Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/00725/2015

THE IMMIGRATION ACTS

Heard at Field House	**Decision and Reasons Promulgated**
On 30 September 2015	**On 3 December 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE O'RYAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MOHAMED SUFI OSMAN
(ANONYMITY ORDER NOT MADE)

Respondent

Representation:
For the Appellant: Mr Kandola, Senior Home Office Presenting Officer
For the Respondent: Mr James Collins, instructed by Sentinal Solicitors

DECISION AND REASONS

1 This is an appeal brought by the Secretary of State for the Home Department. In this decision, I shall refer to the parties as they were in the First tier, i.e. that Mohamed Osman is the Appellant, and the Secretary of State for the Home Department is the Respondent. The Respondent appeals against the decision of the First tier Tribunal (Judge Munonyedi) dated 26 May 2015, allowing the Appellant's appeal against the Respondent's decision of 5 January 2015 refusing his application for asylum.

2 The Appellant's date of birth is 1 July 1994 and is 21 years old. His account was, in summary, that he is a Somali national of Shanshia, Reer Hamar minority clan origin. He lived with his parents in Mogadishu until the age of 6 at which time the Appellant's family left Somalia and the Appellant was left with an 'uncle' and his children. I note that this was not in fact a sibling of the Appellant's father, but a more distant relative (SEF q 18). The uncle's household suffered two major attacks; in 2011, when Al-Shabaab broke into the home, killed the uncle's son, raped his two daughters, and assaulted and injured the Appellant (see decision [10], and SEF q 40); and further, in October 2013, an armed gang entered the home demanding money, and kidnapped the uncle's two daughters.

3 The Respondent has throughout accepted the Appellant's claimed nationality and minority clan membership (refusal, paras 17-21 and 31). However, the Respondent declined to give the Appellant 'the benefit of the doubt' (para 28) in relation to the Appellant's account of the two attacks. The Respondent's reasons for this appear to be that (i) the Appellant had not provided any medical evidence in relation to his injuries in 2011; (ii) the attacks were random acts carried out by different groups; (iii) the groups did not return to the property or pose any further threat; (iv) after the second attack in February 2013[1], the Appellant did not leave until 8 months later; (v) there was no evidence to prove that the attacks occurred; and (v) the Appellant had not claimed asylum in Greece when he was there (refusal, paras 25 and 28).

4 Further, the Respondent refused the Appellant's asylum claim on the basis that following *MOJ & Ors (Return to Mogadishu)* [2014] UKUT 00442 (IAC) ('MOJ') there was no longer any risk of persecution of the Appellant as a minority clan member (refusal, para 34) and that the Appellant would not face the prospect of living in destitute circumstances that would engage the UK's obligations under the Refugee Convention or ECHR (refusal para 40).

5 In the subsequent appeal, Judge Munonyedi accepted the Appellant's account was consistent and unexaggerated; it addressed the issues in the Respondent's refusal letter in a manner which was convincing and reasonable. The Appellant's core claims were reasonably likely to be true; he was credible and truthful [15]-[16]. Notably, there is no challenge from the Respondent to that assessment.

6 Even though the Judge accepted the Appellant's account of past persecution, she found at para 22 that the risk of similar harm had now receded. However, the Judge considered the evidence as to the whether the Appellant retained any 'nuclear family' in Mogadishu; a relevant issue following MOJ. The Judge made the following findings in relation to that issue in her decision:

> "25. ... Since leaving Somalia in February 2014, the Appellant nor his family in the United Kingdom have had any contact with his uncle. They do not know where he is or whether or not he is alive.

[1] this appears to be an error on the part of the Respondent; I cannot see any reference to the Appellant having given February 2013 as the date of the second attack

> ...
>
> 27. It is my finding that the Appellant as a minority clan member would find it very difficult, almost impossible to access a livelihood without the support of clan or nuclear family despite the apparent economic boom in Somalia.
>
> ...
>
> 31. It is my finding that the appellant without any nuclear family support will find it impossible to establish himself. His minority clan membership means that he does not have the important, influential and significant support network that he would need to establish himself in Mogadishu. The appellant has already experienced discrimination because of his clan membership. His physical appearance and light coloured skin makes it very clear that he is from a minority clan. Without the means of support he would be left destitute and forced to an IDP camp. It is my finding that life in such a camp falls well below acceptable humanitarian standards.
>
> 32. The means for the appellant to leave Somalia were met by his Uncle. The appellant and his family have not heard from his since February 2014."

