

**1216702 [2013] RRTA 660 (30 September 2013)**

**DECISION RECORD**

**RRT CASE NUMBER:** 1216702

**DIAC REFERENCE(S):** CLF2012/141491

**COUNTRY OF REFERENCE:** Turkey

**TRIBUNAL MEMBER:** James Silva

**DATE:** 30 September 2013

**PLACE OF DECISION:** Sydney

**DECISION:** The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 431(2) of the *Migration Act 1958* and replaced with generic information which does not allow the identification of an applicant, or their relative or other dependant.

## STATEMENT OF DECISION AND REASONS

### INTRODUCTION

1. The applicant is a Turkish man in his late thirties from Adana. He arrived in Australia in April 2012, holding a tourist visa. The visa was valid until [a date in] July 2012, and [in] July 2012, he applied for protection.
2. The applicant seeks protection on the basis that the current conservative Islamist government<sup>1</sup> and Islamist groups will target him if he returns to Turkey because he opposed their efforts to influence the police force politically and religiously. He worked in Turkey as a policeman, and claims to have experienced the following.
  - He is the child of a Sunni father and Alevi mother, and grew up with ‘no religious preference’. He sympathises with left wing politics.
  - His problems began after the 2002 election of the Justice and Development Party (AKP) to lead the national government. In 2004, the applicant missed out on an expected [position] because he did not support the government’s political agenda.
  - In his new job, fellow police officers accused the applicant of being a Christian, a Communist and an atheist, because he let it be known that he disapproved of pro-AKP police officers advancing the government’s religious propaganda.
  - Around August 2005, an unknown bearded man stabbed the applicant on the street, in plain clothes. The police who attended the scene downplayed its significance, and declined to record it officially or publicise it, on the pretext that it could tarnish the prestige of the police force.
  - In December 2009, police called the applicant into [Unit 1], took his gun and mobile telephone from him, and started questioning him about religion. He denied any religious connections, and went on to criticise the role of religion in society. The police said that his ideas were disrupting the organisation, and threatened him. They used force when he tried to leave the interview, [details of injury deleted]. The applicant was unfit for work for about 70 days. A lawyer dissuaded the applicant from pursuing this matter further, as it could ruin his career.
  - In 2010, the applicant was transferred to his home town, but experienced even worse treatment there. They referred him to a mental hospital, where a psychiatrist declared him unfit for work for at least 30 days. After returning to work, the applicant received two letters telling him that he was not suited to working in the organisation.
  - In August 2011, some police officers accused the applicant of being an atheist because he did not observe Ramadan. In December 2011, he received more threatening letters.
  - The applicant decided in early 2012 to leave Turkey, for his safety.
3. The applicant told the Tribunal that he fears that government agents and/or Islamic fundamentalists could kill him if he returns to Turkey, or that he could be imprisoned. A

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<sup>1</sup> The election of the Justice

high-ranking officer in his village has informed the applicant that there is a 'hidden witness' ready to support false charges against him. The government will target him because they perceive him as a dissident who has challenged their authority. This means that he would be at risk, even if he returned to Turkey and found work in a private company. In a post-hearing submission, the applicant added that his wife has now divorced him, for the safety of their family.

4. The delegate disbelieved the applicant. Among other things, the delegate noted that the applicant had been entitled to an 'S' series passport which enables visa-free entry into the European Union from 2005, but had not applied for a passport until 2010; that he waited to come to Australia because he has relatives here (rather than explores options to find other safe havens); and his dismissal from the police force came about only because of the applicant's failure to return from his Australian trip. The delegate found that the applicant was not eligible for either refugee protection or complementary protection.
5. Against the background of the applicant's personal and family circumstances, the issues before the Tribunal are:
  - The applicant's police career
  - Political and religious problems as a police officer
  - Events after the applicant's arrival in Australia
  - The applicant's conduct and his need for protection
  - Refugee protection
  - Complementary protection

## **MATERIALS BEFORE THE TRIBUNAL**

6. The Tribunal has had regard to the applicant's submissions to the Department and the Tribunal. These are listed at Appendix A. The Tribunal has also considered relevant law, a summary of which is at Appendix B.

## **BACKGROUND**

7. The applicant is from Adana province, in south-eastern Turkey. After completing school in [year deleted], he attended a police academy in Adana. From [years deleted], he served in the Turkish [Department 2], which sits within the Turkish National Police (TNP) in the Interior Ministry. He was posted to [details of postings deleted]. The applicant indicated that he received specialist training for his duties as a [Department 2] officer, and implied that this was a prestige position.
8. In 2004, the applicant was transferred from [Department 2] to regular police duties, first in Istanbul and later back in his home province of Adana.
9. The applicant is married, and has [details relating to children deleted]. His family is currently with his in-laws in Erzurum, in north-eastern Turkey.<sup>2</sup> The applicant said that she moved to Erzurum in 2011, after the applicant received threatening letters in Adana. In his post-hearing submission, the applicant added that his wife has now divorced him.

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<sup>2</sup> According to *Microsoft Encarta*, this is just over 600km from Adana.

10. The applicant came to Australia as a tourist, to visit family members. At hearing, he said that he is not staying with them; they have little contact. He said that one of them wants nothing to do with him, perhaps for political reasons. Later, the applicant said that the relative who sponsored his visit was upset that he intended to overstay and seek protection.
11. At the hearing, the applicant said that he was feeling stressed and fearful. In his post-hearing letter, he mentioned that he may not have answered all the Tribunal's questions directly, as he was distracted by thoughts of his experiences in Turkey and his family. The Tribunal has taken into account, in its overall assessment of the applicant's oral evidence, that he may have been nervous at the hearing.

## **CONSIDERATION OF CLAIMS AND EVIDENCE**

12. For the following reasons, the Tribunal has concluded that the decision under review should be affirmed.

### **The applicant's police career**

13. The Tribunal accepts that the applicant worked as a police officer in Turkey from [year deleted] until his departure from Turkey in April 2012. The Tribunal finds that he held this position until about a month after he arrived in Australia, when he failed to report to duty at the end of his leave, and was dismissed for non-attendance.
14. The applicant impressed on the Tribunal that he had worked successfully as a police officer until the early 2000s. Things changed after the election of the Justice and Development Party (AKP) in 2002, which saw the increasing influence of the Gülen movement, a broad-based religious movement. The applicant claimed that this led to the increasing Islamisation of the security agencies. He experienced discrimination for not complying, and hostility and threats for speaking out against colleagues who promoted this trend. The applicant stressed that he was ultimately forced to leave Turkey about [years deleted] after he started his police career, a year before he was due to retire on full pension benefits. He invited the Tribunal to place weight on his forfeiture of these benefits, as evidence that he had to flee Turkey for his safety.
15. The Tribunal has consulted a range of country information about the impact of the AKP government and the Gülen movement on the security forces. It found no information on the ruling AKP enforcing strict religious views or practices (such as the observance of the Ramadan fast) among police officers or other officials<sup>3</sup> However, it found some reports, mostly anecdotal, describing the influence of the AKP and the Gulen Movement, a broad-based Islamic social network, on the Interior Ministry and the police force more generally.<sup>4</sup> The Tribunal drew on the information summarised at Appendix C.

