



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Case No: UI-2022-004287

First-tier Tribunal No: PA/50481/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:

13th December 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

GBW (Ethiopia)
(Anonymity order made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs Brakaj a Solicitor

For the Respondent: Mr Diwynicz a Senior Home Office Presenting Officer

Heard at Phoenix House (Bradford) on 4 December 2023

Order Regarding Anonymity

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, including the name or address of the Appellant, likely to lead members of the public to identify the Appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The Appellant was born on 29 July 1996. He is a citizen of Ethiopia. He appealed against the decision of the Respondent dated 24 January 2022, refusing his protection claim.

2. He appeals against the decision of First-tier Tribunal Judge Nazir, promulgated on 7 July 2022, dismissing the appeal.
3. At a hearing on 7 August 2023, it was agreed that the Judge had materially erred in law for the reasons set out in my decision that was promulgated on 14 September 2023. I decided that the findings made in [27 to 31] and [33 to 35] of that decision were not infected by the error. I decided, given the limited nature of the evidence required on the remaining issue, that the appeal should remain in the Upper Tribunal. I gave leave to file such further evidence as he intends to rely regarding demonstrations attended in the United Kingdom by 27 September 2023. That was complied with. The appeal came back before me as a continuance hearing. It is not necessary for me to attach a copy of the decision arising from the hearing on 7 August 2023 as the parties have been served with it. I do however set out the findings that were preserved from the decision of Judge Nazir.

The First-tier Tribunal decision of 7 July 2022

4. Judge Nazir made the following findings:

“27. Both representatives agreed that the starting point for assessment in the present appeal was the previous decision of the First Tier Tribunal... Judge Handley found that the Appellant worked in an administrative role in the police and was required to assist during protests in Ethiopia... He did not accept that the Appellant was accused of being a spy or that the Appellant was mistreated and injured by the authorities as claimed. The Judge also found the Appellant to have tampered with documentary evidence upon which he relied...

30. ... I arrive at the conclusion that the Appellant has provided insufficient evidence to demonstrate political activities in the UK.

31. ...I ... accept that the Appellant attended a demonstration in 2016. However, there is no evidence before me to indicate that this was a high profile event, or the role that was performed by the Appellant in this demonstration. I also note that this was some six years ago ...

33. ...whilst I accept that this letter (from Netsanet Alamirew of the Ginbot 7 organisation) provides evidence to show that the Appellant has been engaged with this organisation, I am not satisfied that this gives rise to a risk, given the low level of activity described. There is no evidence before me to suggest that attendance at meetings and membership alone would trigger a risk from the Ethiopian authorities...

35. ... I am led to the conclusion that whilst the Appellant holds political views and has engaged with organisations in the UK, his activities by way of attendance at meetings and fundraising are of a very low level. .. it is clear that the nature of the Appellant’s activities does not render him to a risk on return. Although I have accepted that he attended one demonstration in 2016, the evidence before me does not demonstrate that he undertook a leading, prominent or significant role. There is no evidence as to the size of the demonstration or the number of people that attended. At best, the Appellant was simply an attendee amongst many others.

36. The Appellant has failed to establish, through a lack of evidence, that he has engaged in consistent political activities of the nature that may attract unwanted attention from the Ethiopian authorities. I conclude that the Appellant does not have a political profile. I therefore conclude that the Appellant will not come to the adverse attention of the authorities in Ethiopia on account of the activities described above.”

