

071487219 [2007] RRTA 201 (24 September 2007)

DECISION RECORD

RRT CASE NUMBER: 071487219

DIAC REFERENCE(S): CLF2007/56155

COUNTRY OF REFERENCE: Turkey

TRIBUNAL MEMBER: James Silva

DATE DECISION SIGNED: 24 September 2007

PLACE OF DECISION: Sydney

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

**STATEMENT OF DECISION AND REASONS
APPLICATION FOR REVIEW**

This is an application for review of a decision made by a delegate of the Minister for Immigration and Citizenship to refuse to grant the applicant a Protection (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).

The applicant, who claims to be a citizen of Turkey, arrived in Australia. He applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa. The delegate decided to refuse to grant the visa and notified the applicant of the decision and his review rights by letter.

The applicant applied to the Tribunal for review of the delegate's decision.

The Tribunal finds that the delegate's decision is an RRT-reviewable decision under s.411(1)(c) of the Act. The Tribunal finds that the applicant has made a valid application for review under s.412 of the Act.

RELEVANT LAW

Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. In general, the relevant criteria for the grant of a protection visa are those in force when the visa application was lodged although some statutory qualifications enacted since then may also be relevant.

Section 36(2)(a) of the Act provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia to whom the Minister is satisfied Australia has protection obligations under 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).

Further criteria for the grant of a Protection (Class XA) visa are set out in Parts 785 and 866 of Schedule 2 to the Migration Regulations 1994.

Definition of 'refugee'

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

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.

The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* [1989] HCA 62; (1989) 169 CLR 379, *Applicant A v MIEA* [1997] HCA 4; (1997) 190 CLR 225, *MIEA v Guo* [1997] HCA 22; (1997) 191 CLR 559, *Chen Shi Hai v MIMA* [2000] HCA 19; (2000) 201 CLR 293, *MIMA v Haji Ibrahim* [2000] HCA 55; (2000) 204 CLR 1, *MIMA v Khawar* [2002] HCA 14; (2002) 210 CLR 1, *MIMA v Respondents S152/2003* [2004] HCA 18; (2004) 222 CLR 1 and *Applicant S v MIMA* [2004] HCA 25; (2004) 217 CLR 387.

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)). The expression "serious harm" includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial of access to basic services or denial of capacity to earn a livelihood, where such hardship or denial threatens the applicant's capacity to subsist: 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. However the motivation need not be one of enmity, malignity or other antipathy towards the victim on the part of the persecutor.

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 persecution for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. 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.

Whether an applicant is a person to 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.

CLAIMS AND EVIDENCE

The Tribunal has before it the Department’s file relating to the applicant. The Tribunal also has had regard to the material referred to in the delegate's decision, and other material available to it from a range of sources.

Primary application

According to his protection visa application, the applicant is a male national of Turkey, born in City A.

The applicant gives 2 residential addresses in City A. He attended several years of school in City A, including high school. He gives details of past employment and details as a manager for various businesses.

The applicant performed military service.

The applicant married in a particular year. His wife and children remain in Turkey, and he is in telephone contact with them.

The applicant entered Australia on a Turkish passport issued in Province A. He states that he had no difficulty obtaining the passport. A partial photocopy is attached to the application form. The applicant obtained an Australian visa, and departed Turkey legally. The applicant indicates that he applied for another visa and is currently on a bridging visa.

The applicant indicates that he has no prior convictions and is not subject to any ongoing criminal investigation.

The applicant's refugee claims are as follows:

- The applicant states that he left Turkey due to his fear of the Turkish authorities.
- He states that he is opposed to the ideology of 'Kemalism'. He believes that it is racist, that it promotes religious intolerance and that it even forces people to change the way they dress. It reflects a minority view, but is imposed on the people.
- The applicant discussed politics (Ataturk's principles) with a teacher in school, and was expelled from school as punishment.
- Later, the applicant's relative A used political connections to get the applicant readmitted to school. The applicant expressed his opposition to Kemalism to the same teacher, and his education was cut short.
- The applicant performed military service. He refused to sign a statement swearing allegiance to the principles of Ataturk. As a result, he was jailed for several days and beaten badly.
- The applicant continued to express his political views. During 'the gatherings in City A', held almost weekly until his departure for Australia, the applicant used to express his political views. He also told people that Ataturk's father was unknown, contrary to what was taught at school.
- The applicant was told to attend the local police station for questioning. The police threatened him, and warned him to stop his activities. The applicant refused to comply with this, as he wished to express himself freely. The police beat him up, and forced him to handle a weapon so that his fingerprints were on it. They then told him that, unless he stopped his activities, the weapon with his fingerprints would be used to implicate him in a serious crime. This incident prompted the applicant to leave Turkey to seek protection in Australia.
- The applicant states that he will continue his political activities if he returns to Turkey. This will attract the attention of the authorities, and he risks detention, assault and imprisonment at the hands of the police. The authorities are seeking to harm him, so he will be unable to obtain protection.

A note on the Department file indicates that the applicant is the owner of a business who has previously visited many countries. A copy of an e-mail from the Department informs the applicant that his application for a particular visa cannot be approved.

Department records show that the applicant obtained another visa. This ceased on a particular date. The applicant applied for a visa, and the bridging visa granted in relation to that application ceased on a specific date. The applicant lodged his protection visa application just days before the expiry of his most recent bridging visa..

The delegate was not satisfied that the applicant had a well-founded fear of persecution, noting in particular: (a) the obscure and unsubstantiated nature of his claims generally, (b) his military and employment record in Turkey, (c) his delayed departure from Turkey after the alleged incident, and (d) his delayed lodgement of a protection visa application, several months after arriving in Australia.

Review application

The review application contains no new information or claims. The applicant attached to it a copy of the delegate's decision.