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<sup>3</sup> The following sources were consulted: UNHCR Refworld, IRBC, major human rights groups, government websites and international and domestic news sources. Tribunal databases and the DIAC CISNET database were also consulted.

<sup>4</sup> Altinbas, D 2013, 'Turkey: We, the 50 Percent', Fair Observer, 4 July <<http://www.fairobserver.com/article/we-fifty-percent-part-2>> Accessed 12 August 2013; EUCOM 2013, *Political Islam and the Economy and Politics in Turkey*, EUCOM Deep Futures, February, pp.3-4 <<http://fmso.leavenworth.army.mil/Collaboration/COCOM/EUCOM/Political-Islam.pdf>> Accessed 12 August 2013; Alpay, S 2011, 'Will Turkey veer towards authoritarianism without the EU anchor?' in D Bechev (ed) *What Does Turkey Think?*, European Council on Foreign Relations, June, p.33 <[http://www.ecfr.eu/page/-/ECFR35\\_TURKEYFINALFINAL.pdf](http://www.ecfr.eu/page/-/ECFR35_TURKEYFINALFINAL.pdf)> Accessed 12 August 2013

16. In the Tribunal's view, these reports suggest a trend towards greater Islamic political and religious influence in the police and Interior Ministry. However, these fall well short of establishing the truth or otherwise of the applicant's claimed experiences in Turkey, and his need for protection in Australia. The Tribunal considers these in detail below.

### **Political and religious problems as a police officer**

17. The applicant claims that his parents were Sunni Muslim and Alevi, but he did not have a religious upbringing or preference. He leans towards left wing politics, but his political activities were confined to the voting booth, and they never interfered with his professional conduct as a police officer. The Tribunal accepts, on the basis that it is plausible, that these fairly characterise the applicant's political and religious views.
18. However, the applicant went on to claim that, after the AKP's election in 2002, he was concerned at the increasing Islamisation of the security forces, and spoke out when he saw police colleagues mixing up politics or religion with their professional duties. By way of example, he said that some of his police colleagues detained and abused people who did not share their religious values, targeting people who were found drinking alcohol. The applicant said that he challenged officers who were acting pursuant to Islamic tenets or promoting religious propaganda, in violation of the Turkish constitution. The applicant also claimed that his superiors and colleagues knew of his opposition to these trends, and this led to discrimination, harassment and in some cases physical mistreatment.
19. These claims cover several overlapping issues: (a) the applicant's disapproval of this Islamisation trend, (b) his challenges to colleagues who acted according to religious rather than legal/constitutional processes, and (c) a suggestion that local police forced Islamic views on colleagues, sometimes with force. The Tribunal does not accept these claims at face value, however. First, the country information falls well short of establishing that such practices have become so widespread and vigorously enforced in the regular Turkish police force, and in multiple police stations. Second, it is difficult to imagine how the applicant could retain his position as a police officer if, as claimed, he intervened in his colleagues' work and/or if management viewed his performance and attitudes so dimly. Relevantly, the applicant remained employed until about one month after he arrived in Australia. At the hearing, he could not recall details of when he was dismissed or the whereabouts of his dismissal letter. However, in his post-hearing submission, he confirmed that he had correctly stated at his Department interview<sup>5</sup> that he was dismissed in May 2012, for reason of his non-attendance at work. In the Tribunal's view, the applicant's continued employment in the police force until after his failure to return from his Australian visit, when considered together with country information, casts doubt on his claims to have been targeted for political, religious or any similar reasons whilst in Turkey.
20. The Tribunal nonetheless considers it appropriate to assess the applicant's claims and evidence individually, as well as cumulatively.
21. [Department 2] employment and transfer to regular police: 2004: The applicant claimed that the AKP government started to make political appointments and influence personnel decisions shortly after it came to power in 2002. In 2004, he was due to be [transferred] to the [Department 2] office in Istanbul. However, this did not happen. Instead, he was transferred

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<sup>5</sup> The Tribunal received a copy of the delegate's decision record attached to the review application form, which includes an account of critical information that the applicant provided at his interview.

to a 'passive post' in Istanbul. The applicant told the Tribunal that this meant that he no longer worked for [Department 2], which (he intimated) was an elite force with specialist officers. Rather, he was now posted to a regular police station, in an obscure suburb of Istanbul.

22. The applicant claimed that the transfer – implicitly, a *de facto* demotion from [Department 2] to the regular police force - was politically motivated, because he 'always' criticised the AKP-led government and the Gulen movement. His superiors and colleagues, for their part, criticised and abused the applicant, calling him names such as '[name deleted]' (indicating that he was Christian, rather than Muslim). The applicant returned to this several times during the hearing, and gave the Tribunal to understand that he experienced such treatment, in [Department 2] and at various police stations, over a period of time. The applicant said that no one gave him reasons for his transfer from [Department 2] to the regular police force. However, he never had any performance issues or problems in his work, and he was sure that it was punishment for his political views.
23. The Tribunal accepts that the applicant's transfer from [Department 2] to the regular police was not a positive career development for him. The exact reasons for the transfer are unclear. The applicant's evidence suggested that he had wanted or expected to work in Istanbul, though in the [Department 2] office. In any event, the Tribunal is not satisfied on the limited available information that the transfer was in fact made on discriminatory political or religious grounds; nor is it satisfied, taking into account the applicant's continued employment in the police force until 2012, that the posting to Istanbul's outskirts involved serious or significant harm of any kind.
24. The applicant's relations with colleagues: As noted above, the applicant claimed that he was a professional, competent officer. At the same time, however, he spoke out against abuses and inappropriate conduct by colleagues, in particular when they pursued political or religious agendas. This pattern persisted over many years, in [Department 2] and in three separate police stations in Istanbul and in Adana. The applicant also received abuse, indicating that he was not a good Muslim – that he was perhaps a Christian or an atheist.
25. It is difficult to reconcile the applicant's claim that he performed to a high degree of professionalism as a police officer over many years, with his claim to also have had persistent conflict with colleagues over political/religious matters, in various police stations. The Tribunal acknowledges that a police officer or other official might have difficult relations with colleagues, or some groups of colleagues, over time. However, it is altogether different proposition for a police officer to challenge superiors and colleagues over political/religious matters, or policy, and remain employed for such a long period.
26. The assault in August 2005: The applicant claimed that in August 2005, an unknown bearded man stabbed him while he was walking on the street near his home. The applicant was wearing shorts and casual clothing, and was unarmed at the time. His assailant shouted words to the effect that the applicant was an infidel, and should return to Islam. The applicant added at the hearing that the man first drew a gun, but it failed to fire. The applicant then fought the man, who drew a knife and stabbed the applicant in the lower back, on the right side.
27. The applicant said that he did not know his attacker. He did not believe that he was attacked for wearing shorts. Rather, the applicant later formed the view that the attack occurred because he had openly criticised his colleagues and said that he does not believe in religion. In other words, he believes that his police colleagues were behind it.