7 The Judge's ultimate decision was that the Appellant's appeal should be allowed on humanitarian protection grounds, and on human rights grounds.

8 The Respondent sought permission to appeal in Grounds of Appeal dated 10 June 2015 which argue, in summary, that the Judge erred in law in:

(i) failing to 'resolve the evidence' within paragraph 27; speculating that the Appellant's uncle was no longer in Mogadishu or had died, as it was probable that he was still in Mogadishu; having no contact with him did not equate to his having left or died; and

(ii) failing to consider the effect of the re-integration package offered to failed asylum seekers which would furnish the Appellant with the financial means to re-establish himself in Somalia.

9 Permission to appeal was granted on 25 June 2015 on those grounds.

10 I note that both Judge Munonyedi (at her para [10]) and Judge Reid (at his para 3), in his subsequent decision granting the Respondent permission to appeal against Judge Munonyedi's decision, appear to misapprehended the dates of the Appellant's departures (pleural) from Somalia. The Appellant's evidence was not, as suggested by the Judges, that he first left Somalia in 2011 after the first attack; rather, his uncle facilitated his departure to Greece in 'the tenth month' (ie October) of 2013 after the second attack (SEF q 90, 99), where he remained for 2 months and was detained for 2 weeks (screening, continuation sheet; SEF q 91), and was fingerprinted (screening, q 2.13), before returning to Somalia (SEF q 94). The uncle then again arranged for the Appellant to leave Somalia, this time travelling to Kenya in the 'second month' (ie February) of 2014 (SEF q 77 -79), where the Appellant stayed for a week, and then flew to the UK, arriving 11 February 2014 (see screening, 2.1).

11 I do not find that his misapprehension makes any material difference to the Judge's positive finding on credibility. A mistake of fact may give rise to an error of law if it results in unfairness to a party. However, the Respondent in her grounds of appeal does not identify this issue at all, and hence has not argued that she has been caused any unfairness as a result of any misapprehension on the part of the Judge in relation to the timing of the Appellant's departures from Somalia. In any event, the Respondent and the FtT were always aware that the Appellant had twice departed.

The hearing

12 I heard submissions from the parties. Mr Kandola relied on the grounds of appeal.

13 In relation to the Respondent's point regarding the adequacy of the Judge's reasoning in finding that the Appellant had no nuclear family in Mogadishu, I drew Mr Kandola's attention to the Appellant's evidence at q 113-4 of the SEF interview (which must, in the light of the Judge's comprehensive finding as to the Appellant's credibility at [15]-[16], be deemed to be true), which reads as follows:

> "Q113: Where is your uncle?
>
> A: I don't know.
>
> Q114: How do you know he is not there anymore?
>
> A: He told me before leaving he was ready to leave the country once his daughters return and he also mentioned we'll see each other in Kenya."

14 Mr Kandola argued that even in the light of that evidence the Judge was still obliged to provide greater reasoning than she had done in arriving at the conclusion that the Appellant had no nuclear family in Mogadishu.

15 In relation to the second ground, Ms Kandola handed up and sought to rely on a 2 page document from 'Horizon, the Home Office intranet' entitled 'VARRP assistance'. This relates to the Voluntary Assisted Return and Reintegration Programme. The document was not specific to Somalia. It provided that:

> "Choices will:
>
> - help the applicant get travel documentation, if needed
> - arrange and pay for flights
> - arrange transport to the UK departure airport, if needed
> - give assistance at the departure airport, if needed
> - arrange onward transport, if needed, when back in the country of origin or the third country to which the person is permanently admissible (country of return)
>
> Those who return under VARRP are eligible for up to £1,500 worth of reintegration assistance for each person, including a £500 relocation grant in cash on departure for immediate resettlement needs

> Once home, a range of reintegration assistance options are available, tailored to the returnee's individual needs. This assistance is to help returnees to make an income and become financially independent. To take up this part of the reintegration assistance, returnees must contact Choices within one month of their return. All reintegration assistance is supplied within the first six months of return.
>
> Reintegration assistance can be used for any of the following:
>
> - business set-up
> - education
> - vocational training
> - job placement
> - housing (temporary accommodation or for repair work)
> - childcare fees, or
> - medical and psychosocial support."

