



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

Appeal Number: PA/09724/2019

THE IMMIGRATION ACTS

**Heard at Manchester CJC
On 10 May 2022**

**Decision & Reasons Promulgated
On 20 June 2022**

Before

**UPPER TRIBUNAL JUDGE BRUCE
UPPER TRIBUNAL JUDGE O'CALLAGHAN**

Between

**AT (ETHIOPIA)
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information likely to lead members of the public to identify the appellant without his express consent. Failure to comply with this order could amount to a contempt of court.

Representation:

For the Appellant: Ms. L Mair, Counsel, instructed by Lei Dat & Baig Solicitors

For the Respondent: Mr. A McVeety, Senior Presenting Officer

Introduction

1. The appellant is a national of Ethiopia and is aged 35. He appeals against a decision of the respondent to refuse him leave to remain in this country on international protection grounds. The respondent's decision is dated 26 September 2019.
2. The appellant's appeal was initially refused by a decision of the First-tier Tribunal sent to the parties on 19 December 2019. The appellant was granted permission to appeal and by a decision sent to the parties on 10 August 2020, Upper Tribunal Judge O'Callaghan set aside the decision of the First-tier Tribunal and directed that the resumed hearing take place before the Upper Tribunal.
3. Judge O'Callaghan preserved findings of fact detailed at paras. 51 and 56 of the First-tier Tribunal's decision:
 - The appellant was a low-level supporter of the Patriotic Ginbot 7 ('PG7') who had been detained by the Ethiopia authorities and accused of being a messenger for the then banned political party, at [51]
 - No weight could be placed upon a photograph of an arrest warrant relied upon by the appellant, at [56]

Anonymity

4. Upper Tribunal Judge O'Callaghan previously issued an anonymity order. Neither party sought for it to be set aside. We consider it just for the order to continue and it is confirmed above.

Background

5. The appellant is a national of Ethiopia and ethnically Amhara. Whilst living in Ethiopia he resided in North Gondar Zone, Amhara Region and was a farmer, looking after livestock. He resided with his wife, their daughter and a son from a previous relationship.
6. In 2007 he became a supporter of PG7, an Ethiopian political organization that was labelled by the Ethiopian authorities as a terrorist organisation between 2011 and 2018. The appellant attended meetings and distributed political leaflets on behalf of PG7.
7. In his asylum interview conducted on 27 August 2019 the appellant explained that his home area was being 'forced', or transferred, into the Tigrayan-dominated Tigray Region, events to which he objected, and this fuelled his political consciousness. He expanded upon this matter in his

statement of 5 September 2019, stating that Tigray Province has subsumed neighbouring areas of Amhara Region, with fertile land, to benefit Tigrayans. A core concern for many ethnic Amhara farmers in the region at the relevant time was that the then ruling Ethiopian People's Revolutionary Democratic Front ('EPRDF') coalition was transferring land away from Amhara Region and having placed it in Tigray Region was favouring ethnic Tigrayans when issuing certificates in respect of land ownership.

8. In May 2015 the appellant engaged in a peaceful demonstration, consequent to which the authorities attended his home, accused him of being a PG7 supporter and beat him so badly that he fell unconscious.
9. He continued to work for the party until 22 October 2016, when he was arrested, beaten and accused of being a PG7 messenger. He was detained at Addis Alem police station, situated in a neighbourhood of Gondar city, but escaped later than day. With two other detainees he was delegated to carry water barrels, but their guard was distracted by a phone call and the men stood upon the barrels and climbed over the police station wall. The appellant subsequently went into hiding and later heard that his wife and brother had been arrested because the authorities were looking for him.
10. By her decision letter of 26 September 2019, the respondent accepted the appellant's evidence as to being a supporter of PG7. She further accepted that he was truthful as to his account of being arrested and accused of being a messenger for the party. However, she refused to grant the appellant international protection because she concluded that consequent to the change of government in Ethiopia, and the lessening of political repression towards opposition political groups, he did not enjoy a well-founded fear of persecution.