During the course of the Tribunal hearing, the Tribunal received from the representative by fax (he was not present at the hearing) a detailed statement. It overlaps to some extent with the earlier statement to the Department, but includes significant new information. The Tribunal's summary of this follows:

- At school, the applicant debated Kemalism with his teacher. The applicant resented Turkish nationalism and notions of racial superiority. He did so in part because he has some relatives from ethnic minorities. He rejected the lack of recognition of these peoples.
- He states that he also resents Turkish secularism because it does not allow a person to follow their religious practices. He considers that it is in fact 'atheism'. He gives as one example the teaching of Darwinism in schools. He also claims to have been told to 'throw away the Koran', something he was not prepared to accept.
- The applicant states that, he argued with a teacher about Kemalism and Turkish racial superiority in class. The school authorities threatened to expel the applicant. The applicant claims that, the same teacher said that 'we should not be practising the Islam religion', but instead follow Kemal's edict to follow science. The teacher said that 'all Muslim countries in the world were backward.' The applicant again argued with him. The authorities expelled him from school at the end of the year.
- The applicant later tried to enrol in the local school but the school did not accept him.
- A year later, the applicant's relative A enlisted the help of another relative (relative B), to persuade the school to accept the applicant. Relative B warned that the applicant should avoid political debates.
- The applicant stated that he could not resist starting political discussions in class, despite his family urging him to concentrate on studies. On one occasion, the applicant challenged the teacher about Ataturk's parentage. The teacher assaulted and abused the applicant. This led to the applicant's expulsion for a second time, and the end of his formal education.
- The applicant continued attending 'nur' lessons, the source of his religious and political beliefs. These are based on the 14 volumes written by

Bediuzzaman Saidi Nursi, the 'second most selling series of books in the Muslim world after the Koran'. The applicant became an active member of 'Nur Cemaati' (Nur Jamaa), which is represented in Turkey and throughout the world.

- - The applicant states that Nur Cemaati currently has 2 types of activities, (a) publishing and other media activities, and (b) 'risalei nur' lessons. He refers to several TV and newspaper services, among them Yeni Asya (which the applicant mentioned at the hearing). The lessons are conducted in all Turkey's large cities, in premises that the Nur Cemaati either rents or owns. The students are boarders.
- - The applicant became the person responsible for these lessons and, managing them.
- - From the time of his arrival in Australia, he continued to attend lessons. He gives street addresses in Australia.
- The applicant sets out the key tenets of 'risalei nur' teachings, promoting Islam, democracy, human rights, etc. He refers to Said Nursi, who was imprisoned for 28 years and subject to attempted poisonings.
- The applicant states that, before 1980, the authorities persecuted members of Nur Cemaati ('torture, beatings and intimidation tactics'). Nowadays, they have bribed them and secret service agents have been placed in the management of 'our newspaper'. However, the head, Mehmet Kutlular, has refused financial incentives to stop criticising Kemalism.
- The applicant states that he rejects Kemalism outright. He claims that a publication 'Yakin Tarih Ansiklopedisi' (Encyclopedia of Recent History), included material that was drawn from documents held in Greece, showing that Ataturk was a 'bastard'. The applicant claims that he distributed the encyclopedia containing this article to many people. Its publishers were taken to court.
- The applicant states that his distribution of this book, and his conducting lessons critical of Ataturk, led the police to detain him in the mid-2000's. They assaulted him, forced him to handle a weapon and threatened him with criminal charges if he did not stop criticising Ataturk.
- The applicant stated that he suffered psychologically after this, and decided to take up an invitation to visit a company in Australia. He entered, and tried to obtain long-term residency. He had wanted to stand on his own 2 feet, but was unable to find another sponsor. He therefore decided to apply for a protection visa.
- The applicant claims that relative A and relative C were once detained for several days for renting out a unit they owned to Nur Cemaati members.

Tribunal hearing

The applicant attended a Tribunal hearing held over 2 sessions. The hearing was conducted with the assistance of an interpreter in Turkish. The applicant's representative did not attend the first session. During the course of the first session, the Tribunal received a submission by fax containing the information set out above. The Tribunal adjourned the first session in order to study further the submission. The representative attended the resumed second session.

Ist Hearing

The applicant said that he feared persecution because of his opposition to the Turkish government and constitution, and his involvement in Nur Cemaati. He is additionally vulnerable because a relative who was an official was harmed during Ataturk's reign. He feared persecution on political and religious grounds.

The applicant said that he came to Australia because of its reputation as a democratic country, and the presence here of Nur Cemaati followers. He has no family here. He knows a few people in Australia. They were people he had met in Turkey. They had originally been planning to go to another country, but he persuaded them to go to Australia instead. They now have permanent residency. They met him at the airport on his arrival here.

The applicant said that his wife and children are staying with his family. He telephones them regularly. They are hoping to join him in Australia.

The applicant said that relative A had owned a business in which the applicant had worked. They later set up a larger business. The applicant took over this business when his relative A retired, and operated it for some years. The applicant said that he was also involved in another business, with extensive travel to many countries.

Contrary to the advice in his protection visa application, he said that he did have a previous passport and that he had travelled extensively before his trip to Australia.

The applicant said that he sold the business as a going concern before departing Australia. Insurance and other expenses were high, and it was too risky to try to continue operating it from Australia, since he planned to stay in this country.

The applicant said that he had personally collected his replacement passport, and described the process of presenting his ID card and photographs. As always, the police forced the applicant to pay a so-called 'donation' to their association, amounting to several times the amount of the actual passport fee.

The applicant said that his reason for leaving Turkey was because he was a teacher at the 'nur' school, and because of his involvement in distributing the 'encyclopedia'. He said that his concern was the political system in Turkey, not details such as whether Ataturk was or was not illegitimate.

The applicant said that his first exposure to Nur Cemaat was when he was young. His relatives A and C hosted discussions in a unit that they owned. He said that on one occasion, the police came and arrested all those present, and detained his relatives A and C for several days. There were thousands of cases, and ultimately charges were dropped. The applicant said that his relative A remains a Nur Cemaat sympathiser. His relative C went to university. He dropped out of the sect, as he realised that it would make it difficult to find a job.

The applicant spoke in detail and emphatically about Nur Cemaat and its activities. He described his attachment to Said Nursi's text. He said that he had a copy in Turkey, and he presented at hearing a text that he said was used in teachings here. He said that the authorities targeted him because of these texts, and he described his treatment at the police station.