16 The second page of the document sets out who may be eligible. This includes a person who "... has been refused asylum and has exhausted the appeals process", and so would appear, contrary to Mr Collins' submission on the point, at least potentially to apply to the Appellant if his present appeal failed, although I note this eligibility ceases to apply if a person is detained or has removal directions set. Further, "In each individual case, applications are received and screened by Choices. The final decision about suitability of applications for the programme rests with the assisted voluntary returns (AVR) team".

17 I sought to clarify with the parties whether this specific document had been before the FtT Judge. Mr Kandola accepted that it had not been, but the package had been referred to within the Respondent's decision letter of 5 January 2015.

18 I asked the parties whether the terms of the VARRP scheme had been a matter considered by the Upper Tribunal in the case of MOJ. Neither party brought any particular extract of the decision to my attention.

19 Mr Collins resisted the appeal on the grounds, in summary, that the FtT Judge had made findings as to whether the Appellant had a nuclear family in Mogadishu which were open to her and were based on the evidence, including the evidence at q 114 of the SEF which indicated that the uncle had plans to leave Mogadishu himself as soon as he could in any event. Further, the VARRP document was not before the FtT and the Respondent's present attempt to rely on it did not disclose any material error of law.

Discussion

The nuclear family issue

20 This appeal requires consideration of the country guidance given in MOJ, the headnote of which (which is derived from the text of para 407 of the decision) is as follows (insofar as is relevant):

> "(vii) A person returning to Mogadishu after a period of absence will look to his nuclear family, if he has one living in the city, for assistance in re-establishing himself and securing a livelihood. Although a returnee may also seek assistance from his clan members who are not close relatives, such help is only likely to be forthcoming for majority clan members, as minority clans may have little to offer.
>
> (viii) The significance of clan membership in Mogadishu has changed. Clans now provide, potentially, social support mechanisms and assist with access to livelihoods, performing less of a protection function than previously. There are no clan militias in Mogadishu, no clan violence, and no clan based discriminatory treatment, even for minority clan members.
>
> (ix) If it is accepted that a person facing a return to Mogadishu after a period of absence has no nuclear family or close relatives in the city to assist him in re-establishing himself on return, there will need to be a careful assessment of all of the circumstances. These considerations will include, but are not limited to:
>
> - circumstances in Mogadishu before departure;
> - length of absence from Mogadishu;
> - family or clan associations to call upon in Mogadishu;
> - access to financial resources;
> - prospects of securing a livelihood, whether that be employment or self employment;
> - availability of remittances from abroad;
> - means of support during the time spent in the United Kingdom;
> - why his ability to fund the journey to the West no longer enables an appellant to secure financial support on return.
>
> (x) Put another way, it will be for the person facing return to explain why he would not be able to access the economic opportunities that have been produced by the economic boom, especially as there is evidence to the effect that returnees are taking jobs at the expense of those who have never been away.
>
> (xi) It will, therefore, only be those with no clan or family support who will not be in receipt of remittances from abroad and who have no real prospect of securing access to a livelihood on return who will face the prospect of living in circumstances falling below that which is acceptable in humanitarian protection terms.

(xii) The evidence indicates clearly that it is not simply those who originate from Mogadishu that may now generally return to live in the city without being subjected to an Article 15(c) risk or facing a real risk of destitution. On the other hand, relocation in Mogadishu for a person of a minority clan with no former links to the city, no access to funds and no other form of clan, family or social support is unlikely to be realistic as, in the absence of means to establish a home and some form of ongoing financial support there will be a real risk of having no alternative but to live in makeshift accommodation within an IDP camp where there is a real possibility of having to live in conditions that will fall below acceptable humanitarian standards."

