

SPECIAL IMMIGRATION APPEALS COMMISSION

Appeal No: SN/04/2024
Hearing Date: 24th and 25th July 2025
Date of Judgment: 7th October 2025

Before

**THE HONOURABLE MR JUSTICE BOURNE
MR MARK OCKELTON
SIR NICHOLAS KAY**

Between

AZ

Applicant

and

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

Respondent

OPEN JUDGMENT

Mr Edward Grieves KC and Ms Emma Fitzsimons (instructed by **Wilson Solicitors LLP**) appeared on behalf of the Applicant

Ms Nicola Kohn (instructed by **the Government Legal Department**) appeared on behalf of the Secretary of State

Mr Dominic Lewis (instructed by **Special Advocates' Support Office**) appeared as Special Advocate

Introduction

1. This is an application by the Applicant (“AZ”) under section 2D(2) of the SIAC Act 1997 (“the 1997 Act”) to set aside a decision taken by the Respondent on 17 July 2024, refusing AZ’s application for British citizenship on the ground that he did not meet the requirement of good character (“the decision”). The decision was by way of reconsideration of an earlier decision to the same effect on 6 October 2021.
2. The Applicant was granted anonymity by an order dated 12 September 2024 which remains in force until the OPEN judgment is handed down, or further order in the meantime, unless he indicates to the Commission as soon as the OPEN judgment is circulated in draft that he intends to apply for the order to continue thereafter and applies, before that judgment is handed down, for directions for the determination of any such application whereupon the order will continue for the duration of the determination of that application. By that order he is referred to in these proceedings as AZ. Nothing may be published which, directly or indirectly, identifies him as an applicant in these proceedings.

Legal framework

3. Section 6(1) of the British Nationality Act 1981 (“BNA”) provides:

“(1) If, on an application for naturalisation as a British citizen made by a person of full age and capacity, the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen.”
4. Paragraph 1 of Schedule 1 lists a number of “requirements”, one of which under paragraph 1(1)(b) is “that he is of good character”.
5. Article 10 ECHR provides:

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

6. The material parts of section 2D of the 1997 Act provide:

“(1) Subsection (2) applies in relation to any decision of the Secretary of State which –

(a) is ...

(i) a refusal to issue a certificate of naturalisation under section 6 ... of the British Nationality Act 1981 to an applicant under that section, ...

(b) is certified by the Secretary of State as a decision that was made wholly or partly in reliance on information which, in the opinion of the Secretary of State, should not be made public –

(i) in the interests of national security,

(ii) in the interests of the relationship between the United Kingdom and another country, or

(iii) otherwise in the public interest.”

(2) The Applicant to whom the decision relates may apply to the Special Immigration Appeals Commission to set aside the decision.

(3) In determining whether the decision should be set aside, the Commission must apply the principles which would be applied in judicial review proceedings.

(4) If the Commission decides that the decision should be set aside, it may make any such order, or give any such relief, as may be made or given in judicial review proceedings.”

Policy and guidance

7. We have been shown a guidance document used by the Respondent’s caseworkers entitled Nationality: Good Character Requirement guidance (version 4.0 was in force on 17 July 2024 and had not materially changed from the version in force at the time of the first decision).
8. We have also been shown Guide AN, subtitled Naturalisation Booklet – The Requirements, which contains guidance for applicants.

Factual background

9. AZ was born in Turkey on 8 September 1991 and is of Kurdish origin.
10. In 2007, aged 15, he joined the outlawed Kurdistan Workers Party (“PKK”) and embarked on a period of 2 ½ months of political and military training. According to his evidence, he recognised that he was unprepared to be involved in violence and left the organisation. He describes surrendering to the Turkish authorities and

then spending time in custody in Turkey and suffering physical and sexual violence and abuse. In 2008, having, he said, been “arrested, charged and convicted” as a member of the illegal PKK organisation, he benefited from Turkish remorse laws and, because he had surrendered and had not participated in any armed activity, he escaped a custodial sentence (and his criminal record appears to have been erased).