The applicant gave some information about Nur Cemaat's presence and activities in City A, although he tended to blur this with statements about its overall profile. He said that there was no formal membership. There were many participants who would meet in each other's homes and hold discussions, typically lasting about 15 minutes. These covered religious matters, and practical issues such as organising one's personal life. The Tribunal wondered why such discussions would offend the Turkish authorities. The applicant said that Turkey's secular governments and constitution opposed such matters. He likened Kemal Ataturk to Stalin. He gave as examples the forced closure of religious schools. He stated that the teaching of Darwinism in schools gave students no option but to deny the existence of God. The Tribunal noted that the recently re-elected government was generally conservative and adhered to Islamic values, and sought the applicant's views on it. The applicant responded that the constitution tied the government's hands. The practical consequences were, for instance, that girls wearing headscarves were denied the opportunity to go to school.

The applicant gave details of Nur Cemaat's activities, including monthly meetings in cities, quarterly meetings at district level and 6-monthly national meetings. In City A, the applicant said that he was involved in teachings and the distribution of materials. He referred in particular to the newspaper Yeni Asya (New Asia). Being a well-known person and local businessman in a small town, he spoke to lots of people about it. He also mentioned information groups for students, explaining that there were a few schools in City A.

The Tribunal suggested that this was hardly the profile of an organisation that was subject to persecution. The applicant referred to the government campaign against the group, and the pressure that had been brought to bear on Mehmet Kutlular. The authorities had assigned secret service agents to him, and tried to bribe him, unsuccessfully. Eventually, a relative of his was drugged and murdered (the applicant was indistinct, but his later evidence indicated that it was a reference to Kutlular's daughter).

The applicant said that it was this general environment - coupled with the fact that Ataturk had harmed a relative of his, his teaching activities and the clampdown on distribution of the encyclopedia - that led him to fear persecution. The applicant said that it had been planned to publish the encyclopedia in Istanbul. It included information from Greece critical of Ataturk. The authorities had brought a court case against it, but failed to ban it. In the end, the applicant obtained about copies, and distributed them. He gave away some for free, and sold others through small shops. He was not aware whether other distributors had had any problems.

The Tribunal expressed surprise that the applicant had not mentioned Nur Cemaat or any publications in his protection visa application, or at any time right up to the Tribunal hearing. The applicant said that it was a complex matter, and he realised that he needed to give more detail only after the Department rejected his primary application.

The Tribunal wondered why, if the police had detained, assaulted and potentially framed the applicant, he waited a number of months to leave Turkey. The applicant said that the financial year did not start until the new year, and it took some time to arrange the sale of his shop and all other matters. The Tribunal put to him that this did

not appear to be the conduct of a person who fears persecution. The applicant stressed the time needed to put all arrangements in place for his travel.

The Tribunal also noted that the applicant had waited a significant period of time before seeking refugee status, and then only after his other visa options had been exhausted. This too may cast doubt on the genuineness of his refugee claims. The applicant explained the sequence of his visa applications. As for his Nur Cemaat contacts in Australia, the applicant said that the people he knew sometimes attended meetings. The other persons, including those in other states whose addresses he had provided to the Tribunal, were friends who had helped him out with accommodation and the like. They were long-term Australian residents, but also involved in Nur Cemaat. He said that he did not tell them about any past persecution because of Nur Cemaat. He later said that he did tell them that he had problems in Turkey, but did not give them details.

The hearing was adjourned for a later date, due to lack of time and the need for the Tribunal to reflect in more detail on the recent submission.

2nd Tribunal hearing

The hearing resumed in the presence of the applicant's representative and, with the applicant's written consent, a member of the Tribunal staff.

The applicant recapped his claimed fear of persecution, covering the following:

- (a) fear of persecution because of his outspokenness against Kemalism generally, and in particular his distribution of some encyclopedias; and
- (b) exacerbated by the applicant's relations with a an official, who was harmed during the turbulent early years of the Turkish republic.

The applicant said that he stays informed about Turkish politics and Nur Cemaat issues through the on-line edition of *Yeni Asya*. The Tribunal asked if he was aware of any anti-Nur Cemaat actions from the time of his departure from Turkey, or especially more recently. The applicant referred to the murder of Mehmet Kutlular's daughter, and of members of the association in August 1999. The Tribunal pressed the applicant for any more recent information. The applicant did not know of any recent incidents. The Tribunal put to him that the absence of such reports, indeed the ongoing presence of Kutlular in Turkey and the publication of *Yeni Asya* cast doubt on whether Nur Cemaat members were persecuted. The Tribunal had found no recent information to suggest that they were, notwithstanding the actions against its leaders some years ago.

The applicant said the Nur Cemaat suffers the highest level of persecution of all groups in Turkey. No other religious group suffers to the same degree. The Tribunal observed that country information did not appear to support this claim, and queried whether the applicant had reports – such as from the internet or from overseas Nur Cemaat groups – to substantiate his claim. The applicant said that telephone contacts with Turkey were intercepted. He did not know of internet reports, later indicating that he only read *Yeni Asya* on-line. He stressed that Nur Cemaat is an informal group, and that it has to operate secretly.

The applicant said that he had heard of reports of Nur Cemaat members being persecuted, as he had been. However, the group kept these incidents secret, so as not to scare or further harm members. The Tribunal said it had difficulty with the notion that, unlike other groups in Turkey whose mistreatment was publicised, Nur Cemaat opted not to reveal instances of such harm against its members or campaign for protection, even from overseas.

Regarding Nur Cemaat publications, the applicant said that he ordered books and magazines on-line from time to time. He had bought copies of the encyclopedia, and carried them with him back to City A by bus. The Tribunal noted that it had not found any reference to the encyclopedia being banned or frowned upon, and wondered why the police had used that as a trigger to detain and threaten him. The applicant said that there was one portion of the book against which the authorities had brought a court case. However, the offending information was based on reliable sources from the Ottoman Empire, so the authorities failed in their attempt to oppose it.