21 I am of the view that the Respondent's challenge is, at its core, a reasons challenge: ie the Judge did not provide adequate reasoning for finding that the Appellant had no nuclear family support in Mogadishu. I am also of the view that it is appropriate to consider to what extent this issue was actually raised by the Respondent in the refusal letter at all: where an issue is clearly raised by a party to an appeal, the Tribunal will be required to resolve that issue, with reasons which are adequate to the particular context; conversely, where an issue is not raised or raised only obliquely, public law does not require extensive reasons to be given to make a finding on such an issue. I refer, for example, to the headnote of Budhathoki (reasons for decisions) [2014] UKUT 341 (IAC) (1 July 2014):

> "It is generally unnecessary and unhelpful for First-tier Tribunal judgments to rehearse every detail or issue raised in a case. This leads to judgments becoming overly long and confused and is not a proportionate approach to deciding cases. It is, however, necessary for judges to identify and resolve key conflicts in the evidence and explain in clear and brief terms their reasons, so that the parties can understand why they have won or lost."

22 With those principles in mind, I note that in the Respondent's refusal letter of 5 January 2015 states as follows:

> "35. However, it is noted that you claim to have no family remaining in Somalia (Q112) and therefore consideration has been given to you as an individual returning to Somalia with no relatives in the City."

23 I have already set out at para 3 above, the Respondent's reasons for not extending the 'benefit of the doubt' to the Appellant's account regarding the two attacks.

24 One can therefore see that the Respondent did not in fact dispute within the refusal letter the Appellant's claim that he was no longer in contact with his uncle, and that he did not know where he was. The Appellant's claim was considered on the basis that he would be returning to a city where he had no relatives.

25 I also observe that at paragraph 406 of MOJ, immediately before the passage at 407 (quoted at my paragraph 20 above), the Upper Tribunal held as follows:

> "406. We consider, it the light of the evidence as a whole, that the position as set out by UNHCR in its report published on 25 September 2013 continues to reflect an appropriate starting point today, upon which to build in the light of our review of the up to date evidence:

> "With regard to Mogadishu , the personal circumstances of an individual need to be carefully assessed. UNHCR considers an IFA/IRA as reasonable only where the individual can expect to benefit from **meaningful** nuclear and/or extended family support and clan protection mechanisms in the area of prospective relocation. When assessing the reasonableness of an IFA/IRA in Mogadishu in an individual case, it should be kept in mind that the traditional extended family and community structures of Somali society no longer constitute as strong a protection and coping mechanism in Mogadishu as they did in the past. Additionally, whether the members of the traditional networks are able to genuinely offer support to the applicant in practice also needs to be evaluated, especially given the fragile and complex situation in Mogadishu at present.
>
> For the following categories of Somalis, UNHCR would consider that an IFA/IRA will not be reasonably available in the absence of **meaningful** nuclear and/or extended family support and functioning clan protection: unaccompanied children or adolescents at risk of forced recruitment and other grave violations; young males at risk of being considered Al Shabaab sympathizers and therefore facing harassment from government security forces; elderly people; people with physical or mental disabilities; single women and female single heads of households with no male protection and especially originating from minority clans. In any other exceptional cases, in which the application of an IFA/IRA in Mogadishu is considered even in the absence of meaningful family or clan support to the individual, the person would need to have access to infrastructure and livelihood opportunities and to other meaningful protection and support mechanisms, taking into account the state institutions' limited ability to provide security and meaningful protection." (Emphasis added)

26 MOJ requires a decision-maker to consider the potential support to a returnee from a nuclear family. The Upper Tribunal also considered at para 406 the UNHCR report of 23 September 2013 to be an appropriate starting point, which referred to 'meaningful' nuclear and/or extended family support. One cannot sensibly interpret the remainder of MOJ as suggesting that anything less than meaningful support from a nuclear family would be likely to avail a returnee. If such support is not meaningful, it is meaningless.