11. He describes then joining the youth wing of a legal pro-Kurdish organisation, the BDP, which campaigned for greater Kurdish cultural rights. But in 2009, according to his evidence, he was stabbed and some months later was taken to a police station and was subjected to torture until he agreed to become an informant and then to engage in operations against the PKK. Thereafter he left the country to escape this treatment.
12. On 28 May 2011 he arrived in the UK and presented a forged Turkish passport in a false name together with his own genuine Turkish identity card and driving licence. His evidence is that he did this intentionally and tried to communicate that the passport was a forgery, and therefore was not attempting to deceive the immigration authorities.
13. He was informed that he would be removed from the UK and subsequently claimed asylum.
14. In a psychiatric report by Professor Katona for the Helen Bamber Foundation dated 27 January 2012, the Applicant was diagnosed with Complex Post-Traumatic Stress Disorder.
15. On 12 December 2012, his asylum application was accepted and he was granted leave to remain in the UK for 5 years.
16. In February 2013 the Applicant moved to Edinburgh to live with a relative.
17. The Applicant attended a Kurdish community centre in Edinburgh. On his fourth visit, in November 2013, he agreed to go with two others on a visit outside Edinburgh to distribute magazines. He was driven to Coldstream, which is about 50 miles from Edinburgh. There, they were stopped by police operating under section 43 of the Terrorism Act 2000. In their vehicle the police found copies of Serxwebun, the official journal of the PKK. All three were questioned without an interpreter. The police took no subsequent action.
18. On 29 November 2017 the Applicant was granted indefinite leave to remain in the UK.
19. He made his application for British citizenship by way of naturalisation on 17 April 2019.
20. The first decision letter dated 6 October 2021 stated:

“The Home Secretary has refused your application for citizenship on the grounds that you do not meet the requirement of good character. This is because you have been a member of the proscribed group the Kurdistan Workers Party (PKK).”

21. The Applicant applied to SIAC for a review. Various documents were disclosed by the Respondent in the first SIAC proceedings up to and including 31 January 2023. On 24 April 2023 the Respondent filed a witness statement of Christine Hughes, an operational manager. This disclosed new reasoning which, it was said, supported the decision to refuse citizenship, namely (1) the Applicant had failed to declare his PKK membership in his application, (2) a police report following the incident in November 2013 was inconsistent with his claim to have had no PKK involvement since 2008 and (3) there was “no convincing material” suggesting he had publicly retracted or moderated his views supportive of the PKK.
22. The Applicant filed amended grounds of review on 14 June 2023, alleging (1) procedural unfairness in a failure to provide an opportunity to answer concerns in advance of the decision and to provide full reasons for the decision, (2) failure to have regard to material considerations and making irrational findings and (3) failure to apply the correct standard of proof. He also filed a detailed witness statement addressing the facts relevant to the matters in issue including the police stop of 19 November 2013, a statement from his solicitor which shed light on the compiling of his naturalisation application (when a different firm was involved), an updated psychiatric report and a report from a Turkish lawyer, explaining the criminal proceedings which had taken place in Turkey and confirming that the Applicant had no criminal record in respect of PKK membership.
23. On 14 September 2023, 39 days before the substantive hearing, the Respondent withdrew the decision of 6 October 2021, stating that it would be retaken. By a letter dated 19 September the Respondent stated that the Applicant was not required to make a further application and that she would consider the material relied on by AZ in the SIAC proceedings and contained in the OPEN hearing bundle for that case. He was also given the opportunity to provide further evidence or information.
24. The Applicant provided detailed reconsideration representations in a letter from his solicitors on 11 February 2024.
25. As we have said, the new decision was dated 17 July 2024. It stated:

“The Home Secretary has refused your application for citizenship on the grounds that you do not meet the requirement of good character. This is because you have been involved with the Proscribed group the Kurdistan Workers Party (PKK).”
26. When deciding a naturalisation application, the Respondent’s caseworkers complete a document entitled Good Character Assessment (“the GCA”). An OPEN summary of the 2024 GCA has been disclosed. It identifies evidence to which caseworkers had regard and their conclusions on it. It shows that this case was considered by a caseworker who decided that refusal was appropriate. It was then referred to Ms Hughes, the civil servant to whom the Secretary of State’s powers under section 6(1) was lawfully delegated, who reviewed the findings and agreed that the case should be refused and certified for statutory review in SIAC.

