aside a decision unless there are "sufficiently serious shortcomings" reflective of a decision that fails to demonstrate justification, intelligibility and transparency (*Vavilov* at para 100).

[8] The RAD, in its Decision, accepted that the Applicant is Kurdish, supported the HDP, and is related to a persecuted Kurdish politician. It nonetheless concluded that the Applicant's profile did not meet a threshold to warrant fear of persecution. The RAD emphasized that the Applicant's political activities were limited, that he had never voted, and that few in his community knew of his support. The RAD concluded that the Applicant's profile was

insufficient to draw adverse attention from the Turkish state. This conclusion was reached despite the evidence that the Applicant attended HDP events, was photographed in HDP accoutrements, and was from a family with deep ties to the HDP, a member of which (A.B.) the RAD acknowledged had suffered persecution.

[9] On the one hand, I note that judicial review is not a “line-by-line treasure hunt for error” (*Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper, Ltd*, 2013 SCC 34 at para 54). Expecting the RAD to explicitly demonstrate its evaluation of each piece of evidence is neither practical nor efficient (*Cepeda-Gutierrez v. Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 at para 17 [*Cepeda-Gutierrez*]). On the other hand, failing to address central evidence that suggests the opposite conclusion is problematic. As *Cepeda-Gutierrez* holds at para 17:

[...] a blanket statement that the agency has considered all the evidence will not suffice when the evidence omitted from any discussion in the reasons appears squarely to contradict the agency's finding of fact. Moreover, when the agency refers in some detail to evidence supporting its finding, but is silent on evidence pointing to the opposite conclusion, it may be easier to infer that the agency overlooked the contradictory evidence when making its finding of fact.

[10] The Decision here failed to engage with evidence both coming from the Applicant himself, as well as certain central components of the country documentation. Specifically, the RAD’s focus on the fact that millions of people vote for the HDP is insufficient justification to conclude the Applicant’s threat of persecution is at par with other supporters of the HDP. Despite that conclusion, the RAD accepted that the Applicant was not simply a passive voter, but rather someone who had previously been detained due to his Kurdish background and lost his

employment. The RAD also acknowledged that the authorities had accused him of being a PKK member. The RAD also commented in detail on the fact that A.B. had been persecuted for her involvement in the HDP, and for her political activism.

[11] The country condition evidence contradicted the RAD's conclusion that only visible or high-profile Kurdish supporters of the HDP would face persecution. However, a document in the National Documentation Package [NDP] that the RAD cited for another point (that "Turkey has more Kurdish people within its borders than any other country in the world" Decision at para 32), states that both high level politicians and low-level activists face the same level of risk (Dec. 20, 2023, Item 1.17, *DFAT Country Information Report: Türkiye*, September 2020).

[12] Also in the NDP, was *Report of a Home Office Fact-Finding Mission. Turkey: Kurds, the HDP and the PKK*, United Kingdom, which the RAD relied upon to support its conclusion that the Applicant was a low-level supporter – not an HDP member – who would not be at risk given his profile. Yet, that very Home Office publication cited opinions stating that HDP sympathisers, members, or attendees at HDP events could be threatened, and that one could be a mere supporter rather than a member and still be targeted.

[13] Thus, the RAD relied on two central publications to support and arrive at its conclusions, failing to address parts of those very documents which could lead to precisely the opposite conclusion. The RAD erred by failing to address these contradictory points about risks even for lower-level activists, particularly in light of the Applicant's particular situation – namely

primarily as a teenager, who had a documented family background, and the Applicant's evidence of being associated with the PKK and "terrorists" – all of which the RAD accepted.

[14] Ultimately, given the evidence presented and acknowledged by the RAD, including that there have been significant attempts to inextricably link the HDP to the PKK, it was unreasonable for the RAD to make findings only citing documentary evidence supporting its conclusion, while failing to address contents of that evidence which appears to contradict its conclusions.

[15] Finally, I note that the RAD also held against the Applicant the fact that he had never voted for the HDP. This is simply not justifiable. The Applicant left Türkiye at 20 years of age. The sole (local) election at which he was eligible to vote given his young age had no local candidate running for the HDP. Furthermore, there were no national elections held in Türkiye in the two-year window from the Applicant's 18th birthday until his arrival in Canada.

[16] For the reasons above, I allow the application for judicial review. The matter will be sent back for redetermination by a different officer.

JUDGMENT in IMM-11050-24

THIS COURT’S JUDGMENT is that:

1. The application for judicial review is granted. The matter is remitted for redetermination by a different officer.
2. There is no question for certification.
3. No costs will issue.

“Alan S. Diner”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-11050-24

STYLE OF CAUSE: UGUR CETIN v MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 9, 2025

JUDGMENT AND REASONS: DINER J.

DATED: SEPTEMBER 25, 2025

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