27 Bearing in mind that:

(i) the only family that the Respondent refers to in her grounds of appeal as being potentially relevant is a single person; the Appellant's uncle (a distant relative, not a paternal uncle), and I query how 'meaningful' the presence of a single person might be in any event, or whether he could be deemed to represent a 'nuclear family';

(ii) that uncle had lost his own son, and his daughters had been raped and later kidnapped, and was considering leaving Mogadishu whenever he could;

(iii) 15 months had passed between the Appellant last leaving Somalia, and the FtT hearing;

(iv) the Respondent had not raised within the refusal letter the potential presence of the uncle as a relevant consideration as defeating the Appellant's protection claim;

I conclude that the FtT was entirely justified in arriving at the finding that the Appellant had no nuclear family support available to him on return, and its reasons were adequate in law, in the particular context of this appeal and in relation to the key issues in dispute between the parties.

The VARRP issue

28 I consider the relevance of the Respondent's 'Horizon' intranet document at para 38 below.

29 However, I consider the degree to which the VARRP issue was raised in the Respondent's original refusal letter of 5 January 2015. The letter is essentially in two parts. Pages 1-2 (of 11) are entitled 'Asylum Decision', and: informs the Appellant that he has been refused asylum for reasons set out in 'Annex A' to the letter; gives advice about rights of appeal; provides the Appellant with a one-stop notice (under s.120 NIAA 2002); and then states as follows:

> "Refugee Action - Choices assisted Voluntary Returns Service
>
> Refugee Action assist people to return to their own country. They are an independent charity are and not part of the United Kingdom Government. Through 'Choices', Refugee Action's Voluntary Assistance Return and Reintegration Programme (VARRP), you can apply for Reintegration Assistance where you can benefit from a small business start up, job training, job placements, education courses and vocational training. Additionally Refugee Action provide a relocation grant and baggage allowance and can help with temporary accommodation and childcare.
>
> Refugee Action offer independent, confidential and non-directive advice so that you can make an informed decision on whether to return home. Please find enclosed the leaflets regarding the Voluntary Return and VARRP."

30 I am not provided with copies of any leaflets.

31 The remainder of the refusal letter, pages 3-11, is 'Annex A', and is entitled "Detailed Reasons for Refusal". There is no reference to the VARRP Service in Annex A. There is a passage which as follows at [38]:

> "38. It is also noted that within Mogadishu, there are a number of resources that would be available to you. For example, the 2015 UNHCR country operation profile states that improvements are being made for returning refugees and assistance to reintegrate returnees in Somalia;
>
> > '*(With hopes of g*[2]*)*reater stability in Somalia, some IDPs refugees from neighbouring countries are spontaneously returning to their areas of origin.

[2] The words in brackets are present in the original report, but not quoted by the Respondent

> UNHCR has formed the Return Consortium, consisting of UN agencies and international NGOs in Somalia. The consortium promotes a standardized approach to assist returnees and seeks synergies to facilitate voluntary return, with the aim of safe and sustainable reintegration of returnees in Somalia.
>
> The Office will carry out its mandate and implement its return strategy in cooperation with the Government and members of the Return Consortium. While it is acknowledged that this process will take some time to bear fruit, as the overall situation is not yet ripe for solutions, UNHCR will fully explore all existing or emerging opportunities.
>
> Activities will focus on supporting the return of IDPs and refugees to their areas of origin, while also pursuing local integration where feasible. The Office will implement reintegration activities through community-based projects benefitting both returnees and host communities, in coordination with development actors.
>
> Since 2012, there has been a steady increase in needs as a result of the growing number of IDPs. In 2015, the financial requirements for UNHCR's operation in Somalia are set at USD 79.3 million, approximately USD 10 million more than the 2014 budget. This increase reflects durable solutions requirements of IDPs and refugees, including for return and local integration.' "

32 I mention above that neither party brought to my attention any passage within MOJ relevant to the VARRP issue. In fact, the following passages are relevant. At para 239, the Upper Tribunal set out the Respondent's submissions in MOJ as follows:

> "239. Finally, in terms of general submissions, the respondent points to financial support provided to returnees by the Home Office in terms of reintegration support. Voluntary returnees can benefit from a package of a grant of up to £1,500 which might be used to start a small business as well as support from local caseworkers. Although the Tribunal in AMM were not persuaded that would make a significant difference, that was because of the conditions as they were then found to be. Now that the complete withdrawal of Al Shabaab has been maintained and there is no longer any conventional fighting, the position is, the respondent submits, very different."