28. The applicant claimed that the police attended the scene some 10 or 15 minutes later. Because the incident involved a serving police officer, the superintendent attended in person. The superintendent said that the injury was only superficial, and that he did not want it officially recorded, as it could tarnish the reputation of the police. As a result, there was no investigation at all into the incident, contrary to usual practice. The applicant said that the police response puzzled him, and led him to believe that they were somehow linked to the attack.
29. The applicant claims to have missed work for a week, without a medical certificate. He received treatment in a local clinic. The applicant has no corroborating evidence for this.
30. The applicant claimed in the statement attached to his protection visa application that he resumed work 'as usual' after the attack. At the hearing, he said that he requested a transfer to another police station, for the safety of his family, and some months later, was transferred to [suburb deleted], on the other side of Istanbul. In the Tribunal's view, there is considerable tension between the applicant's claim that he believed he suspected his police colleagues of trying to murder him, and the orderly manner in which he appears to have been transferred.
31. The Tribunal accepts that the applicant has a [scar], but it is unable to determine from this alone the physical cause or circumstances of the injury. However, it does not accept that the applicant suffered this injury as a result of an attack by a bearded Muslim man, whether acting on his own or at the behest of the police authorities:
  - The applicant was not aware of any such incidents in Istanbul or the region, and the Tribunal has not found any such reference. This, in the Tribunal's view, is significant. The Tribunal expects that, if armed Muslim men were able to perpetrate such acts of violence with impunity on the streets of Istanbul or elsewhere in western Turkey, it would receive widespread coverage and the applicant would have readily been able to locate such information.
  - If, on the other hand, the applicant was the victim of an attack that the police orchestrated because of his outspoken religious or political resistance to Islamic trends in the police force, it is difficult to believe that the same police authorities would then agree to transfer the applicant to another police station or that, in the period from August 2005 to 2009 (when the next serious incident was alleged to have occurred) they were unable to find another basis on which to have him removed or dismissed.
  - Furthermore, the applicant told the Tribunal that he already held a Turkish passport at this time; it had been issued around 2004. He confirmed that this was an 'S series' passport, issued to longstanding public servants, that enabled him to enter EU Member States without a visa. The Tribunal considers that, if a Muslim man had tried to kill him in August 2005, and if the applicant genuinely believed that his police colleagues or other Turkish authorities had arranged the attack as punishment for his political/religious views, he could easily have left his job or left Turkey for a safer place. At the hearing, the applicant said that he had thought about this option from time to time, but he had to consider his wife's and his children's future. The Tribunal considers the applicant's conduct – remaining with the police force, and merely seeking a transfer to another station, and in any event, staying in Turkey – inconsistent with his claim to believe that the police were behind an attempted murder in August 2005.

32. The Tribunal does not accept on the evidence before it that a Muslim man attempted to murder the applicant in August 2005, for any reason associated with his religious/political views, or with the connivance or tacit approval of the Turkish police. The Tribunal does not accept that the scar on the applicant's [body] arose from any such attack. The Tribunal accepts that, around this time, the applicant was transferred from [town deleted], more than 200 km from Istanbul by road, to the Istanbul suburb of [deleted] and later, to [suburb deleted]. The Tribunal found it very difficult to establish a chronology of these transfers. It is not satisfied that these were any more than routine police transfers.
33. The alleged assault in December 2009: The applicant claimed that [Unit 1] of the police called him in to an interview. They took his gun and mobile telephone, and interrogated the applicant about his religious views. The applicant, incensed, explained that he believed that religions had contributed to the world's problems, and that he performed his duties according to professional standards. He refused to cooperate further in the investigation. Two plainclothes officers prevented him from leaving the room, twisting his arm and forcing him back down. They said that his views were disrupting the work of the organisation, and threatened bluntly that he could face dire consequences. Later, the applicant found that [details of injury deleted]. He was off work for 70 days, recovering.
34. The applicant submitted a hospital report from January 2010, which refers to him having [details of injury deleted]. It does not provide details of how the injury arose. In the Tribunal's view, this kind of injury could arise in many circumstances associated with police work or other activities, and it is not satisfied that it was the result of an overzealous police officer forcing the applicant to sit down during an unpleasant interrogation.
35. The Tribunal has the similar concerns with this claim as it had in relation to the alleged murder attempt in August 2005. In the Tribunal's view, the applicant had further reasons to leave Turkey for the EU or another destination if, as claimed, anti-terrorism officials had made blunt, sinister threats to his wellbeing, and if they had demonstrated their resolve by [details of injury deleted]. The Tribunal is concerned that the applicant did not appear to have seriously contemplated any such move in late 2009 or early 2010, adding to its doubts about the truthfulness of this claim.
36. The applicant told the Tribunal that he reported this incident to his immediate supervisor at the police station, who advised that he could not assist, but that the applicant should consult a private lawyer. The lawyer advised him that he had insufficient evidence to support these allegations, and that he furthermore risked charges of bringing false charges if he persisted with police action.
37. The Tribunal has considered the letter that the applicant provided after the hearing. In it, an Istanbul solicitor, writing [in] October 2012, recalls a visit from the applicant who, [details deleted], sought advice on the prospects for legal action against the police. The brief summary of the applicant's circumstances, as the solicitor recalls them, accords closely with the applicant's protection claims. The solicitor confirms that he advised the applicant that he had slim chances of bringing a successful action, and that he could even be subject to further investigation.
38. Some aspects of the lawyer's letter reinforce the Tribunal's concerns about the applicant's subsequent conduct. If it were true that the applicant learned that he had no legal recourse against such mistreatment by [Unit 1], that he was in their sights for further monitoring and possible mistreatment, and that they could easily retaliate if he did seek protection, the case



for him to leave the police force, or even flee Turkey, becomes even stronger. Instead, the applicant claimed that he requested, and was granted, a transfer from the police station in suburban Istanbul to his home area of Adana.