Ethiopia - general political situation

11. The developing political situation in Ethiopia was recently considered by the Upper Tribunal in *Roba (OLF- MB confirmed) Ethiopia CG* [2022] UKUT 00001 (IAC), a matter concerned with Oromo nationalist politics.
12. The EPRDF, an ethnic federalist political coalition, came to power at the conclusion of the 1974 to 1991 civil war and dominated Ethiopian politics until 2019 when it dissolved. The dominant ethnic party in the coalition for most of its existence was the Tigray People's Liberation Front ('TPLF'). In 2018, the then Prime Minister, and leader of the TPLF, proved incapable of ameliorating protracted anti-government protests and resigned. With the TPLF having descended into factionalism, for the first time since its creation the leadership of the EPRLF was handed to a non-Tigrayan, Abiy Ahmed, leader of the Oromo People's Democratic Organisation (OPDO), who acceded to the position of Prime Minister in April 2018. The EPRDF coalition was subsequently annulled, and its successor the pan-ethnic

Prosperity Party was established on 1 December 2019. The new party was formed through the merger of three of the four governing coalition parties, including the successor party to ODPO, with five regional allies also agreeing to be merged. Only the TPLF stood apart. Following a general election held on 21 June 2021 and 30 September 2021 the Prosperity Party won 454 out of 470 Parliamentary seats.

13. The TPLF did not participate in the general election, having called a regional election in Tigray Province in September 2020, winning a large majority of seats with 98% of the vote.
14. In 1991, the TPLF enlarged the Western Zone of present-day Tigray Region by adding Welkait woreda (district), which was claimed by Amhara Region, followed by the settlement of Tigrayans in the woreda, newly part of the Western Zone of Tigray Region, at the expense of local Amhara. To many Amhara, Welkait is ancestral land and land is a marker of identity, the main source of income and an asset for transfer in the form of wealth to future generations. The defence of Amhara land has become politicised for many, including farmers, within Amhara Region.
15. Since November 2020 there has been a state of civil war in and around the Tigray region between the TPLF and the Ethiopian federal authorities. Fighting has spread from Tigray Region to Amhara Region, with the TPLF capturing and holding land as far south as Dessie until its withdrawal to areas within Tigray Region in December 2021. During the fighting there have been numerous allegations of extrajudicial executions, rape and other acts of sexual violence in Welkait, which is now administered by Amhara Region.

Expert evidence

16. The appellant relies upon two reports prepared by Professor Charles Schaefer, Valparaiso University, United States of America - the initial report, dated 31 January 2021, and a supplementary report, dated 24 March 2021.
17. Professor Schaefer has provided a copy of his curriculum vitae detailing, *inter alia*, his academic education, employment history and awards. Several of his publications are concerned with the political and economic situation in Ethiopia. Professor Schaefer has previously resided in Ethiopia for approximately fifteen years and continues to travel to the country.
18. Mr. McVeety accepted on behalf of the respondent that Professor Schaefer is an expert in matters of Ethiopian politics and should properly be treated as an expert in this matter. We agree.
19. In his January 2021 report, Professor Schaefer details the history of PG7 from its establishment following the EPRLF's targeting of the Coalition of Unity and Democracy ('CUD') after its successes in the May 2005 general

election, resulting in arrests and imprisonment of several of its leaders. Two senior members of the CUD, Andargachew (Andy) Tsige and Berhanu Nega founded PG7 in 2007 whilst in exile in the United Kingdom and the United States respectively. We note that Mr. Tsige presented evidence on behalf of the appellant before the First-tier Tribunal.

