



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

Appeal Number: IA/02610/2020
PA/52742/2020 : (UI-2021-001540)

THE IMMIGRATION ACTS

**Heard at : Manchester Civil Justice
Centre
On : 5 April 2022**

**Decision & Reasons Promulgated
On : 31 May 2022**

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

**RA
(Anonymity Order made)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Choudhary, instructed by JD Spicer Zeb Solicitors
For the Respondent: Mr A Tan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal dismissing her appeal against the respondent's decision refusing her asylum and human rights claim.
2. The appellant is a citizen of Ethiopia of Oromo ethnicity, born on 28 March 1987. She entered the UK in August 2018 with her employer on a work visa. On 22 November 2018 she claimed asylum and she was subsequently interviewed about her claim. On 14 March 2019 she was referred to the National Referral

Mechanism (NRM) and on 8 September 2020 it was accepted that there were conclusive grounds to believe that she was a victim of trafficking. On 26 November 2020 her asylum claim was refused and on 10 March 2021 a decision was made that she was not entitled to leave to remain on the basis of being a victim of trafficking.

3. The appellant's asylum claim was made on the basis that she was at risk on return to Ethiopia as a result of her involvement with the Oromo Liberation Front (OLF). Her father was also an OLF supporter and was arrested in 2009 because of his OLF activities and was killed whilst in detention. The appellant claimed to have been a supporter of the group from June 2013, having been introduced to the OLF by her friend Mulu who was a member. She attended meetings, contributed money and distributed leaflets for the OLF. Mulu led the meetings and used to give her leaflets to read. The appellant claimed to have attended six meetings between June 2013 and June 2014 and to have attended two further meetings when she visited Ethiopia in 2017. Mulu was caught by the authorities and gave them her name, and her other friends who also attended the meetings were detained and may also have given her name. The authorities then came to look for her and her problems began in June 2018 when they came to her brother's house searching for her, at a time when she was in Egypt. They detained her brother, but subsequently released him. She had travelled to Egypt in June 2014 to work as a domestic worker for an Arab family and used to send money to Mulu to help the OLF cause. In August 2018 she travelled with her employer to the UK as a domestic worker.

4. The respondent, in refusing the appellant's claim, accepted that she was Oromo but did not accept her account of her involvement with the OLF, considering that she had provided contradictory evidence about her activities and that her claim as to how the authorities had found out about her was speculative. The respondent did not accept that the appellant was at risk as a result of any claimed political involvement and neither was it accepted that she would be at risk as a victim of trafficking or on the basis of her ethnicity alone. The respondent considered that the appellant's removal to Ethiopia would not breach her human rights.

5. The appellant's appeal against the respondent's decision was heard by First-tier Tribunal Judge Gould on 12 August 2021. The appellant gave oral evidence before the judge. It was confirmed that she had given birth five weeks previously and she provided documentary evidence of that. She also had a daughter who was living in Ethiopia with her paternal grandparents. The appellant produced a letter from the OLF and also oral evidence from a witness who had been granted asylum in the UK on the basis of his involvement with the OLF. The judge rejected the appellant's claim to have provided support for the OLF. He noted that the respondent had not taken issue with the appellant's claim that her father was assassinated in 2009 for his involvement with the OLF and he considered it lacking in credibility that the daughter of an active OLF member who was killed because of his politics was able to engage in the activities she claimed for so long without being detained. The judge considered the fact that the authorities had not pursued the appellant with any vigour and

that she had been able to leave Ethiopia for Egypt without problems undermined her claim to have been an active OLF supporter and he considered it relevant that she had given financial enrichment rather than self-preservation as her motivation for leaving Ethiopia. The judge therefore rejected the appellant's claim to have had historical involvement with the OLF and he then turned to her sur place activities in the UK. He was satisfied that she had sought to involve herself with the OLF in the UK in order to create a claim for protection, and in any event did not accept that the support she gave to the OLF had created a documentary trail or social media footprint that could lead to her being identified on return to Ethiopia. The judge did not consider the appellant's superficial involvement with the OLF to represent a significant history and did not accept that she met the threshold for protection in the terms set out in MB (OLF and MTA, risk) Ethiopia CG [2007] UKAIT 00030. He therefore found that she was at no risk on return to Ethiopia owing to any involvement with the OLF and neither did he find her to be at risk on account of her ethnicity, language or religion, or on account of having been trafficked to the UK. He concluded that there were no very significant obstacles to the appellant's integration in Ethiopia nor any basis for a grant of leave on Article 8 grounds. He accordingly dismissed the appeal on all grounds.