39. In considering what weight to accord the letter, as evidence of the attack and the lack of effective protection for the applicant, the Tribunal notes that it briefly states the solicitor's recollection, and does not appear to be based on any client notes or other record, despite referring to an consultation almost three years earlier. It appears to closely follow the outlines of the applicant's protection visa application, and it is therefore not clear that it is the author's independent recollection of what may have occurred. The lawyer's letter, considered in the context of the applicant's overall evidence, does not overcome the Tribunal's doubts about his account of this event and his subsequent conduct.
40. These concerns, taken together, lead the Tribunal to disbelieve that [Unit 1] called the applicant into their office in late 2009, seized his equipment, interrogated him about religion and politics, and [details of injury deleted] when he tried to resist them. Having considered the applicant's oral and written statements, and even taking into account the letter from the Istanbul solicitor, the Tribunal also disbelieves that the applicant received legal advice that he had no prospects of seeking legal recourse for the (now-dismissed) incident, for lack of corroborative evidence and also because any attempt to seek justice could lead to retaliation from the Turkish authorities. The Tribunal finds that the applicant's transfer to Adana, his home area, was a routine posting, at his request, and is unrelated to his protection claims.
41. Mistreatment in Adana: The applicant claimed that, in Adana, he again had conflict with his superiors and colleagues, because of his opposition to religion. He gave as an example that he refused to fast during Ramadan. The applicant said that not all police or Turkish people fast during Ramadan, but Islamic police objected to those who failed to be discreet about their non-observance.
42. The applicant claimed that around November 2010, the superintendent and several officers took his gun off him and escorted him to a mental hospital in Adana, for an assessment as to his fitness for work. The psychiatrist first spoke to the police. After they left, the applicant spoke to the psychiatrist and explained his circumstances. The psychiatrist considered him at risk of suicide, and gave the applicant extended leave. In the written statement the applicant thought that it had been for some 30 or 45 days; at the hearing he thought that it might have been for longer. After the expiry of this period, the applicant returned to work.
43. After the hearing, the applicant submitted a medical certificate, translated into English, which states that he had been diagnosed with 'depressive adjustment disorder', and ordered to rest for one month. It recommends that he not be permitted to carry a gun until a second medical assessment is completed.
44. The Tribunal accepts, on the basis of the applicant's oral evidence and the medical certificate, that he suffered some depressive disorder in late 2010, which caused him to take a month or so off work. The Tribunal is unable to determine, on the very limited evidence before it, the extent and causes for any such mental health problems. The applicant seems to be suggesting that his police superiors contrived the scenario in order to intimidate him; to coerce him into becoming a more compliant, devout officer; or perhaps even to have him dismissed. He also implied that the psychiatrist, speaking to him alone, recognised that he was under extreme pressure and therefore diagnosed him as being a suicide risk, in order for him to have a break. However, it is also unclear whether the applicant genuinely suffered some depressive episode

– for reasons that may or may not be related to his protection claims – and that he required some time off work to deal with these issues.

45. The Tribunal considers significant, however, that the applicant was able to resume work some time later, continuing his usual duties as a police officer and carrying his gun. In the Tribunal's view, this seems consistent with a genuine depressive episode in which the applicant responded well to time off work, and was deemed fit to return. It is difficult to imagine, if the applicant's superiors had contrived to have him ruled medically unfit, motivated by religious or political considerations, they did not have the wherewithal to find other medical or performance-related grounds to have him transferred or dismissed. The Tribunal accepts that the applicant has suffered some mental health problems, for reasons that may be related to his work or other spheres of his life, but is concerned that he has misconstrued these to form part of his protection claims.
46. The threatening letters in 2011: The applicant claimed that he received threatening letters in the following year. The first two of these, in the period after his return to work, warned him that there was no place for him in the organisation. At the hearing, he said that the first letter was delivered to his front door. He did not show this letter to his wife. She found the second and third letters, and this led her to fear for his and the family's safety.
47. The applicant claimed that he had an argument with colleagues in August 2011, over his failure to observe Ramadan. They accused him of being an atheist. In December 2011 – hence, about four months later – he received further threatening letters. The applicant implied that these threats played a role in his de facto separation from his wife and family, and, by implication, in her decision to now seek a divorce.
48. The Tribunal has significant concerns about these claims, too. It is striking that the three or four letters came during the whole calendar year of 2011; that the applicant was able to continue working right up to his departure from Turkey; that the threatening letters did not result in any tangible action during this period; and that he did not even decide to leave Turkey until early 2012, about a year after the first threatening letters. The Tribunal is concerned that these letters do not, even at face value, represent credible threats that caused the applicant to believe that he might be dismissed from work or to fear for his safety. While the Tribunal accepts that there were some family problems during this period, the applicant's evidence at the hearing that his wife opened the third threatening letter, which came towards the end of the year, suggests that they were together for most of the year. On the evidence before it, the Tribunal is not satisfied that the applicant had any family separation or other problems that were the result of the applicant being targeted and mistreated at work because of his political religious views, or that any family tensions corroborate his protection claims.

### **Events after the applicant's arrival in Australia**

49. The applicant claims that he fears that the threatening letters he was receiving during 2011 would eventually lead to false charges materialising after he came to Australia. As noted above, he claimed that local police are coming to his home looking for him. In response to the Tribunal's observation that they could easily check that he is no longer in Turkey, the applicant added that they were looking for arms. He also told the Tribunal that his wife and children are currently with his in-laws in Erzurum, a considerable distance away<sup>6</sup> He said that they moved there in 2011, prompted by the threatening letters that he received in 2011. The

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<sup>6</sup> Approximately 600km, according to *Microsoft Encarta*

Tribunal considers that there are many reasons why the applicant's wife and children may have moved to Erzurum, either before or around the time of his trip to Australia. The Tribunal places very little weight on this as evidence that the applicant came to Australia because of alleged threats.

