



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: PA/13059/2017

**THE IMMIGRATION ACTS**

**Heard at Newport  
On 9<sup>th</sup> October 2018**

**Decision & Reasons  
Promulgated  
On 22<sup>nd</sup> October 2018**

**Before**

**UPPER TRIBUNAL JUDGE GRUBB  
DEPUTY UPPER TRIBUNAL JUDGE LEVER**

**Between**

**F K A  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr S Clark instructed by Migrant Legal Project (Cardiff)

For the Respondent: Mr C Howells, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) we make an anonymity order prohibiting the disclosure or publication of any matter likely to lead to members of the public identifying the appellant. A failure to comply with this direction could lead to Contempt of Court proceedings.

2. The appellant is a citizen of Ethiopia who was born on 23 June 1999. He arrived in the UK clandestinely as an unaccompanied minor on 8 October 2015. He claimed asylum the next day. On 24 November 2017, the Secretary of State refused his claims for asylum, humanitarian protection and on human rights grounds.
3. The appellant appealed to the First-tier Tribunal. Judge Clemes accepted that the appellant was giving a “mainly truthful” account (see [23]). He accepted that the appellant was a “true OLF supporter”, namely of the Oromo Liberation Front in Ethiopia. He accepted that the appellant had been involved with the OLF, having attended one demonstration and having distributed leaflets on their behalf. Following one occasion in 2015, when he was returning home from distributing leaflets, he was arrested and detained at a police station for 25 days during which time he was interrogated but released after his mother had paid a bribe.
4. Having accepted this involvement with the OLF, Judge Clemes, nevertheless, concluded that the appellant had not established that there was a real risk of serious harm or persecution on return. At para [25], Judge Clemes said this:

“Whilst I do not doubt that he is a true OLF supporter, he is in the very lowest echelons of its ranks, I am satisfied. I find that people who took part in the protest but were not arrested and do not have an outstanding warrant, or those who were arrested but then released are unlikely to be identified or sought (this would encompass the appellant, of course) and therefore unlikely to be at risk of persecution or serious harm on return.”
5. In support of that conclusion, Judge Clemes relied upon the Home Office’s Country Information and Guidance Note, “Ethiopia: Oromos and the ‘Oromo Protest’ (December 2016) to which he was referred.
6. Consequently, the appellant’s appeal was dismissed on all grounds. The appellant sought permission to appeal and on 21 May 2018, the First-tier Tribunal (Judge Kelly) granted the appellant permission to appeal.
7. On 7 September 2018, the Secretary of State filed a rule 24 response opposing the appellant’s appeal.
8. At the hearing, we heard brief submissions from Mr Clark on behalf of the appellant and from Mr Howells, who represented the respondent. Mr Howells conceded, having heard Mr Clark’s submissions, that the judge’s decision was legally flawed. He accepted that the judge had applied the wrong CPIN relevant to the appellant. The relevant CPIN is “Ethiopia: Opposition to the Government” (October 2017). He accepted that the judge had not been referred to this (correct) CPIN. Mr Howells accepted that on the judge’s findings in para 25 of the appellant’s involvement with the OLF, he was at real risk of persecution or serious ill-treatment applying the relevant country guidance decision of MB (OLF and MTA – risk) Ethiopia CG [2007] UKAIT 0030. Mr Howells acknowledged that the Home Office’s

position set out in paras 2.3.14 and 2.3.15 of the relevant CPIN was that the country situation in Ethiopia had “not significantly changed” since MB. Mr Howells conceded, therefore, that the judge had materially erred in law in dismissing the appeal and he accepted that the appeal should be allowed on asylum grounds.

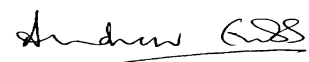
9. Paragraph 2.3.14 of the CPIN summarises the effect of MB as follows:

“... OLF members and sympathisers, and those perceived by the authorities to be such members or sympathisers, will in general be at real risk of persecution if they have been previously arrested or detained on suspicion of OLF involvement. So too will those who have a significant history, known to the authorities, of OLF membership or sympathy (para 66).”
10. We accept that the appellant falls within that rubric. He is a genuine OLF supporter and sympathiser and has previously been arrested and detained on suspicion of his OLF involvement.
11. Paragraph 2.3.15 goes on to state that the country situation has not “significantly changed” since MB.
12. In the light of this, we accept that Judge Clemes materially erred in law by failing to consider the relevant country guidance decision in MB and, albeit through no fault of his own, by failing to consider the CPIN relevant to the appellant’s circumstances.
13. On the basis of the judge’s findings and the application of MB, the appellant has established a real risk of persecution for a Convention reason on return to Ethiopia.

### **Decision**

14. The decision of the FtT to dismiss the appeal involved the making of an error of law. We set aside the FtT’s decision to dismiss the appeal.
15. For the reasons we have given above and as Mr Howells conceded, the appellant has established a real risk of persecution on return to Ethiopia because of his political opinion due to his involvement with the OLF.
16. Consequently, we remake the decision allowing the appellant’s appeal on asylum grounds.

Signed



A Grubb  
Judge of the Upper Tribunal

19 October 2018