Responding further to the Tribunal's observations that information concerning Nur Cemaat, Mehmet Kutlular and *Yeni Asya* cast doubt on the applicant's claim, the applicant said that military intelligence regarded them as separatist, and had singled him out as a scapegoat.

The Tribunal asked about Nur Cemaat's reported links with the ruling AKP. The applicant said that the AKP had approached Mehmet Kutlular to seek his support or endorsement, and not the other way around. The AKP wanted to use religion for political purposes.

The applicant said that the police took him into custody, and warned him to stop his activities opposed to Kemalism. They did not accuse him of anything specific. The applicant did not know of any other Nur Cemaat members in City A facing similar problems at that time or later, although he referred vaguely to past actions. Nor did he know of Nur Cemaat members anywhere else in Turkey facing similar problems, although he surmised that such incidents happened and were simply not disclosed.

Following his detention, the applicant continued attending the discussion groups, but was careful not to speak out as he realised that this is what would get him into trouble again. He said that the group no longer held their meetings in the dedicated building that the applicant had rented on their behalf, but instead moved from house to house. The Tribunal put to the applicant that his delay of months in even applying for an Australian visa, and the sale of his business, suggested an orderly departure from Turkey for migration purposes rather than a flight from persecution. The applicant said that the intelligence agencies would simply bide their time. Furthermore, much of his business was conducted 'on terms' rather than in cash, consequently he wanted to finalise his financial affairs before travelling to Australia.

Towards the end of the hearing, the applicant stressed that the main issue was that Turkish intelligence was acting against Nur Cemaat not to close it down as such, but identifying scapegoats (ie himself) to intimidate them and rein in their activities. His detention and earlier incidents were evidence this.

Regarding his relative and former the official, who was killed decades ago, the applicant did not think this was documented. This was part of the reason for the detention of his relative A and C. He said that such disputes follow families through generations, and it is part of the reason why the authorities chose the applicant as a scapegoat.

As for why the applicant waited more than 14 months after his arrival before seeking Australia's protection, he said that he preferred to stay on a different visa, as he thought that having had refugee status might harm any future political ambitions if he were to return to Turkey at a later stage.

The applicant said that he had come to Australia because of its democratic traditions and reputation. The Nur Cemaat contacts he had in Australia were longstanding immigrants, and not well-educated or up-to-date on Turkish politics. As for whether he had considered other destinations, where there was also a large Turkish population and presumably also Nur Cemaat groups, the applicant said that, although he has relatives and friends in other countries, he does not speak the language and he thought that some European countries did not like Turks.

At the conclusion of the hearing, the Tribunal summarised its concerns about the application, in particular (a) the apparent inconsistency between the applicant's claims and the available country information about the profile of Nur Cemaat and the treatment of its members, and (b) the applicant's conduct in both Turkey and Australia, which seemed inconsistent with the conduct of a person who fears persecution. The Tribunal incorporates above the applicant's responses to these points.

The adviser submitted to the Tribunal excerpts from 2007 reports from Amnesty International, Human Rights Watch and the US State Department 2007 Country Report (Turkey) on Human Rights Practices. These contain highlighted text concerning the prosecution of a biographer who recorded an alleged shameful incident in the life of Kemal Ataturk (HRW), various restrictions on freedom of expression in Turkey (AI), and restrictions on press freedom (US State Department).

The Tribunal handed to the applicant, and advised the adviser that it would send to him also by fax, a letter containing potentially adverse information, for comment in writing. The relevant text reads:

- In your protection visa application, you wrote that when you started military service in [date], you refused to sign a statement swearing allegiance to the principles of Ataturk, and that you were jailed for [number] days and beaten badly. However, you completed your military service to [date] and you established a successful business afterwards.

This information is relevant because it suggests that you did not at that time acquire the profile of a political dissident or suffer any consequences as a result of any opposition to Kemalism.

- In your protection visa application, you wrote that the police detained you on [date] and assaulted you. They forced you to handle a weapon so that

your fingerprints were on it, and they could frame you for a crime any time in the future if you did not stop your activities. You already had a passport at this time, issued on [date]. You did not apply for an Australian [type] visa until [date]. The visa was granted on [date], and you left Turkey [number] days later, on [date].

This information is relevant because you did not apply for an Australian visa for more than [number] months after the alleged incident. This suggests either that you did not fear that the police would incriminate you, or that the alleged incident on [date] did not occur at all. This may in turn raise questions about your credibility.

- You arrived in Australia on [date], on a subclass [type] visa that expired on [date]. After this, you received a bridging visa that expired on [date]. You applied for refugee protection just [number] days before the expiry of your bridging visa. This was more than [number] months after your arrival in Australia.
- This information is relevant because you delayed significantly seeking protection in Australia, and then only did when your bridging visa was about to expire. The Tribunal has found no evidence suggesting that you had expressed a fear of persecution to anyone before [date]. Indeed, at your Tribunal hearing on [date], you told the Tribunal that you had not even mentioned to other Nur Cemaati friends in Australia that you fear persecution in Turkey. All the above may lead the Tribunal to infer that you do not fear persecution, but that you have claimed refugee status in order to stay in Australia.
- The Tribunal has found references to Mehmet Kutlular on the website of *Yeni Asya*, for instance his name appears on the masthead of the paper <http://www.yeniasya.com.tr/ss/kunye.htm> and there are recent photographs of him on the site at

<http://www.yeniasya.com.tr/2007/05/11/haber/butun.htm> and

<http://www.yeniasya.com.tr/2006/09/21/haber/default.htm>

This information is relevant because it suggests that he and the newspaper continue to be active in Turkey, and that the Turkish authorities are not persecuting the movement.

- The Tribunal has found an entry on the website of the Turkish Ministry of Culture and Tourism that refers to the work of the journalist Burhan Bozgey k. It states that he worked as a journalist and writer at Yeni Asya Press among others. He was also “one of the members of the editorial committee of *Yakın Tarih Ansiklopedisi* (Encyclopedia of Recent History) prepared by the newspaper *Akit*” (‘BOZGEY K, Burhan’ 2005, Republic of Turkey Ministry of Culture and Tourism website, <http://goturkey.turizm.gov.tr/BelgeGoster.aspx?17A16AE30572D313FFB2CB2AD591CE266169B43EA8C08474>.)