27. From that document we note the following comments by the caseworker (in which we have replaced the Applicant's name with "AZ"):

- a. "AZ has stated that because he was a youth when involved in the PKK this may have diminished his responsibility. His behaviour as a youth is not being relied on as a basis for refusing him. In any event he is an adult and a significant amount of time has passed since he was a youth, without clear evidence of his renunciation of these views."
- b. "It is also noted that while the fact AZ has been convicted has been considered, this has not been relied on as a standalone basis for refusing his application ... However, it is noted that AZ failed to disclose these criminal convictions during his application for British Citizenship."
- c. "AZ originally failed to declare his involvement with the PKK on his naturalisation application form, despite having declared on his asylum application form that he was involved with the PKK when he was in Turkey. AZ now relies on his underestimating the application, a failure of his solicitors advising him at the time he made the application as to why he had not disclosed his involvement, as well as that his diagnosis of complex PTSD means he suffers from a significant degree of traumatic recall and so would have avoided recalling his past with the PKK. While we do not dispute AZ's assessment that it is possible his complex PTSD may have resulted in a circumstance where he could not be considered to have provided deliberately misleading information, we consider the fact that he has still not provided an honest and comprehensive picture of his involvement with the PKK – despite prolonged court proceedings having already been pursued – results in a conclusion that he has not inadvertently withheld this information, or done so due to his traumatic experiences, but has acted dishonestly."
- d. "In addition to this, it is noted that AZ's name and date of birth differs on documents held by the Home Office. This is a result of a forged document which was provided by AZ to Home Office Officials in attempts to gain entry to the UK in May 2011."
- e. "It is considered that he has concealed material information. Nationality: good character requirement guidance dated 31 July 2023 states: The decision maker will normally refuse an application where the person has attempt to lie or conceal the truth about an aspect of their application, whether on the application form or in the course of enquiries, including where they have knowingly provided false details, for example date of birth, name or nationality."
- f. "The police summary of AZ's asylum interview stated he was a member of the PKK for a period not exceeding 6 months in 2008 ... he has stated that his short-lived membership of the PKK which concluded a long time ago, along with his wider traumatic circumstances, cannot provide a reasonable basis for refusing the application. This is not considered accurate. It is

suggested that AZ has been involved in the distribution of PKK propaganda, in association with other individuals, on the basis of a police report from November 2013.”

- g. [details of the 2013 police stop, then:] “AZ states that he was not aware of what the magazines were at the time that he agreed to travel with them, but when he later became aware what these magazines were he still did not realise they could be held against him. It is difficult to reconcile AZ’s reports of having such a troubled historical relationship with the PKK with his apparent lack of concern with being in community spaces and a vehicle with individuals disseminating PKK material. Additionally, AZ’s suggestion that there were deliberate omissions in the police reporting are not regarded as credible.”
- h. “It is noted that apart from his initial asylum claim, where he stated he was involved for a short period only, he has always denied any involvement with the PKK. This is not accepted. In his representations AZ has stated that he had publicly renounced the PKK through the pronouncements made in the Turkish court proceedings. The fact that such pronouncements were provided in the context of him being able to benefit from a law resulting in no punishment for his PKK involvement, suggests this should not be taken as an effective renouncement.”
- i. “... whether or not the Turkish court’s findings were to be taken as a public renouncement of the PKK, and whether AZ had at any time ceased to be a member of the PKK and pursued his objectives through lawful organisations such as the BDP, there is evidence he has been involved with the PKK subsequent to the Turkish court’s findings, and there has been no evidence provided to suggest that AZ has renounced the PKK since 2013.” (emphasis in original)

28. From the same document we note also that Ms Hughes, having referred to AZ’s evidence that he had been a PKK member for less than 6 months in 2008 and the fact of the 2013 police stop, agreed that she could not be satisfied that he was of good character. She noted that he had regularised his stay in the UK and had not been charged or convicted in this country, but concluded that “these activities do not negate the activities that AZ has previously carried out for the PKK”.