Fresh evidence before me

5. The Appellant stated (27 September 2023) that he continues with his political activity. Ginbot 7 no longer exist. He will continue to protest and be against the government. A group he is in still meet. He, and they, and attended a demonstration in London in March 2023 organised by ATF in support of Amhara as it is his region. He will continue to attend demonstrations in support of his region. If he was in Ethiopia he would want to attend demonstrations and protest about rights for Amhara. They hold meetings in Newcastle every 1 or 2 months. They talk about political social, and religious issues.
6. In oral evidence he adopted his statement of 27 September 2023. He identified where he was in the pictures. He intends to continue to demonstrate until peace prevails. He has not demonstrated outside the Ethiopian Embassy as he does not know where it is. He attended 3 demonstrations in support of Ginbot 7, and 2 in support of Fano. The first was in 2016 and the last in November 2023. Those who attended the demonstrations are the UK Taskforce. He does not have a Facebook presence but the Taskforce does. He is confident that the event and pictures are on the Taskforce page from what he Has been told. The pictures and videos are shared on line. The only physical document is the programme for the day. It was a peaceful demonstration. They shared their views and submitted a petition to the Prime Minister's office. He attends the demonstrations as he believes in the aims. He will continue his struggle with those who have a similar view as he does. If he was in Ethiopia he would demonstrate against the government.
7. He attached pictures and screenshots from a video of him speaking at one of the meetings in November 2022. I have seen a flyer for a demonstration at 10 Downing Street on 27 March 2023 saying "*Stop Amhara Genocide in Ethiopia*" including pictures one of which is of the Appellant holding a poster saying that. He attached pictures of him at a demonstration in Whitehall holding a poster saying "*#I am Fano*" date stamped 9 November 2023.
8. Heather Wharton's letter (30 July 2023) does not deal with the issues before me.

Oral submissions

9. Mr Diwynicz submitted that he did not doubt the genuineness of the Appellant's commitment to the cause. It is accepted he attended a small well behaved demonstration near Downing Street. He has not demonstrated in front of the Ethiopian Embassy. He has not brought himself to the attention of the authorities. They would not be aware of him. He is a low level supporter. The Ethiopian authorities would not fix their gaze on him.
10. Mrs Brakaj submitted that the credibility of his views is not doubted. He has produced evidence of his attendance. He demonstrated in 2016. He is known to the party. He has spoken out. He is a long standing

opponent of the Ethiopian government. If he is asked about what he has done on his return to Ethiopia he will tell them. He would want to do the same in Ethiopia.

Guidance Case law

11. The headnote in Roba (OLF - MB confirmed) Ethiopia CG [2022] UKUT 00001 (IAC) guides me to the view that;
- (1) MB (OLF and MTA - risk) Ethiopia CG [2007] UKAIT 00030 still accurately reflects the situation facing members and supporters of the Oromo Liberation Front (OLF) if returned to Ethiopia. However, in material respects, it is appropriate to clarify the existing guidance.
 - (2) OLF members and supporters and those specifically perceived by the authorities to be such members or supporters will in general be at real risk if they have been previously arrested or detained on suspicion of OLF involvement.
 - (3) Those who have a significant history, known to the authorities, of OLF membership or support, or are perceived by the authorities to have such significant history will in general be at real risk of persecution by the authorities.
 - (4) 'Significant' should not be read as denoting a very high level of involvement or support. Rather, it relates to suspicion being established that a person is perceived by the authorities as possessing an anti-government agenda. This is a fact sensitive assessment.

Background Evidence

12. The Respondent's Rule 24 noted stated that;

"Objective evidence in the public domain indicates that [Ginbot 7] organisation was de-criminalised in 2018, disbanded in 2019 and reformed as part of a new party ... The new party (abbreviated to Ezema) is pro-federal ... and had candidates standing in the June 2021 elections (Sect 5.4.5- CPIN (March 2022) Oromos, the Oromo Liberation Front and the Oromo Liberation Army, Ethiopia)- Ethiopia: country policy and information notes - GOV.UK (www.gov.uk)."

13. What the CPIN said at [5.4.5] was that;

"Ethiopia Insight reported in August 2021:

'On 21 June, in Oromia, the PP put up candidates for all of the 170 constituencies in which voting took place.

'Aside from the PP, there were 11 independent candidates in nine constituencies, and eight opposition parties in 58 constituencies produced 84 candidates: Ezema (46), National Movement of Amhara (NaMA) (6), 12 New Generation Party (NGP) (12), Freedom and Equality Party (FEP) (8), Enat party (5), Ethiopia Social Democratic Party (ESDP) (5), All Ethiopian Unity Organization (AEUO) (3), and the only Oromo opposition party, OLM [Oromo Liberation Movement] (1)—the sole supporter of multinational federalism.