50. After the hearing, the Tribunal received a copy of a purported arrest warrant issued in Izmir [in] December 2012, pursuant to a decision of the Erzurum [Magistracy]. The applicant referred to his oral evidence that the gendarme had given his family a copy of the arrest warrant when they raided his family home, after his arrival in Australia. The Tribunal has a number of observations and concerns about this document.
  - The applicant said that the police had raided the family home (this presumably refers to his home in Adana), and he recently received the purported arrest warrant. There is no further insight into when his family received the arrest warrant, and why he was unaware of its contents at the hearing only two weeks earlier. Irrespective of whether the charges were genuine or not, there would have been good reasons for his family to alert him to the gravity of the alleged terrorism charges as soon as possible, to impress on him the dangers of his return to Turkey.
  - The purported arrest warrant is on plain typed paper, with no letterhead, signature or other markers. It alleges that the applicant is a member of an armed terrorist organisation, and gives the date of the alleged 'offence' as [in] November 2012, more than seven months after the applicant's arrival in Australia. The Tribunal notes that the applicant's place of residence is in Adana, whereas the arrest warrant gives the prosecuting office as Erzurum, and the court issuing the arrest warrant as Izmir. According to *Microsoft Encarta*, Erzurum is over 600 km to the northeast of Adana, and Izmir more than 600 km to the northwest. At the hearing, the applicant did not know and appeared not to have asked anyone what the arrest warrant alleged. The applicant said that this did not matter, as the Turkish authorities can and do make up anything to frame their enemies. Even so, the Tribunal considers that the applicant would have had ample opportunity to ask his relatives what charges the arrest warrant contained, and that he would have had a critical interest in knowing just how serious they were. Finally, the gap between the applicant's departure from Turkey in April 2012 and the date of the alleged offences raises further concerns. There is no apparent reason why, after the applicant had worked under the AKP government for about ten years, and why, some six months after his dismissal from the police force for failure to return from a trip to Australia, the Turkish authorities would accuse him of offences in Turkey allegedly committed in November 2012.
51. Against a backdrop of the Tribunal's already very serious concerns about the applicant's credibility, and given the self-evident problems with this purported arrest warrant, the Tribunal places very little weight on it as evidence that the Turkish authorities have an adverse interest in the applicant, for any reason at all.
52. In the post-hearing letter, the applicant claimed that his wife recently told him by telephone that unknown callers had been threatening her. She announced her intention to divorce him, for the protection of her and the children. The applicant wrote that his wife had failed to mention this previously, as she had not wanted him to worry. The applicant did not give details as to why or how – in the brief interval between the Tribunal hearing on 16 August 2013 and the submission received on 30 August 2013 – his wife had changed her mind and decided to tell him about the calls. Given the extent of the Tribunal's concerns about the

applicant's credibility, both the truthfulness of the incidents that he has presented to the Tribunal, and their correct interpretation, the Tribunal does not accept that there were any such threats to his wife, or that she has instituted divorce proceedings because of these threats or any other reasons linked with his protection claims.

### **The applicant's conduct and his need for protection**

53. The applicant told the Tribunal that he first obtained a passport sometime around 2004 or 2005, for no reason in particular. In 2010, he obtained his current passport, a special *Hususî pasaport*, or green passport, issued to certain public servants. As the delegate noted in the decision under review, this passport entitles the holder to travel visa-free to European Union countries. The Tribunal is concerned that – despite a prolonged period of mistreatment because of his political/religious stance, which allegedly included an attempted murder, a physical [assault], ostracism, the onset of a depressive episode, further threats and a growing fear that he could be falsely charged with criminal offences – the applicant did not use this passport to travel to EU countries for his safety. Asked about this at the hearing, the applicant commented that he did not have any foreign languages, and in any event, Australia was a better destination because he has relatives here.
54. The applicant's failure to travel to the EU or other countries that are closer to Turkey and easily accessible for him, instead waiting to arrange travel for Australia, adds to the Tribunal's already serious doubts about his claims for protection.
55. As noted above, the applicant's continuous work right up to the time of his departure, and his dismissal only after he failed to return from his Australian visit, add to the Tribunal's concerns. In its view, it is not credible that his superiors and colleagues were conspiring to have him removed from his job, and otherwise to silence, intimidate him, threaten and physically harm him, yet failed to act until the applicant a month or so after he failed to return from his scheduled leave.
56. The applicant impressed on the Tribunal that he was just a year or so off retirement, having served [number deleted] years. He later qualified this slightly by saying that, after [deleted] years' service, police officers are given less active work ('desk jobs'?) until their final retirement five years later. In any event, he stressed that he had forfeited his retirement benefits, and that the Tribunal should take that into account in assessing the genuineness of his claims. The Tribunal has before it very little information about the applicant's entitlements after [deleted] years' service, when he would have been [age deleted]; or what these would have been after another five years of service. It is also difficult to gauge whether the financial losses from giving up a long-term job in Turkey might be offset by other factors. For instance, the evidence strongly suggests, and the Tribunal accepts, that the applicant was dissatisfied with his transfer from [Department 2] to the regular police force in 2004, that he has suffered various health problems (including a depressive episode) and that he has had some marital problems in Turkey. Furthermore, his evidence at the hearing that he came to Australia for family and language reasons, rather than use his passport for visa-free entry into the EU, also suggests that Australia has personal attractions to the applicant. Against this background, the Tribunal places very little weight on the fact that the applicant left his long-term police job, as evidence that he fled Turkey to avoid mistreatment and potentially worse treatment on political and religious grounds.
57. The Tribunal found the applicant guarded when asked about his relatives in Australia, and the extent to which he had shared his claimed experiences as a police officer with family, friends

or other associates, in Turkey or Australia. In response to the Tribunal's questions, he said that he had mentioned some of the claimed incidents in correspondence with his wife, though they were usually in telephone contact. The Tribunal formed the impression that the applicant may not have mentioned these issues other than in the course of preparing his protection visa application, but it is unable to draw any adverse inferences from the very limited information available to it.

58. The delay of about three months between the applicant's arrival in Australia and his lodgement of a protection visa application also raises questions about the truthfulness of his claims, and his need for protection. He told the Tribunal that the decision to stay in Australia had been difficult. A senior person in his village recommended that he not return to Turkey. Later, the applicant also said that the relatives who had sponsored his visit to Australia had dissuaded him from seeking protection, as it could 'harm' them. They only changed their mind just as the applicant's visa was about to expire. They have now distanced themselves from him. The Tribunal understands from the exchange at the hearing, that his relatives are concerned that the applicant's attempts to stay in Australia despite the terms of his visitor visa could jeopardise their prospects of sponsoring other visitors to Australia. He mentioned that he had thought of travelling on to Norway for protection. The Tribunal has considered these comments. But it remains concerned that the delayed protection visa application raises questions about both the genuineness and the extent to which the applicant needs protection.
59. In the Tribunal's view, the applicant's conduct in both Turkey and Australia strengthen its concerns and doubts about the truthfulness of his protection claims as a whole.
60. The Tribunal has considered the letter from [Mr A], the applicant's friend. It accepts that [Mr A], who claims to have spent time in Turkey, found the applicant's protection claims credible. [Mr A's] satisfaction, however, does not overcome the Tribunal's significant concerns about the applicant's claims and evidence as a whole.