This information is relevant because you claim that the police detained you on [date] because you distributed the encyclopaedia. It is difficult to believe that the police

would detain you for this reason, yet the Turkish authorities would refer publicly (with no evident disapproval) to one of the members of its editorial committee. The Tribunal has found many references to restrictions on freedom of the press in Turkey. However, it has found none in relation to the encyclopaedia itself.

The Tribunal's letter also set out country information concerning Nur Cemaat and religious freedom in Turkey. This information is set out below. It includes references to the past mistreatment of leaders such as Fethullah Gülen and Mehmet Kutlular. However, the Tribunal noted that it had found no reports of recent or ongoing mistreatment. On the contrary, it noted that "the movement appears to have good relations with the ruling Justice and Development Party (Adalet ve Kalkinma Partisi – AKP), a moderate Islamic party which was re-elected in July 2007." This, the Tribunal put to the applicant, cast doubt on his claimed past experiences, and also on whether he would face a real chance of persecution if he returned to Turkey.

The applicant responded to the Tribunal's letter. The Tribunal had already prepared and signed an earlier draft of this decision, but recalled and amended the text of the decision to reflect the new material.

In his letter, the applicant provides the following comments:

- After his military service, the applicant was 'pacified' and resumed normal life. However, his antagonism towards Kemalism grew over time. He did not establish a business, but rather took over that of his relative A's.
- The applicant states that he was unable to apply for an Australian visa earlier, because he had to finalise his business affairs before leaving Turkey.
- The applicant reiterates that he opted to apply for a different visa because he did not want to jeopardize any future involvement in Turkish politics by applying for refugee status. His application for the different visa fell through.
- The applicant confirms that he did not mention any fears of persecution to Nur Cemaat contacts in Australia. He states that they 'don't like to be involved in such things', and, in any event, are not knowledgeable.
- The applicant refers as example of Turkish persecution of Nur Cemaat to the imprisonment of Mehmet Kutlular, and the murder of his daughter through drug abuse.
- The applicant states that his main problem was not due to the distribution of the Encyclopedia, but rather his discussion of the court document indicating that Kemal Ataturk had been illegitimate. He confirms that the Encyclopedia (implicitly, its publishers) were taken to court, but there was no conviction. The applicant claims that he and others were punished for talking critically about Ataturk's family and his origins.
- The applicant refers to the persecution of Nur Cemaat, with reference to Kutlular's imprisonment, the murder of his daughter, and Fetlullah Gulen's exile in the USA.
- The applicant states that his problems are not restricted to City A alone. He states that the Turkish authorities can locate people of adverse interest anywhere in the country.

External Information

Nur Cemaat – also known as Nurculuk, the Nur Movement, Nurcular, the Movement of Light etc – is a widespread, generally moderate, Islamic movement in Turkey which follows the teachings of Bediüzzaman Said Nursî (1876-1960). The two largest factions in the movement are led by Fethullah Gülen and Mehmet Kutlular, and there are also some smaller groups. Both Gülen and Kutlular have been charged with offences by the Turkish government in the past: Kutlular spent a period in prison, and Gülen went into exile in America before his trial. However, no recent reports were found of members of the Nur movement being imprisoned, and the movement appears to have good relations with the ruling Justice and Development Party (Adalet ve Kalkınma Partisi – AKP), a moderate Islamic party which was re-elected in July 2007. The Tribunal found little detailed information on the general treatment of members of the Nur community by past Turkish governments, but there have been cases of those who have made speeches and written articles – including the leaders of the two largest Nur branches, Mehmet Kutlular and Fethullah Gülen – being charged under various sections of the criminal code and sometimes imprisoned.

The 2002 US Department of State report on religious freedom in Turkey states:

Mehmet Kutlular, leader of the Nur Cemaati religious community, was convicted and imprisoned from May 2001 until February 2002 for “inciting religious hatred” in a 1999 newspaper article. In February 2002, the Ankara State Security Court ruled that, following new legislative reforms to the Constitution and free speech laws, Kutlular should be released early from his 2-year sentence. In 1999 Kutlular had published an article in his newspaper alleging that an earthquake, which killed more than 17,000 persons was “divine retribution” for laws banning headscarves in state buildings and universities. On March 5, 2002, a senior columnist for the Islamist newspaper *Yeni Safak*, Fehmi Koru, was acquitted of charges of “inciting religious enmity” for a 1999 television broadcast in support of Kutlular (US Department of State 2002, *International Religious Freedom Report 2002: Turkey*, 7 October). The US Department of State report on human rights in Turkey for the same year contains further details on this case:

In April Mehmet Kutlular, owner of “Yeni Asya” newspaper, was acquitted on charges of provoking hatred and enmity for his remarks claiming that a 1999 earthquake in Turkey was God’s punishment against the secular state. Kutlular had been convicted of the charges and jailed in May 2001 but was released in February and given a retrial due to amendments to Article 312. However, the acquittal was reversed on appeal in June, and in November the Istanbul SSC affirmed Kutlular’s original conviction and 23-month sentence. Three “Yeni Asya” journalists – Saban Dogen, Sami Cebeci, and Abdil Yildirim – were also granted a retrial on charges relating to coverage of the earthquake. In September the Istanbul SSC affirmed their original conviction and 20-month sentence (US Department of State 2003, *Country Reports on Human Rights Practices 2002: Turkey*, 31 March).

FINDINGS AND REASONS

The Tribunal accepts that the applicant has Turkish nationality, based on his passport and oral evidence, and in the absence of any contrary information.

It is the applicant's claim that the Turkish authorities will persecute him, because of his political opinion and his religion. The applicant states that he opposes the 'secular' and Kemalist principles embodied in the Turkish constitution. He has argued these issues personally. He has also promoted them through his Nur Cemaat activities, teaching and distributing unauthorised texts. The applicant claims that the authorities have targeted him in the past. For instance, they expelled him from school, abused him in the military, intimidated him, detained and threatened to fabricate a criminal case against him. They have also harmed and threatened family members in the past. The applicant claims that the authorities insist that he stop his political/religious activities. He states that he will resume his political activities if he returns to Turkey, and that the authorities will therefore renew their threats against him.