20. PG7 was declared a terrorist organisation by proclamation in 2011. Professor Schaefer opines that ‘to be a supporter of Ginbot 7 in Ethiopia before 2018 meant arrest, imprisonment and torture.’
21. The proclamation was reversed in 2018 and the party’s leadership was invited to return to Ethiopia by Prime Minister Abiy. PG7 dissolved in May 2019, joining six other parties to form the Ethiopia Citizens for Social Justice (‘EZeMa’) party, led by Berhanu Nega. EZeMa participated in the 2021 general election, securing four parliamentary seats. Mr. Nega is the Minister of Education in the federal government.
22. Professor Schaefer identifies two separate tranches of support for PG7. One strand of the party has ties to the political position of both the CUD and, following its demise, the Unity for Democracy and Justice Party (‘UDJ’). The leadership was primarily made up of businessmen, lawyers, former civil servants and a number of university professors, who were well-educated and rooted in cities. They possessed a cosmopolitan outlook on politics and society, advocating a progressive liberal democracy agenda.
23. In respect of the second strand of support, Professor Schaefer observes at para. 48 of his January 2021 report:
 - ‘48. There is also a historical legacy and one that geographically situates Ginbot 7 in the northern Amhara region of Gondar where it, surprisingly, has some rural backing. In the genealogy of Ethiopian political parties, the father of all parties was the EPRP (Ethiopian People’s Revolutionary Party). It was the original student movement that brought down Emperor Haile Selassie in 1974. Every party can trace its roots to the EPRP. Ginbot 7 is no exception, in fact, its links are closer than most. As stated above, the CUD was an umbrella party made up of the All Ethiopian Unity Party (AEUP) and three other parties; the AEUP developed from the All-Amhara People’s Organisation (AAPO) and the Coalition of Ethiopian Democratic Forces (COEDF) which both were creations from the ashes of the EPRP, which was effectively eradicated by the Marxist Derg. It so happened that the EPRP – therefore AAPO and COEDF as well as the AEUP therefore the CUD, which morphed into Ginbot 7 – had its rural base in the countryside around Gondar. Ginbot 7 has inherited this rural base, which happens to include the border region between the Amhara and Tigrean ethnic areas, precisely in the region where the Tigrayan Regional government tried to annex Amhara areas that led to the 2016 demonstrations by the Amhara and the EPRDF’s violent response. How organised this rural base is remains a difficult question to answer. Certainly, we do know that between approximately 2016 and 2018, when the EPRDF tried to redraw the border between the Tigray and Amhara regions (near Gondar

the historic capital of the Amhara) and give the land to the Tigreans thus displacing the Amhara that lived on the land for centuries, there was organised protests both in the city of Gondar and throughout the countryside. The EPRDF arrested approximately 24,000 Amhara ... Certainly, the population of the area remains sympathetic to the political platform of Ginbot 7 as it incorporates the historical legacy of EPRP.'

24. As to EZeMa, Professor Schaefer observes that it has a pro-business agenda and downplays ethnicity, resulting in 'Ethiopia residents from the Amhara Region that has supported Ginbot 7 in the past' walking away from it.
25. The National Movement of Amhara (NaMa) espouses a decidedly ethnonationalist agenda that talks of the separation of ethnic groups in Ethiopia, but it has not secured full support from PG7 supporters in the region. NaMa has five Parliamentary seats and the party leader, Dr Belete Molla is the Minister of Innovation and Technology in the federal government.
26. Professor Schaefer states at paras. 57 and 58 of his January 2021 report:
 - '57. ... A number of news agencies, in addition to Amnesty International, have documented the ongoing arrests of members of the opposition in Ethiopia. Members and supporters of the CUD/UDJ/Semawayi/Ginbot 7 continue to be focus of the Ethiopian government's activities to control the opposition and maintain its own power. Arrests, detention and alleged torture are still being reported, including for people who are only *suspected* of being associated with opposition parties.
 58. Even though Ginbot 7 has formally been disbanded, its former rural supporters remain in the crosshairs of government authorities. ... While Ginbot 7 is formally disbanded an inflammatory element of the ideology of Amhara ethnonationalists lives on and that is all about Amhara land for Amharas. Rural supporters of old Ginbot 7 are not going to be given amnesty. Their grievances live on. These grievances may be incorporated into a new political party, like NaMa, but the individuals will not be exonerated, they will always be targeted by non-Amhara political forces, currently an Oromo dominated Prosperity Party/EPRDF. World renown leaders of Ginbot 7 will be tolerated, rank and file supporters, especially farmers whose claims to land transcend party, will always be persecuted. Persecution comes in many forms: the Oromo led government, other ethnic militias and even competing ethnic farmers. The Tigrean farmers turning on Amhara that Alex de Waal reported on, illustrates how ethnic control over land has become the most combustible political issue in Ethiopia today.'
27. There continue to be ongoing issues as to identity and ownership of land in northern Amhara Region, which is exacerbating political dispute.