33 The Upper Tribunal in MOJ made the following observation in its section on IDP's at paras 409-423:

> "423. Two observations might be made about financial considerations. Financial assistance from the Home Office may be available to voluntary returnees, in the form of a grant of up to £1,500, and may *(be)* of significant assistance to a returnee."

34 I find that the issue of the potential availability of financial or other assistance to the Appellant through VARRP, as potentially diminishing his chances of becoming destitute, was simply not an element of the Respondent's case that was properly put in issue in the appeal before the FtT. Although the existence, in general terms, of the VARRP programme was something brought to the Appellant's attention within pages 1-2 of the refusal letter, no particulars of any such support were set out in that section of the refusal, or thereafter. No cash sum, whether £500, or £1500, was mentioned. Nor were any particulars set out as to how the scheme actually operated in Mogadishu or anywhere else in Somalia. No particulars were provided as to the availability, in Mogadishu, of: internal travel arrangements, education, vocational

training, job placement, housing (whether temporary accommodation or for repair work); payment of childcare fees; or the availability of medical and/or psychosocial support.

35 Further, it is clear from the structure of the refusal letter that the actual reasons being relied on by the Respondent for refusing the asylum claim are contained within Annex A, the 'Detailed reasons for refusal', in which section VARRP is not mentioned. Further, the Respondent cannot possibly argue that a matter is properly put in issue by reference to the contents of leaflets, which are even further removed from the content of the 'Detailed reasons for refusal', and the contents of which we have no idea.

36 The existence of the 'Return Consortium', referred to within the UNHCR document quoted at para 38 of the refusal is not a matter raised in the Respondent's grounds of appeal, and the Respondent raises no complaint about the FtT not referring to it in the decision. In any event, the UNHCR document is rather aspirational as to the assistance hoped to be provided to returnees; solutions are not 'ripe', and it is clear from the last paragraph that the financial requirements of returnees exceed the available budget.

37 The Respondent could have raised the VARRP issue clearly within the detailed reasons for refusal, and given details as to how the scheme operated in Mogadishu. However, she did not.

38 I find that the Horizon intranet document, seeking to provide further particulars of the VARRP scheme, is clearly evidence which was not before the FtT. The Respondent's reference to the contents of that document now does not establish any material error of law within the FtT's decision, made as it was on (i) the issues in dispute before it, and (ii) the evidence before it. Although clearly I have read the document, its contents have no relevance to the question of whether the FtT erred in law.

39 With the VARRP matter not being properly raised in the particular decision served on the Appellant, should the issue be treated as generally raised in all Somalia appeals, on the basis that it is an issue which is discussed in MOJ?

40 I am not satisfied that the existence of the VARRP scheme is a constituent element of the Country Guidance given in MOJ. The decision is 481 paragraphs long, excluding its Annexes, and clearly not every enunciation of the Tribunal within the body of the decision will represent Country Guidance. I find that the Country Guidance is contained at paragraph 407, which is repeated accurately within the headnote. The Upper Tribunal has no doubt been astute to ensure that country guidance purportedly set out within a headnote accurately reflects the country guidance actually given within the body of the decision, given the Court of Appeal's criticisms of the Upper Tribunal in *PO (Nigeria) v SSHD* [2011] EWCA Civ 132, para 37.

41 I therefore find that the potential availability of financial assistance from VARRP, as a matter potentially reducing the risk of the Appellant becoming destitute, was simply

not part of the Respondent's case before the FtT, and hence the FtT was not required to address the issue. The absence of any reference to VARRP within the FtT's decision does not disclose any material error of law.

42 If I am wrong in respect of either of my assessments that (i) the Respondent's decision letter in the present case decision did not raise the VARRP point, and (ii) the case of MOJ does not require the VARRP point to be addressed in every Somali appeal, I find nonetheless that the FtT's lack of reference to VARRP does not disclose any material error of law in the present case. I so find on the basis that the FtT would, for the present Appellant, have inevitably have come to the same conclusion, that the Appellant would end up destitute in conditions well below acceptable humanitarian standards (para 32).