### **Findings of fact**

61. The Tribunal has considered the applicant's claims and evidence, individually and cumulatively. It accepts that his father was a Sunni, and his mother an Alevi; that he grew up in a fairly secular environment; and that he leans towards the left politically. The applicant has not claimed, and there is nothing to suggest, that he or family members faced any particular difficulties because of this background. On the contrary, the applicant's claims that his problems arose only after the election of the conservative AKP government in 2002, and its impact on his work as a police officer.
62. The Tribunal accepts that he worked as a police officer in [Department 1] up till 2004, and that he was unhappy to have been transferred to regular police duties in various police stations from that time. The Tribunal accepts, on the basis that it is plausible, that the applicant is of mixed Sunni-Alevi background; that he is politically left-leaning; and that he has a secular or agnostic approach to religion. It accepts that, in some conservative circles, such views are regarded with suspicion, but it does not accept on the basis of country information or the applicant's employment and personal circumstances, that persons with such views are targeted.
63. The Tribunal accepts that, since the AKP government came into power in 2002, the Gulen movement has grown in influence. There are some reports of Islamic religious and political values being felt in the Interior Ministry and police force. However, the Tribunal has found

nothing to suggest sustained mistreatment of regular police officers who may be left-leaning and/or secular. The applicant's continued employment and his conduct in Turkey (such as his failure to seek refuge in the European Union, despite holding a green passport) add doubts.

64. For the reasons given above, the Tribunal accepts that the applicant has suffered some health problems, such as a [wound] in late 2004, [details of injury deleted] in late 2009, and depression in late 2010. However, having carefully considered the applicant's explanations for these, and given the concerns set out in detail above, the Tribunal does not share the interpretations that he places on these. The Tribunal finds that the applicant has built his protection claims upon the foundation of these problems, and that he has completely misconstrued or fabricated incidents for the purpose of this application.
65. The Tribunal therefore does not accept that the applicant was transferred from [Department 1] to a regular police station in 2004, effectively a demotion, because of his political or religious views, or his expression of these to fellow officers. It does not accept that he experienced repeated personal abuse in police stations in Istanbul (three locations) and Adana, because of his political or religious views, including his failure to observe Ramadan, or his challenges to officers who were acting unconstitutionally in imposing strict Islamic political or religious values on colleagues and members of the public. Nor does the Tribunal accept that an Islamic fundamentalist, whether acting alone or at the behest of the applicant's police colleagues, tried to murder him in August 2005, or that the police superintendent effectively denied him protection by refusing to investigate the incident. The Tribunal also does not accept that anti-terrorism officers interrogated, threatened and mistreated the applicant, causing him to suffer [details of injury deleted]; that he was further threatened; or that he was dissuaded by a lawyer from pressing charges for lack of evidence and for fear of reprisals. The Tribunal also does not accept that the applicant's later transfer to Adana – or indeed, any previous transfers – was in response to threats. The Tribunal accepts that the applicant received treatment for depression and was given medical leave in late 2010, but does not accept on the available evidence that he fell ill because of politically or religiously motivated mistreatment, or that it was in any way contrived by his employer to deprive him of work, or to intimidate him. The Tribunal does not accept that the applicant received any threatening letters during 2011, or that there was any disruption to his family life then or at any time, for associated reasons. The Tribunal also does not accept that the applicant believed that he could face fabricated charges, that the Turkish authorities have come looking for him since his arrival in Australia, or that he is subject to an arrest warrant on terrorism charges. The Tribunal rejects all other claims of past harm that are associated with these now-rejected claims.
66. The Tribunal finds on the evidence before it that the applicant came to Australia to visit relatives, at a mutually convenient time, and that he decided to stay here for reasons that are unrelated to his protection visa application.

### **Refugee protection**

67. The Tribunal has rejected above the applicant's claims to have experienced threats and sustained psychological pressure, occasional assaults, unwarranted demotions and transfers, and other mistreatment because he stood up to Islamic-oriented police pressing their political and religious values in the police force.
68. The applicant claimed that, if he returns to Turkey, he could probably find well-paid work in the private sector, as he has economic qualifications. Although he would no longer be subject

to the political and religious pressures he experienced as a policeman (claims that the Tribunal has rejected above as exaggerated and wholly unreliable), this also means that he is not subject to the constraints of being a police officer. He is now free to pursue his interests as a supporter of the left wing of politics, and he therefore poses an even greater threat to the authorities. The applicant pointed to the Turkish government's crackdown on dissent, which resulted in the arrest of 7,000 to 8,000 people 'like me' The Tribunal does not accept on the available evidence that, having now left the police force, the applicant has the level of political engagement or commitment to be at the 'forefront of organisations', as he claimed. It takes into account, for instance, his lack of past activism as well as his somewhat casual comment that financial concerns have prevented him from pursuing any political interests in Australia.

69. The Tribunal accepts that the applicant, like many compatriots, has concerns about Turkey's political direction, including the election of the AKP government, increasing Islamic influence and the political unrest that led to mass protests in mid-2013. However, it does not accept that he has a political conviction that has in the past, or that would in the future lead him to engage in any activism; or that he would need to refrain from in order to avoid persecution. The Tribunal finds that the applicant's dissatisfaction about Turkey's political conditions does not involve persecution within the meaning of section 91R of the Act. These conditions affect all Turkish nationals, and do not involve serious harm to the person, or systematic and discriminatory conduct.<sup>7</sup>
70. Having considered the applicant's claims and evidence, individually and cumulatively, the Tribunal finds that he does not face a real chance of serious harm for any Convention reason in Turkey. It is therefore not satisfied that he has a well-founded fear of Convention-related persecution, now or in the reasonably foreseeable future, if he returns there.

### **Complementary protection**

71. The applicant did not raise any further matters that could give risk to complementary protection obligations. For the reasons set out above, the Tribunal finds that, while some of the applicant's claims of past harm appear to be based on his lived experiences (such as his transfer from [Department 1] to a regular police post, and his depressive episode), his claims that government agents or their associates tried to kill him, physically assaulted him, intimidated and threatened him and his family; and, more recently, concocted false terrorism charges against him – and all associated claims – lack credibility. The Tribunal therefore rejects all such claims.
72. The Tribunal accepts that the applicant is dissatisfied with certain aspects of Turkish politics and living conditions, particularly when compared with Australia. However, a risk of 'significant harm' does not include a risk faced by the population of the country generally, and not faced by the applicant personally (s.36(2B)(c)).
73. In light of the above findings of fact, the Tribunal is not satisfied that there are substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant's removal to Turkey, he will face a real risk of significant harm.

### **CONCLUSIONS**

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<sup>7</sup> Sub-sections 91R(1)(b), (c) and (a).