The review grounds

29. The Applicant is represented by Edward Grieves KC and Emma Fitzsimons. By the grounds of review they contend:

- (1) There was procedural unfairness by (i) failing to provide an opportunity to answer any concerns in advance of the decision and (ii) failing to provide adequate reasons in the decision letter.
- (2) The decision was irrational.

- (3) The decision was in breach of the Human Rights Act 1998 because it infringed the Applicant's rights under ECHR Article 10.

Ground 1

The OPEN/CLOSED divide

30. Ground 1, as pleaded, initially included an assertion that the Respondent had wrongly left in CLOSED matters that could have been in OPEN and that this had led to unfairness. That submission would have had to be made good in CLOSED. In the event, that part of this ground was not pursued.

Opportunity to answer concerns

31. Mr Grieves submitted that basic principles of fairness required the Applicant to be given an opportunity to address any matters which were of concern to the Respondent when applying the good character requirement. In support of that, other examples, he cited *R v SSHD ex p Fayed* [1988] 1 WLR 763 at 773G-H:

“The fact that the Secretary of State may refuse an application because he is not satisfied that the applicant fulfils the rather nebulous requirement of good character or ‘if he thinks fit’ underlines the need for an obligation of fairness. Except where non-compliance with a formal requirement, other than that of good character, is being relied on, unless the applicant knows the areas of concern which could result in the application being refused in many cases, and especially this case, it will be impossible for him to make out his case. The result could be grossly unfair. The decision-maker may rely on matters as to which the applicant would have been able to persuade him to take a different view.”

32. This obligation, he suggested, was heightened in the circumstances of this case which included the withdrawal of the previous decision, the fact that the Applicant had made detailed representations and his solicitors there requested an opportunity to address any adverse points and his mental health difficulties.
33. However, he submitted, no fair notice was given of two allegations that the Applicant had been dishonest:
- (1) by an alleged failure to reveal a previous conviction in Turkey; and
 - (2) when he arrived in the UK and presented the false passport.
34. These, he submitted, were not relied on or raised in the first decision or the first SIAC proceedings. They could readily have been addressed by the Applicant if he had been told that they were of concern. The decision would not inevitably have been the same but for this error.

35. Mr Grieves also went on to submit that it was irrational for the Respondent to conclude that the Applicant had been dishonest and to rely on that finding in her decision. His arguments in that regard, which are set out below under Ground 2, could have been put forward if notice of this concern had been given.
36. In response, Ms Kohn submits that there is no “minded to refuse” procedure applicable to naturalisation: see *MSB v SSHD* SN/41/2015 at [46]. In *R (Thamby) v SSHD* [2011] EWHC 1763 (Admin) at [67], Sales J (as he then was) said that the Respondent’s obligation is to give fair warning at the time of the application of the general matters which the Respondent is likely to treat as adverse. This was done in the present case by published guidance and guidance in the application form and also by the earlier decision. Applicants are referred to “Guide AN” which is sub titled “Naturalisation Booklet – The Requirements”. There is a section containing detailed information about the Good Character requirement which warns applicants that if they are not honest about the information which they provide, citizenship could be taken away and they could be prosecuted. Under the heading “Criminality” the guide states: “You must give details of all criminal convictions both within and outside the UK.” There is also a hyperlink to the guidance used by caseworkers to decide applications.
37. The similar guidance then in force was held to provide sufficient information for applicants in *MSB* [SN/41/2015] per Flaux J at [57], rejecting the contention that it was unfair for the Secretary of State to refuse naturalisation on grounds including association with a terrorist organisation without an advance indication that this was a matter of concern.
38. Ms Kohn also submitted that in any event, the Applicant was alerted to a dishonesty issue by the summary of the 2021 decision disclosed in the first SIAC proceedings, because the GCA on that occasion (C166) recorded that “the application should fall for refusal based on contradiction of information provided ...”.
39. But as a more fundamental point, she also submitted that in the present case, naturalisation was refused expressly on the ground of association with the PKK and not on the ground of dishonesty. So even if the other arguments were not upheld, it would still not have been necessary to alert him to a dishonesty issue because it was not material.
40. In our judgment, the question of what if anything should have been drawn to the Applicant’s attention is coloured by the fact of the earlier decision and the first, settled SIAC proceedings. To a large extent those previous processes will have increased the Applicant’s awareness of the likely issues and will have helped him to make the best possible representations.
41. We also accept the submission based on *Thamby* that there is generally no requirement for individual matters of concern to be drawn to an applicant’s attention in advance of a naturalisation application, given the general indications in published guidance of the types of matter which are likely to be important.