The applicant's oral and documentary evidence showed his familiarity with Nur Cemaat's teachings and structure, as well as its key personalities and history. The Tribunal accepts that he is a member of Nur Cemaat who has been involved in study groups and with its publications.

The Tribunal also accepts that the applicant considers Turkey's secular constitution and adherence to Kemalist teachings flawed, because they rein in the ambitions of and place some restrictions on Islamic groups.

The Tribunal deals with the applicant's adherence to Nur Cemaat and his claimed political outspokenness concurrently, to reflect his claims. However, recent country information put to the applicant indicates that Nur Cemaat is a 'widespread, generally moderate, Islamic movement' that is regarded as currently having good relations with the ruling Justice and Development Party (Adalet Kalkinma Partisi – AKP). For the reasons set out below, the Tribunal does not accept the applicant's suggestion that an association with Nur Cemaat establishes a dissident political profile.

The Tribunal found the applicant's claims to be of variable reliability and relevance. On several occasions, he made generalised assertions about Turkish politics and Nur Cemaat that were unsubstantiated or were plainly at odds with country information. The applicant tended to blur historical events with his personal experiences and current claims. The Tribunal gained the impression that he was seeking to associate himself with various past incidents, yet that he was unable to explain how these related to his present circumstances and his own conduct.

The Tribunal finds that the applicant exaggerated his profile and involvement in Nur Cemaat and his political opinion, and has given an inaccurate picture of the consequences.

- The Tribunal accepts that the applicant hosted local informal Nur Cemaat meetings from time to time over a period of some several years. However, the Tribunal does not accept that such gatherings attract adverse attention. Nor does it accept that the authorities persecuted the applicant or his family members during this period, particularly in light of his past experiences and conduct (see below).
- The applicant referred to the Turkish authorities having targeted Nur Cemaat leaders, namely Kutlular's imprisonment during 2001-2002 following his 1999 comments, and the attempt to bring charges against Gulen before he

left for the USA. (The Tribunal copied relevant country information, which broadly supports his claims, to the applicant.) However, the Tribunal does not accept the applicant's efforts to draw a parallel between these incidents involving Nur Cemaat leaders in 2001-2002, and his situation in City A. The reasons follow:

- - Country information put to the applicant does not suggest that the Turkish authorities currently target Nur Cemaat or have any adverse interest in it. As noted above, the movement is considered to be a generally moderate Islamic group with good relations with the ruling AKP government.
- - There are numerous public references to Nur Cemaat and its activities, mentioned in the Tribunal's s.424A letter. These include recent mention of Mehmet Kutlular on the *Yeni Asya* website, the continued publication of *Yeni Asya* (including on-line) and seemingly favourable references to *Yeni Asya* and the Encyclopedia on government websites. This information casts doubt on whether the authorities currently target the movement or its members.
- - The applicant's evidence at hearing as to Nur Cemaat's ongoing private meetings, its schedule of local, regional and national gatherings, and its publication of *Yeni Asya* reinforces the impression from public sources that it is not persecuted.
- - The applicant concurred with some of these points – particularly the contact between Nur Cemaat and the AKP. He claimed, however, that it was a one-way relationship in which the AKP tried to use Nur Cemaat's religious credentials cynically for political purposes. The applicant seemed embittered that many Nur Cemaat people had 'sold out'. He said that he was pleased that Kutlular had not. Even if the applicant disapproves of how some Nur Cemaat members deal with the Turkish government, the available material indicates that the Turkish government is not acting against Nur Cemaat members, including Kutlular. As noted earlier, the material before the Tribunal does not suggest that Kutlular suffers any serious detriment, regardless of whether the applicant's claim that he is resisting the AKP's overtures, is correct.
- - In a quite different vein, the applicant also argued that Nur Cemaat was the most persecuted group in Turkey. He implicitly agreed that there was no public mention of this (apart from the incidents involving its leaders some 5 years ago). He explained that its members wanted to protect each other and therefore kept such issues secret. The Tribunal rejects this claim. It finds no reason why a movement with an evidently well-developed network, with its own publications and with international contacts (as discussed at hearing) would be silent if its members were being persecuted. The applicant conceded that he did not have to hand any public material from internet or similar sources. He referred to telephones being tapped, as a possible barrier to such information being circulated. The Tribunal does not accept that this would prevent news of persecution filtering out.
- - As noted at hearing and in the Tribunal's letter, the Tribunal has found reference to the Encyclopedia on a government website, and has been to unable find any mention anywhere of its promoters,

distributors or others being persecuted. The Tribunal accepts, on the basis of country information and the applicant's evidence, that the authorities brought court action against the publishers some years ago, but failed. This is significant, because the applicant claims that it was his involvement in its distribution that led the police to arrest him. Given country information concerning Turkish restrictions on freedom of speech and the media, it is difficult to imagine why there are no external references to targeting of the Encyclopedia and other Nur Cemaat publications, if that is in fact occurring.