74. For the reasons given above, the Tribunal is not satisfied that the applicant is a person in respect of whom Australia has protection obligations under the Refugees Convention. Therefore, the applicant does not satisfy the criterion set out in s.36(2)(a).
75. Having concluded that the applicant does not meet the refugee criterion in s.36(2)(a), the Tribunal has considered the alternative criterion in s.36(2)(aa). The Tribunal is not satisfied that the applicant is a person in respect of whom Australia has protection obligations under s.36(2)(aa).
76. There is no suggestion that the applicant satisfies s.36(2) on the basis of being a member of the same family unit as a person who satisfies s.36(2)(a) or (aa) and who holds a protection visa. Accordingly, the applicant does not satisfy the criterion in s.36(2).

### **DECISION**

77. The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.



## **APPENDIX A: RELEVANT MATERIALS**

The Tribunal has had regard to relevant material drawn from the following:

- The completed protection visa application form and accompanying papers, which include the biodata page of his Turkish passport, and various ID cards, such as his police card.
- The recording of the applicant's Department interview, held on 2 October 2012, is on the Department file.
- The delegate's decision record of 4 October 2012 includes country information about Turkey's human rights and passports; a copy of the record was attached to the review application.
- The applicant's oral evidence at a Tribunal hearing, conducted with the assistance of an interpreter in Turkish/English. The applicant presented his Turkish drivers licence. He also presented a letter from [Mr A], an Australian citizen who relates some aspects of the applicant's protection claims, provides a general character reference and states that, as a former resident of Turkey, he finds the applicant's claims credible.
- At the hearing, the Tribunal drew on country information, which is set out in Appendix C below.
- A post-hearing submission received on 30 August 2013. The applicant claims that, following the hearing, his wife disclosed to him for the first time that she had received threatening calls from unknown callers, and that 'she divorced [the applicant] to prevent further threats towards her and [the] children' He states that his wife did not tell him about these calls previously, so as not to cause him stress. He reiterated that the police had recently raided the family home in his village, and he has now received a copy of an arrest warrant issued against him. Attached to the submission are the following:
  - A hospital report dated [in] January 2010 records the applicant as having suffered [details of injury deleted], recommending further sick leave until [a date in] February 2010. It refers to prior leave from [a date in] December 2009.
  - A Ministry of Health letter dated [in] December 2010 diagnoses the applicant with a 'depressive adjustment disorder', and recommends sick leave for at least one month.
  - A letter from an Istanbul solicitor, dated [in] October 2012, who recalls that the applicant attended his office to seek legal assistance. The applicant reported that police officials had seized his gun and telephone, interrogated and then assaulted him, and [details of injury deleted]. The applicant had appeared at the solicitor's office with [details of injury deleted]. The solicitor advised that he had poor prospects of achieving a legal outcome with proof of the alleged assault; indeed, he could expose himself to charges of having made false allegations.
  - A purported arrest warrant issued [in] December 2012, alleging that the applicant is a suspected member of an armed terrorist organisation. The alleged offence took place [in] November 2012. The arrest warrant is typewritten on plain paper, with no identifying letterhead or signature.

## **APPENDIX B: RELEVANT LAW**

The criteria for a protection visa are set out in s.36 of the Act and Part 866 of Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person in

respect of whom Australia has protection obligations under the 'refugee' criterion, or on other 'complementary protection' grounds, or is a member of the same family unit as such a person and that person holds a protection visa.

### ***Refugee criterion***

Section 36(2)(a) provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations under the 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention).

Australia is a party to the Refugees Convention and generally speaking, has protection obligations in respect of people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the regulations to a particular person.

There are four key elements to the Convention definition. First, an applicant must be outside his or her country.

Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve 'serious harm' to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). Examples of 'serious harm' are set out in s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.

Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors.

Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase 'for reasons of' serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.

Fourth, an applicant's fear of persecution for a Convention reason must be a 'well-founded' fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a 'well-founded fear' of persecution under the Convention if they have genuine fear founded upon a 'real chance' of being persecuted for a Convention stipulated reason. A 'real chance' is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.

In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence. The expression 'the protection of that country' in the second limb of Article 1A(2) is concerned with external or diplomatic protection extended to citizens abroad. Internal protection is nevertheless relevant to the first limb of the definition, in particular to whether a fear is well-founded and whether the conduct giving rise to the fear is persecution.

Whether an applicant is a person in respect of whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

### ***Complementary protection criterion***

If a person is found not to meet the refugee criterion in s.36(2)(a), he or she may nevertheless meet the criteria for the grant of a protection visa if he or she is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, there is a real risk that he or she will suffer significant harm: s.36(2)(aa) ('the complementary protection criterion').

'Significant harm' for these purposes is exhaustively defined in s.36(2A): s.5(1). A person will suffer significant harm if he or she will be arbitrarily deprived of their life; or the death penalty will be carried out on the person; or the person will be subjected to torture; or to cruel or inhuman treatment or punishment; or to degrading treatment or punishment. 'Cruel or inhuman treatment or punishment', 'degrading treatment or punishment', and 'torture', are further defined in s.5(1) of the Act.

There are certain circumstances in which there is taken not to be a real risk that an applicant will suffer significant harm in a country. These arise where it would be reasonable for the applicant to relocate to an area of the country where there would not be a real risk that the applicant will suffer significant harm; where the applicant could obtain, from an authority of the country, protection such that there would not be a real risk that the applicant will suffer significant harm; or where the real risk is one faced by the population of the country generally and is not faced by the applicant personally: s.36(2B) of the Act.

### ***Section 499 Ministerial Direction***

In accordance with Ministerial Direction No.56, made under s.499 of the Act, the Tribunal is required to take account of policy guidelines prepared by the Department of Immigration – PAM3 Refugee and humanitarian - Complementary Protection Guidelines and PAM3

Refugee and humanitarian - Refugee Law Guidelines – to the extent that they are relevant to the decision under consideration. There are no policy guidelines applicable to this case.

### ***Credibility***

The Tribunal does not consider it appropriate to take an overly stringent approach to questions of credibility but neither does it consider it appropriate to accept all claims uncritically.<sup>8</sup> The *Handbook on Procedures and Criteria for Determining Refugee Status*, suggests that it is “frequently necessary to give the applicant the benefit of the doubt... [but only after]... all available evidence has been obtained and checked and when the examiner is satisfied as to the applicant's general credibility. The applicant's statements must be coherent and plausible, and must not run counter to generally known facts”.<sup>9</sup>

### **APPENDIX C: COUNTRY INFORMATION**

The Tribunal’s research uncovered no information on the ruling AKP enforcing strict religious views or practices (such as the observance of the Ramadan fast) among police officers or other officials<sup>10</sup> However, some reports, mostly anecdotal, refer to the influence of the AKP and the Gulen Movement, a broad-based Islamic social network, on the Interior Ministry and the police force.<sup>11</sup>