42. However, to the extent that findings were made in response to the second application which were not made in response to the first (and which did not depend on new information), there was a risk of the Applicant being taken by surprise. If his presentation of the forged passport in 2011 had been part of the reasons for refusal, fairness might therefore have required that he have an opportunity to address the issue, because it did not feature in the first decision.
43. We are less convinced that there would have been a risk of unfairness by relying without warning on a failure to disclose the Turkish conviction in the application form. We note that in the Scott Schedule which was compiled in the first SIAC proceedings (page 2/A36) the Respondent identified the Applicant's declaration that he had not had any criminal conviction in any country, and that he had not been involved in any terrorism or any terrorist organisation, and added: "He would have known that all of these declarations were untrue."
44. As we go on to explain below, we have some criticisms of the reasoning set out in the GCA. In particular, there is lack of clarity about the significance of findings of dishonesty.
45. Overall, however, when the decision and the GCA are read as a whole, we are satisfied that the production of a forged passport in 2011 and a failure to disclose the Turkish conviction in the naturalisation application were not material reasons for the refusal of naturalisation. Instead, the application was refused because of the Applicant's continued or renewed association with the PKK (and a lack of frankness about that continued or renewed association), and not because of the two matters identified in this ground of challenge.

Failure to provide adequate reasons

46. Mr Grieves relies on *R (Help Refugees Ltd) v SSHD (Centre for Advice on International Rights in Europe intervening)* [2018] 4 WLR 168 where Hickinbottom J said at [122]:

"The rule of law requires effective access to justice. Therefore, generally, unless (e.g.) excluded by Parliament, there must be a proper opportunity to challenge an administrative decision in the court system. As a consequence, unless rendered impractical by operational requirements, sufficient reasons must be given for an administrative decision to allow a realistic prospect of such a challenge. Where the reasons given do not enable such a challenge, they will be legally inadequate."

47. The complaint is that the decision letter referred only to involvement with the PKK. It did not explain what the decision maker made of the Applicant's evidence contending that he was not materially associated with the PKK and makes no reference to findings of dishonesty against him, e.g. in relation to his account of the 2013 incident. It does not even reflect the reasoning in the GCA.

48. Ms Kohn responds that the decision letter must not be read in isolation: *R (Islam) v SSHD* [2017] EWHC 3614 (Admin), and that the decision was sufficiently explained by the underlying OPEN material on which it was based.
49. As we have said, the application was refused because of the Applicant's continued or renewed association with the PKK (and a lack of frankness about that continued or renewed association), and not because of the two matters identified in this ground of challenge. Despite our criticisms of some passages in the GCA, the reason for refusal has been clearly identified in the disclosed material. It was sufficient for the Respondent to state that identified concerns arose from the evidence in question, showing that the Applicant's representations had not been accepted, and it was not necessary to give further reasons for rejecting each of those representations. The Applicant has been able to launch a very detailed challenge to the rationality of the decision, demonstrating that there has not been any impediment to access to justice by reason of any lack of reasons.
50. For all of those reasons we conclude that there was no procedural unfairness and that ground 1 must fail.