- - In his letter, the applicant appears to concede that the Turkish authorities do not target persons merely for their involvement in Nur Cemaat meetings or distribution of the Encyclopedia. He suggests that it was not his association with these activities, or even his opposition to Kemalism as such, that attracted adverse attention, but rather his personal criticism of Ataturk and his family background as a vehicle to oppose him. The Tribunal formed the impression that the applicant has improvised as to what might motivate the Turkish authorities to target him. The Tribunal does not accept that the applicant drew adverse attention to himself – over and above other Nur Cemaat members – by drawing attention to Ataturk's family background.
- - The applicant's lack of direct anecdotal evidence reinforces the Tribunal's concerns. The Tribunal does not consider plausible that a person who claims to be well-connected in City A and to be involved in other aspects of Nur Cemaat's activities, would not have come to know whether other fellow Nur Cemaat colleagues had had problems, for instance when distributing pamphlets, or would not at least have enquired whether others, too, are experiencing similar problems. The Tribunal formed the impression that the applicant had not turned his mind to these issues. This is because he had not in fact experienced any such problems and because he had not anticipated the Tribunal's interest in this line of enquiry.
- As noted in the Tribunal's letter, the applicant wrote in his protection visa application that he completed military service, and that he was involved in a successful business. The Tribunal noted that this suggests that the applicant did not have the profile of a political dissident.
 - - The applicant responded that he was 'pacified' during his military service, although his opposition to the regime later grew again. The Tribunal accepts that the military may suppress recruit's political views, and therefore draws no adverse inference from the applicant's completion of his military service. However, this does not mean that the Tribunal accepts the applicant's claims that he in fact voiced oppositional political views as a recruit; that he was imprisoned for several days and assaulted in the military; or that he later became politically active. The Tribunal addresses these claims below, in the context of all the material before it.
 - - In his letter, the applicant corrected the Tribunal's observation that he 'established' the business, indicating that he had taken over his relative A's business when he retired. However, the critical point remains that the applicant conducted the family business right to up to its sale as a going concern, just before the applicant

departed for Australia. In the Tribunal's opinion, this casts doubt on the applicant's claim to have acquired the profile of a political dissident – because of his outspokenness and his involvement in Nur Cemaat, or for any other reason.

- The applicant claims to have come to Australia because of its democratic tradition, and because there are Nur Cemaat adherents here. He gave some addresses of persons in Australia with whom he engaged in Nur Cemaat activities. His later evidence – concerning his contacts with these people, his failure to mention to them his problems in Turkey and whether he had considered going to a country with a more active Nur Cemaat community – strongly suggests that the applicant's commitment to Nur Cemaat was much less than he was claiming, and that it did not have a dissident political (or religious) character at all. The Tribunal has considered the applicant's explanations at hearing and in his letter, for not discussing his Nur Cemaat involvement with Australian contacts. He variously referred to them not having a good grasp of modern Turkish politics, their wish not to become involved, and his wish to keep these matters to himself. The Tribunal finds the applicant's explanations for his inaction and lack of demonstrable interest unconvincing and expedient. It finds that he did not discuss these issues (including his past problems in Turkey) with fellow Nur Cemaat contacts because he is not in fact an activist.

In light of the above factors, the Tribunal finds that the applicant has a general interest in Nur Cemaat, and hosted some local meetings, but that he was not a long-term district leader or Nur Cemaat teacher, as claimed.

The applicant has claimed to have acquired, locally, a dissident political and religious profile, based on his own activities and his association with other persons. The Tribunal has taken into account the following in assessing this claim:

- The Tribunal is mindful of country information, including that provided by the representative, recording concerns about the treatment of political dissidents generally, particularly those who speak out against Kemalism and secularism. This inevitably overlaps with ongoing debate about the relationship between religious groups and political parties.
- The applicant described to the Tribunal his own alleged complaints against the Turkish constitution, particularly secularism. He said it was racist. He also said it was also intolerant of other religions, drawing on a mix of Nur Cemaat and other Islamist claims such as the alleged ban on women wearing headscarves and the imposition of Darwinist teachings in school. He refers to instances such as the forced closure of religious schools and reported comments from a teacher insulting Islam.

However, the Tribunal does not accept that the applicant has a dissident political (or religious) profile, by virtue of his own past activities or his association with other persons, or that he has a strong political opinion that will motivate him to speak out against the Turkish constitution and system of government. The reasons follow:

- The Tribunal accepts that the applicant follows Turkish political discourse about secularism in that country, and that he shares others' criticism

of it. But it does not accept that he is a strong and active critic of the constitution. It also does not accept that he adheres to or promotes more radical opposition to the political system (whether under the guise of Nur Cemaat or any other group), such as those contained in his statements to the Tribunal.

- - It finds, for the reasons given above, that he has exaggerated his views and activities, for the purposes of this application.
- - In the Tribunal's opinion, the applicant's main focus has been his business and trade activities, all of which have proceeded uninterrupted.
- - The Tribunal does not accept that local authorities, if concerned about the applicant's outspokenness on religious or political matters, and his use of the Nur Cemaat group to promote these, would have allowed the applicant to host and be involved in such activities for a period of some several years, as claimed, including early times when there was some intimidation of prominent Nur Cemaat persons.
- - The applicant stated that his distribution of the Encyclopedia was the trigger for the local authorities to clamp down. However, country information indicates that it continues to be published and even referred to in government sources. The applicant's own lack of knowledge – or any apparent enquiry – as to whether other Nur Cemaat persons, locally or in other areas, had also experienced such problems reinforces doubts that he has ever had any such problems.
- - The applicant more recently shifted focus to another issue – his outspoken criticism not just of Kemalism, but specifically of Ataturk's family background. In the Tribunal's opinion, the applicant has highlighted this point as his other claims have appeared to weaken. The Tribunal does not accept that the applicant did disseminate such views, particularly taking into account the long period of his claimed association with Nur Cemaat and his unhurried departure from Turkey.
- - The applicant's travel history (see immediately below) is also inconsistent with that of a person who has a political or religious profile that leaves him vulnerable to persecution.

The applicant's travel and migration history provides persuasive evidence that he did not flee persecution in Turkey, and that he does fear prospective persecution in that country. The reasons follow:

- The applicant stated at hearing that he had travelled to a number of regional countries for business. His passport, presented at hearing, shows some corresponding visas and entry stamps. This travel appears to have been prior to, a particular year and therefore has no direct bearing on his state of mind following the alleged incident with the police. However, it suggests that he did not fear persecution because of any long-standing association with Nur Cemaat or any political outspokenness.
- As noted in the Tribunal's s.424A letter, the applicant already had a passport when the police allegedly detained, assaulted and threatened to incriminate him. However, he did not apply for an Australian visa until some months later. Even after its grant, the applicant waited several days before leaving Turkey. At hearing, the applicant explained that he had to make

arrangements, eg finalising customer accounts and making other provisions. He confirmed that he had sold the business as a going concern. As also noted at hearing, the Tribunal does not consider this to be consistent with the conduct of a genuine refugee. In its opinion, this is compelling evidence that the applicant did not flee persecution in Turkey. The Tribunal has considered the applicant's comments, but finds that they do not adequately explain why, if he feared persecution, he waited so long to leave Turkey.