For instance, two reports refer to the influence of Prime Minister Erdoğan, leader of the ruling AKP, on Turkey’s police force. A May 2013 briefing paper by Carmen-Cristina Cirlig, a researcher with the Library of the European Parliament,<sup>12</sup> notes concerns that Erdoğan has politicised the police force as well as the judiciary.<sup>13</sup> In a June 2011 paper for the European Council on Foreign Relations (ECFR),<sup>14</sup> pro-Kurdish Peace and Democracy Party (BDP)

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<sup>8</sup> *Randhawa v Minister for Immigration, Local Government and Ethnic Affairs* (1994) 52 FCR 437 per Beaumont J at 451; *Minister for Immigration and Ethnic Affairs v Guo & Anor* (1997) 191 CLR 559 at 596; *Prasad v Minister for Immigration and Ethnic Affairs* (1985) 6 FCR 155 at 169-70; *Kopalapillai v Minister for Immigration and Multicultural Affairs* (1998) 86 FCR 547 at 558-9; see also *Minister for Immigration and Multicultural Affairs v Rajalingam* (1999) 93 FCR 220 per Sackville J (with whom North J agreed) at 241

<sup>9</sup> United Nations High Commissioner for Refugees, *Handbook on Procedures and Criteria for Determining Refugee Status*, 1992, Geneva, paragraphs 203 and 204.

<sup>10</sup> The following sources were consulted: UNHCR Refworld, IRBC, major human rights groups, government websites and international and domestic news sources. Tribunal databases and the DIAC CISNET database were also consulted.

<sup>11</sup> Altinbas, D 2013, ‘Turkey: We, the 50 Percent’, Fair Observer, 4 July <<http://www.fairobserver.com/article/we-fifty-percent-part-2>> Accessed 12 August 2013; EUCOM 2013, *Political Islam and the Economy and Politics in Turkey*, EUCOM Deep Futures, February, pp.3-4 <<http://fmso.leavenworth.army.mil/Collaboration/COCOM/EUCOM/Political-Islam.pdf>> Accessed 12 August 2013; Alpay, S 2011, ‘Will Turkey veer towards authoritarianism without the EU anchor?’ in D Bechev (ed) *What Does Turkey Think?*, European Council on Foreign Relations, June, p.33 <[http://www.ecfr.eu/page/-/ECFR35\\_TURKEYFINALFINAL.pdf](http://www.ecfr.eu/page/-/ECFR35_TURKEYFINALFINAL.pdf)> Accessed 12 August 2013

<sup>12</sup> The library of the European Parliament was designed to provide effective, impartial and professional information to the European Parliament and especially its individual Members.

<sup>13</sup> Cirlig, C 2013, *Turkey’s regional power aspirations*, Library of the European Parliament, 6 May <[http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2013/120425/LDM\\_BRI\(2013\)120425\\_REV1\\_EN.pdf](http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2013/120425/LDM_BRI(2013)120425_REV1_EN.pdf)> Accessed 12 August 2013

<sup>14</sup> The European Council on Foreign Relations is an independent pan-European think tank.

party member Osman Baydemir<sup>15</sup> writes that Erdoğan has ‘consolidated his hold over’ the academic community, the police and the judiciary.<sup>16</sup>

In relation to the Gülen movement, several reports mention its influence on the police force. In a July 2013 article published by the Fair Observer,<sup>17</sup> Deniz Altınbaş<sup>18</sup> describes the ‘Islamization of the Police Department’. According to Altınbaş, ‘Gülen’s community has now infiltrated the police department’<sup>19</sup> Similarly, a February 2013 US European Command (EUCOM)<sup>20</sup> publication notes the reported influence of the Gülen Movement on the Ministry of Interior, under which the police force sits. The paper stresses the evidence supporting this claim is ‘largely anecdotal’.<sup>21</sup> Academic Şahin Alpay,<sup>22</sup> writing in the abovementioned ECFR report, comments that critics argue that recent court cases against government critics were an ‘attempt by police officers, prosecutors and judges taking orders from the Gülen movement to silence the opposition’. The paper refers to critics arguing that “‘social pressures” by the AKP and Gülen are spreading intolerance and discrimination against people who do not share a conservative-religious lifestyle’ Alpay cautions, however, that ‘there is little credible evidence for these claims’<sup>23</sup>

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<sup>15</sup> Osman Baydemir is Mayor of the Diyarbakır metropolitan municipality and member of the pro-Kurdish Peace and Democracy Party (BDP). A lawyer by training, he was previously Vice-President of Human Rights Association of Turkey and head of the Diyarbakır branch.

<sup>16</sup> Baydemir, O 2011, ‘The “we know best” democracy’ in D Bechev (ed) *What Does Turkey Think?*, European Council on Foreign Relations, June, p.44

<[http://www.ecfr.eu/page/-/ECFR35\\_TURKEYFINALFINAL.pdf](http://www.ecfr.eu/page/-/ECFR35_TURKEYFINALFINAL.pdf)> Accessed 12 August 2013

<sup>17</sup> The Fair Observer is a news analysis platform. The organisation’s website describes itself as ‘a multidisciplinary, multinational, multimedia journal that provides analysis of and context for issues, trends and events of global significance’

<sup>18</sup> Dr. Deniz Altınbaş teaches world politics, history of political thought, and European Union politics. Her research interests are European politics and the politics of the Western world. She is currently an Assistant Professor at Bilkent University, Turkey.

<sup>19</sup> Altınbaş, D 2013, ‘Turkey: We, the 50 Percent’, Fair Observer, 4 July

<<http://www.fairobserver.com/article/we-fifty-percent-part-2>> Accessed 12 August 2013

<sup>20</sup> The US European Command (EUCOM) provides background on the unidentified author of the document, stating that he was a 2012 National Security Education Program (NSEP) scholar at Georgetown University.

<sup>21</sup> EUCOM 2013, *Political Islam and the Economy and Politics in Turkey*, EUCOM Deep Futures, February, pp.3-4 <<http://fmso.leavenworth.army.mil/Collaboration/COCOM/EUCOM/Political-Islam.pdf>> Accessed 12 August 2013

<sup>22</sup> Şahin Alpay is a Senior Lecturer in Turkish and Comparative Politics at Bahçeşehir University, Istanbul and writes columns for the daily *Zaman*, and the English-language daily *Today’s Zaman*

<sup>23</sup> Alpay, S 2011, ‘Will Turkey veer towards authoritarianism without the EU anchor?’ in D Bechev (ed) *What Does Turkey Think?*, European Council on Foreign Relations, June, p.33

<[http://www.ecfr.eu/page/-/ECFR35\\_TURKEYFINALFINAL.pdf](http://www.ecfr.eu/page/-/ECFR35_TURKEYFINALFINAL.pdf)> Accessed 12 August 2013