Ground 2

51. In his written skeleton argument, Mr Grieves launches a detailed attack on the quality of the Respondent's decision making and on the reasoning in the GCA.
52. He highlights the fact that the first caseworker stated clearly that AZ's behaviour as a youth was "not being relied on" as a basis for refusal, and this seemed to indicate acceptance of his evidence that he had left the PKK because he had realized that he was opposed to armed conflict, information corroborated by the decision of the Turkish court not to punish him. But the decision maker then stated: "In any event, he is an adult and a significant amount of time has passed since he was a youth without clear evidence of his renunciation of these views" without explaining what "views" were referred to and without acknowledging his transition to peaceful activities with a legal organisation.
53. Mr Grieves then turns to the discussion of what the Applicant did or did not disclose in his naturalisation application form. The GCA records that (1) in the good character section, he ticked "no" to all questions about present or past involvement with terrorism, (2) in the first SIAC application he stated that this was a mistake of fact and (3) in his reconsideration representations in February 2024 he requested to amend this answer to "yes" and that this was said to be "out of an abundance of caution". In that context, the caseworker goes on to observe: "However, it is noted that AZ failed to disclose these criminal convictions during his application for British citizenship."
54. Mr Grieves submits that it was irrational to find dishonesty in this regard, pointing out that the relevant conduct in Turkey occurred when the Applicant was a minor, that a Turkish criminal record check in 2022 recorded no convictions against him and that no sentence was passed under the remorse law. There is no apparent basis

for a suggestion of multiple convictions. Nor did the caseworker analyse the circumstances in which the Applicant filled out the form, the fact that he had told the Respondent about the Turkish proceedings in his asylum claim and that he had severe mental health issues which, Professor Katona found, included the symptom of avoidance.

55. He also submits that there was a fundamental error in the caseworker recognising only AZ's realization that he was not capable of killing as a reason for leaving the PKK, failing to note that he had also said that he was "against armed conflict" and "against arms".
56. He then attacks the caseworker's finding that the Applicant was dishonest by failing to declare PKK involvement in his 2019 naturalisation application form. Although the caseworker acknowledged that his complex PTSD might mean that he had not provided deliberately misleading information, she found dishonesty in "the fact that he has still not provided an honest and comprehensive picture of his involvement with the PKK". This, he contends, was a failure to engage with the Applicant's explanation (about his mental state and also about legal advice at the time and his understanding of the application process) and to give sufficient weight to the likely effect of his PTSD. It was also irrational, he submits, not to appreciate that it was very unlikely that there was dishonesty where the PKK association had already been declared to the Home Office.
57. In oral submissions Mr Grieves referred to expert evidence before the Commission explaining that as a result of the remorse proceedings, the Applicant had no criminal record in Turkey. That, he submitted, provided a compelling explanation for the Applicant believing that there were no convictions to divulge in his application.
58. In respect of the caseworker's reference to the use of a forged document "in attempts to gain entry to the UK", Mr Grieves submits that this point was both new and misconceived. It did not appear in any of the documentation relating to the first SIAC proceedings, and the "no" box was ticked in respect of deception and dishonesty in the 2021 GCA (not changed upon review by Ms Hughes on that occasion). As to the facts, Mr Grieves emphasizes that on 28 May 2011 AZ presented the fake passport and the real documents, which were in different names, at the same time. He therefore could not have been trying to pass off the passport as his own. In his asylum screening interviews that day he was frank about how he had obtained the passport, and he was found sufficiently credible to be granted asylum.
59. More generally, Mr Grieves criticises the quality of the decision making, pointing (for example) to failure to follow guidance by analysing the "extent" of any false information provided. The OPEN guidance also lists questions, apparently not asked in this case, which are relevant in an application from someone who is known to have associated with individuals involved with terrorism, e.g. whether the applicant was unaware of those individuals' background and activities and what action he took once those things came to light, and also the duration of the association and when it took place. Mr Grieves points to a lack of any reference in

the GCA to facts being found on the balance of probabilities and, in respect of the 2013 police stop, to a lack of engagement with the explanations which the Applicant put forward. There is no discussion of the extent of any PKK association evidenced by that episode, or of the significance of it having occurred 11 years before the date of the decision.