43 The Appellant, on findings which I find above to be sustainable, has no one in Somalia. The Upper Tribunal in *AMM and others (conflict; humanitarian crisis; returnees; FGM) Somalia CG* [2011] UKUT 445 (IAC) (28 November 2011) held:

> "347. As part of the holistic assessment we must make, regard clearly has to be had to the current humanitarian crisis in Mogadishu. The most recent evidence includes the declaration of famine in the IDP camps located in the city. Although the distribution of food is proceeding in a commendable fashion, there are still serious problems regarding malnutrition and disease, as well as gross overcrowding. These factors bear on Article 15(c) risk in two ways. First, they make it impossible to find, as a general matter, that someone involuntarily returned to Mogadishu is not at risk of ending up in one of the districts where conventional (in any event, significant) fighting is still occurring. Second, as regards all but the better-off or best-protected citizens, the direct and indirect effects of the humanitarian crisis are likely to be such as to diminish their capacity for vigilance, as regards such things as IEDs, unexploded ordinance, opportunistic criminals and continuing Al-Shabab elements intent on spreading fear by intimidation, kidnapping and beheading.
>
> 348. We are conscious of the evidence, disputed by the appellants, that returnees from the United Kingdom may be given up to £1,500 by the United Kingdom in order to assist resettlement and reintegration. We are, however, unable to find that a person who stands to get such funds will thereby be able, as a general matter, to surmount the problems we have just mentioned, at least in all but the immediate term."

44 MOJ observes that there have been improvements in county conditions in Somalia since AMM was decided. The categories of persons deemed likely to end up in an IDP camp in conditions in breach of Article 15(c) of the Qualification Directive have been reduced. However, the Appellant, according to his profile, still faces such a risk. Even if (in the absence of the VARRP issue being properly raised in the refusal letter in the present case) the FtT was obliged to take the Respondent's assertions at para 239 of MOJ into account, and ought to have considered that the Appellant may potentially benefit from 'a package of a grant of up to £1,500', I find that, as the Appellant is a minority clan member with no nuclear family available to support him, the FtT would still inevitably have arrived at the same conclusion as did the Upper Tribunal in AMM, ie that such assistance would enable him to escape his probable destitution only in the immediate term.

45 In any event, even if I were to set aside the FtT's decision on the basis that it had materially erred in law by failing to have regard to the availability of the VARRP programme, and if I were to admit and take into account the Respondent's Horizon intranet document, it would then become apparent that the way in which the VARRP package was described at para 239 of MOJ was not accurate. Insofar as it suggested that £1500 cash was available, it is clear from the Horizon document that it is not. Cash is limited to £500. The Horizon document provides that an applicant 'may apply' to the scheme; assistance is said to be 'up to' £1,500 'worth' of reintegration assistance; any package lasts only 6 months; and, as observed above, even taking into account the greater particularity within the Horizon document of how the scheme works (compared with the more general observations set out at para 239 of MOJ), the Horizon document still provides no particulars as to how the scheme actually operates in Mogadishu or anywhere else in Somalia: no particulars were provided as to the availability, in Mogadishu, of: internal travel arrangements, education, vocational training, job placement, housing (whether temporary accommodation or for repair work); payment of childcare fees; or the availability of medical and/or psychosocial support.

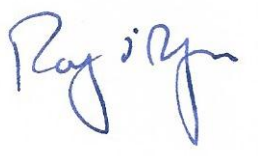
46 If required to remake the decision, I would hold that the Horizon document contains no particulars as to how the VARRP scheme operates in Somalia. Further, I would hold that the £500 cash funds potentially available to the Appellant would not materially reduce the likelihood of the Appellant, a minority clan member with no nuclear family available in Mogadishu to support him, of becoming destitute, to a level below a reasonable degree of likelihood.

Decision

47 The FtT's decision did not involve the making of any error of law.

I do not set aside the FtT's decision.

Signed:



Deputy Upper Tribunal Judge O'Ryan

Date: 28.11.15