6. The appellant sought permission to appeal the decision to the Upper Tribunal on four grounds: that the judge had misapplied the guidance in MB; that the judge had given insufficient reasons for refusing the appellant's claim to be at risk on the basis of her ethnicity, religion, language and absence from Ethiopia; that the judge had failed to consider the best interests of the appellant's child in the Article 8 proportionality assessment; and that the judge had failed to give full reasons as to why refusing the appeal would be proportionate.

7. Permission was granted in the First-tier Tribunal and the matter came before me. Both parties made submissions and I shall address those in my discussion below.

Discussion

8. It is asserted in the appellant's first ground that Judge Gould misdirected himself and misapplied MB by considering that, in order for a case to be made out on risk on return, it was a prerequisite in the guidance for a person involved with the OLF to have been arrested or detained. However that was not what Judge Gould did or said. His reference, when having regard to MB at [31], to arrest and detention, and likewise his reference to a "significant history", was simply reflective of the wording of the guidance in the headnote which stated that:

"(2) OLF members and sympathisers and those specifically perceived by the authorities to be such members or sympathisers will in general be at real risk 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. Whether any such persons are to be excluded from recognition as refugees or from the grant of humanitarian

protection by reason of armed activities may need to be addressed in particular cases.”

9. The same wording appears at [2] and [3] of the headnote to the more recent guidance, post-dating the hearing, in AAR (OLF - MB confirmed) Ethiopia (CG) [2022] UKUT 1. The judge clearly assessed the risk to the appellant on the basis of various factors including, but not confined to, the fact that she had never been arrested or detained. Those are set out at [25] to [28] as well as [31] where the judge considered that the appellant’s account of the extent of her involvement with the OLF was undermined by the fact that she was able to engage in her claimed activities for so long without being detained despite being the daughter of an active OLF member who had been assassinated because of his politics, that she had not been pursued by the authorities with any vigour, that her family members had faced no consequences because of her, and that she was able to leave Ethiopia without any problems. The judge considered that all of those factors undermined the credibility of the appellant’s account of having a profile which would have led to her being perceived by the Ethiopian authorities as possessing an anti-government agenda. The judge made the point at [31] that the appellant’s *sur place* activities in the UK were even more limited than her claimed involvement with the OLF in Ethiopia and that on none of those grounds would she fall within the risk factors in MB.

10. The first ground goes on to assert that the judge failed to engage with the fact that the appellant’s association with the OLF through her father exposed her to a risk of persecution on return, but that is plainly not correct when that was a matter specifically considered by the judge at [25] together with other factors relevant to an overall assessment of her profile. As Mr Tan submitted, it is relevant to note that the appellant’s legal representative conceded, at the hearing, that she would not have had a claim for asylum at the time she left Ethiopia (at [28]). As for the assertion in the second ground that the judge failed to give proper reasons for concluding that the appellant would be at no risk on the basis of her ethnicity combined with her language and religion and her lengthy absence from Ethiopia, the grounds do not point to any particular evidence or aspect of the country guidance which supported a conclusion that she would be at risk on such a basis. The grant of permission refers to 400 plus pages of background information, but the judge was not directed to any particular evidence in that regard and neither do the paragraphs in the skeleton argument referring to those factors seek to make out a case for a risk on that basis absent perceived or actual involvement with the OLF, matters which the judge rejected for reasons cogently given.

11. In the circumstances I find no merit in the assertion in the grounds that the judge’s assessment of risk on return was inadequate, was incompatible with the country guidance or was contrary to the background evidence. The judge’s assessment was a full and complete one and the conclusions that he reached were entirely consistent with the country guidance. He was fully and properly entitled to reject the appellant’s claim to be at risk on return to Ethiopia.

12. As for the third and fourth grounds seeking to challenge the judge's Article 8 assessment, I find these to be of even less merit. The judge's consideration at [37] of the appellant's child's best interests was brief, but there was nothing in the evidence before him requiring or enabling a more detailed analysis. The judge was clearly fully aware of the young age of the child and properly found that the child's best interests were simply to remain with the appellant. He was fully entitled to accord the weight that he did to the matter within his Article 8 proportionality assessment. The judge's assessment was a detailed one, taking account of all relevant matters and there was no basis, on the evidence before him, for him reaching any conclusion other than the one he did.

13. For all of these reasons I find no merit in the grounds and consider that the judge was fully and properly entitled to reach the decision that he did. His decision was based upon a full and detailed assessment of the evidence against the background country materials and country guidance and was supported by cogently reasoned findings. The decision is therefore upheld.

DECISION

14. The making of the decision of the First-tier Tribunal did not involve an error on a point of law. I do not set aside the decision. The decision to dismiss the appeal stands.

Anonymity

The anonymity direction made by the First-tier Tribunal is maintained.

Signed: S Kebede
Upper Tribunal Judge Kebede

Dated: 5 April 2022