60. In that last regard, we pointed out that the guidance directs caseworkers to refer cases involving association with an extremist or an extremist group to the Special Cases Unit. Since the hearing we have been told that in such a case, CLOSED guidance is applied in addition to the OPEN guidance. That fact was not made clear at the hearing. We return to this topic in our CLOSED judgment.
61. Mr Grieves also suggested that the decision makers were unfair in casting doubt on the reliability of the Applicant's renunciation of the PKK in the Turkish court, in that the GCA makes the point that such a renunciation could be self-interested rather than "effective".
62. In response, Ms Kohn reminded the Commission that an applicant for British citizenship by naturalisation has the burden of satisfying the Respondent that he is of good character, on the balance of probabilities. She pointed out that the character questions on the application form refer unambiguously to "any" relevant matters which had "ever" occurred "in any country". Applicants are clearly reminded that they must be frank and that if in doubt they should disclose any relevant associations. Meanwhile evidence from the Applicant's solicitor Ms Foulner reports that his previous solicitor, who assisted him with the naturalisation application, has said that he took him through all of the questions on the form. At best Ms Foulner was able to say that it "does not appear" that he was shown the guidance. In those circumstances, Ms Kohn submitted, there was an entirely rational basis for a finding that the Applicant had not been frank.
63. In answer to the suggestion that the caseworkers had taken an unfair view of the Applicant's renunciation of the PKK in the Turkish court, Ms Kohn submitted that what matters is the totality of the evidence which they considered and that, having regard to the 2013 police stop, they were entitled to question the genuineness of the renunciation.
64. Ms Kohn also submitted that the evidence of the 2013 police stop provided an ample basis for the Respondent's eventual conclusion. She points to clear differences between the accounts of the relevant events in the Applicant's witness statement to the Commission and the OPEN summary of the police report, in particular the question of whether the police saw the Applicant emerging from the door of the premises next to a fish-and-chip shop. She submits that it was open to the Respondent to prefer the police account and, therefore, to find that there was a lack of frankness on the Applicant's part.
65. More generally, Ms Kohn also submitted that there was a rational basis for the Respondent's finding as to the Applicant's involvement with the PKK, bearing in mind his past association with the PKK, his evidence that he had seen the

magazine Serxwebun at the community centre and the evidence of the 2013 police stop.

66. We have concluded that there was a rational basis for the Respondent's decision, although there are some criticisms to be made of the reasoning.
67. It is clear that the Applicant's association with the PKK when aged about 15 could not, itself, provide a basis for a finding in 2024 that he is not of good character.
68. What would provide such a basis would be a finding of any renewed or continued association by him with the PKK since he came to this country. In those circumstances his association with the PKK in adolescence would not be the reason for the finding, but the fact of it logically affected the assessment of the renewed or continued association because, at all material times, the Applicant has claimed that his original association with the PKK has been renounced and never renewed or continued. Any renewal or continuation could itself be a basis for finding that he is not of good character and also, in light of his denials, could show a lack of frankness on his part which could also be a basis for finding that he is not of good character.
69. In our judgment there was a rational basis for the Respondent to take the view that the 2013 police stop was evidence of a renewed or continued association with the PKK which undermines the Applicant's claim to be of good character.
70. As we have said, the Applicant when making his citizenship application knew that the 2013 police stop was relevant and made detailed representations about it, and therefore there was no procedural unfairness.
71. In our judgment, it was not irrational for the Respondent to reject the Applicant's representations about the 2013 police stop. The OPEN summary of the police report describes their encountering three men, all speaking the same language, who had been seen to emerge from the same premises and whose vehicle contained copies of the magazine of a proscribed organisation for distribution. They had driven quite a long distance together. The magazine was one which the Applicant, on his own admission, had already seen at the community centre. And, in view of his youthful association with the PKK, this episode raised the question of whether he had indeed renounced that organisation for good.
72. In those circumstances we are not persuaded that the Respondent's conclusion was irrational.
73. We are also not persuaded that the caseworkers failed to apply the appropriate standard of proof. The Respondent's guidance tells caseworkers: "You must be satisfied that an applicant is of good character on the balance of probabilities." In passing, we question whether a person's good character is the sort of fact which can be subjected to that test, or whether it is rather an opinion or assessment based on the facts – facts which themselves should be found on the balance of probabilities. Be that as it may, we have no reason to doubt that caseworkers have that standard of proof well in mind. It is not necessary for them to prove their awareness of it by reciting it in the GCA.