28. In his supplementary report, Professor Schaefer opines that if the appellant were to return to Addis Ababa without a kinship network to aid and abet his reintegration, it would be exceedingly hard for him to secure employment and accommodation.

Decision

29. We are grateful to Mr. McVeety and Ms. Mair for their considered and very helpful submissions and skeleton arguments in this matter and also to the appellant's solicitors, Lei Dat & Baig for the preparation of a comprehensive bundle.
30. Mr. McVeety accepted at the outset of the hearing that the respondent had no evidence capable of countering Professor Schaefer's expert opinion as to the ongoing risk to the appellant in his home region, flowing from his arrest, detention and escape arising from political activity in respect of land issues, such issues continuing to result in persecutory action by the Ethiopian authorities. In addition, Mr. McVeety accepted on behalf of the respondent that the appellant's wife and brother were arrested after his escape, and this was further evidence as to the authorities having an adverse interest in him. Consequently, Mr. McVeety accepted that the appellant met the lower standard of proof in respect of his possessing a well-founded risk of persecution in his home area.
31. Mr. McVeety observed that the respondent had not raised the viability of internal relocation in her decision letter, and he accepted that the appellant had no family to look after him if he relocated to Addis Ababa. Having considered the objective evidence filed with the Tribunal, it was acknowledged that the Ethiopian authorities keep up-to-date and reliable records of persons living within local areas, permitting persons of interest to quickly come to the attention of the authorities. Further, Mr. McVeety conceded that there was nothing in the evidence to point to PG7 supporters hailing from northern Amhara Region not being at risk simply by relocating to Addis Ababa, or elsewhere outside of Amhara Region. Having noted the decision of *Roba*, it was accepted that prison conditions in Ethiopia are poor. In the circumstances, Mr. McVeety confirmed that the respondent would not submit that an internal relocation alternative existed in this matter.
32. Whilst not withdrawing the respondent's decision, Mr. McVeety candidly accepted that he had little to add.
33. Ms. Mair tentatively sought to persuade us that the appellant would be at risk of serious harm as soon as he arrived at Addis Ababa airport as a failed asylum seeker. The triggering of an investigation would result in a consideration of his police records leading to identification that he escaped from police custody. However, she accepted that there was no evidence

placed before us as to instances of failed asylum seekers being arrested upon their return to Addis Ababa airport.

34. Upon careful consideration of the evidence placed before us we agree that the respondent was correct to concede that the appellant continues to possess a well-founded fear of persecution in his home area of Amhara Region.
35. We find that there is insufficient evidence to establish that the appellant would be formally detained on arrival at Addis Ababa and subjected to investigation simply for being a failed asylum seeker. However, we conclude that the appellant's familial links are with Amhara Region alone, and it would be unduly harsh for him to live elsewhere in the country, either in regions where Amhara are in a minority, or in the capital Addis Ababa, as the lack of kinship ties would significantly, and adversely, impact upon his ability to secure employment and accommodation. Consequently, we find that there is no internal relocation alternative available to the appellant if he were to return to Ethiopia.
36. In the circumstances, we allow his appeal on Refugee Convention and article 3 ECHR grounds.

Notice of Decision

37. The decision of the First-tier Tribunal involved the making of an error on a point of law and was set aside by the Upper Tribunal pursuant to a decision sent to the parties on 10 August 2020.
38. The decision on the appellant's appeal is re-made
 - i) The appellant's asylum appeal is allowed.
 - ii) The appellant's human rights (article 3) appeal is allowed.
39. The anonymity order is confirmed.

Signed: *D O'Callaghan*
Upper Tribunal Judge O'Callaghan

Dated: 20 June 2022