- As also noted in the Tribunal's s.424A letter, the applicant's delay of many months from the time of arrival in Australia to the lodgement of his protection visa application also casts doubt on whether he is a genuine refugee. The applicant explained his visa situation at hearing – he arrived on a visa and had hoped to obtain another visa. He also referred to having some concerns that the grant of refugee status in Australia might harm his future political prospects if he returning to Turkey some time in the future.

- – The Tribunal accepts that such a delay may not be conclusive evidence that a person does not (also) require protection. In this present case, however, the applicant has provided weak grounds for his failure to seek protection. He relied in particular on his stated wish to perhaps seek political office in Turkey at some time in the future. The Tribunal does not find this explanation persuasive, given the applicant's lack of past political engagement in Turkey or Australia.

- – It is particularly significant that while in Australia before his PV application, the applicant appears to have told no-one that he fears persecution in Turkey, and not even informed his fellow Nur Cemaat contacts in Australia of his problems in Turkey. The Tribunal has considered, but does not find persuasive, the applicant's reasons for this – such as his Nur Cemaat contacts in Australia being longer-term residents in Australia who have little idea of modern Turkish politics.

- – The Tribunal finds that the significant delay in the applicant's lodgement of a protection visa application, when considered together with his failure to mention to anyone that he had political and/or religious problems in Turkey, is compelling evidence that he did actually fear persecution at any time.

The above factors, considered together, lead the Tribunal to conclude that the applicant has not suffered any past persecution in Turkey, but that he left that country for reasons unrelated to his refugee claims. The Tribunal finds as follows:

- The applicant participated in and occasionally hosted Nur Cemaat meetings in City A. He did not hold any formal position. He does not adhere to radical political or religious views. He has not promoted opposition to the Turkish constitution, or anything that might arouse the adverse attention of the Turkish authorities.

- The Tribunal accepts that the applicant has a relative, an official who was killed decades ago. The applicant argued that this ancestry leaves him vulnerable to targeting by the Turkish authorities, as they considered that such oppositional attitudes carry through generations. This potentially raises the claim that, in addition to any political profile the applicant himself may have, whether the authorities might also target him for reason of his membership of a particular social group, his family, or for reason of an imputed political

opinion. The alleged death of a relative decades ago, as well as the alleged treatment of his relative A and C, could be relevant. In the Tribunal's opinion, the passage of time since the earlier incident, the applicant's oral evidence concerning his and his family's successful business activities, and the applicant's own travel arrangements demonstrate that he does not have a subjective or well-founded fear of persecution based even in part on his association with his family.

- The applicant claimed that he was twice expelled from school for being politically outspoken. A relative managed to get him back into school the first time, but his renewed political arguing saw his education cut short. The Tribunal does not accept as complete and reliable the applicant's account of how his education ended, particularly in view of evidence to the Tribunal about his later work in the family business and in regional trading. It does not accept that the applicant left school for any reason to do with his political opinion, actual or perceived.

- Taking into account the Tribunal's findings about the applicant's political opinion and its concerns about his credibility, as well as his completion of his military service (see Tribunal's letter), the Tribunal does not accept that the applicant acquired the profile of a political dissident at any time, including during his military service and in the following years. On the material before it, the Tribunal does not accept that the applicant voiced discontent over the oath of allegiance when he joined the military, or that he was assaulted and imprisoned for this or any other reason. The Tribunal finds that the applicant completed his military service and later took over the family's successful businesses, and that these do indicate that the Turkish authorities have never viewed him as a dissident or harmed him in any way, for political, religious or any other reasons.

- The Tribunal does not accept that local authorities detained the applicant, warning him to discontinue his various activities, assaulting him and threatening to incriminate him in a serious crime. It does not find the alleged trigger for their action, the applicant's involvement in distributing the Encyclopedia, credible. Nor does it find the applicant's subsequent conduct consistent with such harm – in particular, his focus on arranging his financial affairs rather than seeking refuge at the earliest opportunity.

- The applicant mentioned at various times military intelligence intercepting telephone calls, and threats and warnings over a period of time. The Tribunal does not accept that these or any other adverse incidents occurred.

- The applicant also mentioned incidents involving his relatives (his relative A and C's alleged detention), Nur Cemaat leaders (such as the action against Kutlular, and the alleged killing of his daughter) and Nur Cemaat publications (such as failed court action against the Encyclopedia). Having formed an adverse view of the applicant's credibility, the Tribunal does not accept that the applicant's relative A and C were detained. It accepts that the authorities have from time to time taken action against Nur Cemaat leaders and publications, but finds in light of the applicant's low-level involvement in Nur Cemaat that they were never targeted towards him and that he therefore suffered no consequences – physical or psychological.

The applicant mentioned several times, including his letter, that his problems not being confined to City A, because the Turkish authorities will be able to pursue him anywhere in Turkey. As the Tribunal does not accept that there is a real chance that the applicant will face Convention-related persecution in City A, and in the absence of any claims or evidence that he faces problems elsewhere in Turkey, it is not necessary for the Tribunal to examine the 'internal relocation principle' in the present case.

The Tribunal finds that the applicant will be able to return to Turkey and continue his low-profile local Nur Cemaat activities if he wishes, and also express his views on political issues such as secularism in Turkey, without facing a real chance of persecution. It does not accept that he has a genuine or well-founded fear of persecution, but rather that he has advanced refugee claims as a means of staying in Australia.

The Tribunal has considered the applicant's claims individually and cumulatively. It is not satisfied that the applicant has a well-founded fear of Convention-related persecution, now or in the reasonably foreseeable future, if he returns to Turkey.

CONCLUSIONS

Having considered the evidence as a whole, the Tribunal is not satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicant does not satisfy the criterion set out in s.36(2)(a) for a protection visa.

DECISION

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