74. In fairness to the Applicant, we agree with Mr Grieves that the parts of the GCA dealing with dishonesty are confusing.
75. In summarising his submissions, we have referred above to the passages commenting on the omission, in the Applicant's naturalisation application form in 2019, to acknowledge his PKK involvement as a youth and his criminal conviction or convictions in Turkey. Those passages could give the impression that those omissions were a material reason for the finding that he was not of good character. Having carefully considered the GCA as a whole, we have concluded that they were not, but there is an unfortunate lack of clarity about what if any significance should be given to each of these facts. The same comment applies to the discussion in the GCA about the fact that the Applicant presented a false passport when he arrived in the UK in 2011.
76. If the refusal decision had depended on those matters, there would be a rationality challenge of substance. The youthful PKK involvement and Turkish convictions were disclosed by the Applicant to the Respondent in his asylum application when he arrived in the UK on 28 May 2011. It would therefore be surprising, to say the least, to conclude that his completion of the naturalisation application form, however deficient, was an attempt to conceal those same facts. And as we have said, the forged passport in a false name was handed over alongside genuine documents bearing the Applicant's real name. It is not credible that this was an attempt to use the passport, rather than a surrender of it as he has claimed.
77. However, the key theme which runs through the GCA is a lack of "clear evidence of his renunciation of these [PKK] views" and of "an honest and comprehensive picture of his involvement with the PKK". Repeatedly the first caseworker declares herself unsatisfied that the Applicant "has renounced the PKK". It is in that context that her finding based on the 2013 police stop that "AZ has been involved in the distribution of PKK propaganda, in association with other individuals" is so important. That is followed by her "Summary of decision" which is based fairly and squarely on involvement with the PKK. That is then endorsed by the conclusion of Ms Hughes.
78. The GCA would have been much improved by a less discursive and more rigorous approach, identifying the points about the false passport and the completion of the application form but making it explicit that they were not material to the final decision.
79. Nevertheless, for the reasons set out above, we reject the claim of irrationality or of regard being had to irrelevant considerations.

Ground 3

80. The Applicant's contention that the refusal of naturalisation was an infringement of his freedom of expression rights under ECHR Article 10 was not maintained in argument. In our judgment it could not have succeeded. In Mr Grieves' skeleton argument, this ground is predicated on the Respondent's decision being made in

material reliance on the content of the specific editions of the magazines which were being distributed at the time of the 2013 police stop. However, there is no evidence of that, and no reference in the evidence to the content. The reason for the Respondent's decision was a continued or renewed association with a proscribed organisation. Ground 3 therefore falls away on the facts.

81. In any event, ground 3 would have faced imposing legal hurdles. As the Court of Appeal observed in *R3 v SSHD* [2023] EWCA Civ 169 at [107], per Elisabeth Laing LJ: “the ECtHR has been clear that there is no Convention right to citizenship”. In that case, a review of the compatibility of a deprivation of citizenship with ECHR Article 8 was restricted to considering whether the decision was arbitrary and what consequences it had for the applicant. In the present case, even if the police stop may in theory have engaged Article 10, it seems clear that a refusal to grant British citizenship by naturalisation did not.

Conclusion

82. For these reasons, together with those in our CLOSED judgment, the application for review will be dismissed.