'Of the 170 contested constituencies, the ruling party ran in 103 without any opposition...

'Abiy won the election by what many in the media have deemed a "landslide"; Prosperity Party landed 410 seats out of 436 in the federal parliament. Joining PP in parliament are five NaMA candidates from Amhara region, four candidates from Ezema, two from Gedeo People's Democratic Party, and four independents.

'In Oromia, PP won 167 parliament seats out of the 170 contested seats, while the remaining seats were won by independent candidates. Those independents include two ex-members of OLF factions—Galasa Dilbo, the former head of an OLF faction called OLF-Transition Authority (OLF-TA) and Dima Negewo, former deputy chairman of the OLF faction Oromo Democratic Front (ODF)—and Ustaz Kamil Shemsu, a popular Oromo and Muslim activist. The ruling party also won all 513 contested seats in the Oromia regional council...

'Suffice to say that, in Oromia, Ethiopia's largest regional state with around 40 million people, or 35 percent of the total population (the largest share), freedom to vote for any party that was not PP was constrained. For many, it was a far fall from the "fair" process that Abiy had promised in 2018...'

Some members of the Oromo ethnic group expected Prime Minister Abiy to bring positive change for their community. While he was quick to make well-received reforms, such as the release of political prisoners, his attempts to move away from a federal to a unitary system of governance (with a strong central government) have met with resistance from Oromo opposition parties and from other ethno-regional groups with opponents fearing that their autonomy was under threat ([2.4.5]).

While the OLF was recognised as a political party in November 2019, its ability to participate in the political sphere has been limited by various factors, including the widespread closure of offices and the arrest of its leaders, members and supporters in the run-up to the postponed national elections which eventually took place in June 2021. The party withdrew from the elections, alleging the arrests had left it unable to effectively organise ([2.4.8]).

14. It also notes that in July 2018, the Ethiopian government removed the OLF from its list of designated terrorist organisations ([2.2.1]) along with Ginbot 7 ([6.1.1]).

15. I note from the Appellant's bundle the article in Reporters Sans Frontieres (Reporters Without Borders), "Eighteen journalists arrested in Ethiopia, two facing possible death sentence" 3 June 2022 which stated that;

"The arrests began on 19 May in Bahir Dar, the capital of Amhara state, which adjoins Tigray and is Ethiopia's second most populous region. It was there that federal forces arrested four journalists with the Nisir International Broadcasting Corporation and five with the Ashara YouTube channel in what was called a "law enforcement operation." They were said to be suspected of supporting Fano, a militia active in Amhara that is seen as a threat by the central government."

16. Likewise, the article Voice of America News, Fighting Breaks Out in Ethiopia's Amhara Despite 'Humanitarian Cease-fire', 29 April 2022 notes that;

"Ethiopian Prime Minister Abiy Ahmed announced a humanitarian cease-fire five weeks ago, but it is already beginning to fray. In the northern region of Amhara, fighting had subsided. But, last week, it erupted again. VOA spoke to witnesses who got caught up in the fighting when militants from what some claim was the Fano militia group, others Oromo militia groups, on the border of the Oromia zone, in Amhara, allegedly opened fire on civilians close to the town of Shewa Robit."

Discussion

17. The Appellant does not claim to be a member or supporter of OLF. The relevance of Roba is that "Those who have a significant history...will in general be at real risk of persecution by the authorities. 'Significant' should not be read as denoting

a very high level of involvement or support. Rather, it relates to suspicion being established that a person is perceived by the authorities as possessing an anti-government agenda. This is a fact sensitive assessment.”

18. Both Ginbot 7 and consequently the organisation it became a part of, Ezema, and Fano, a militia active in Amhara that is seen as a threat by the central government, have agendas that differ markedly from the Ethiopian government, namely Federalism in the case of Ezema, and military action in the case of Fano. It was not argued by the Respondent that supporters of these organisations will be treated any differently from former members or supporters of OLF, and it is hard to see that they would given the challenges they pose in terms of political agenda in the case of Ezema, and military action in the case of Fano.
19. It is against this background that I must assess the merits of the Appellant’s claim. I bear in mind that he has to establish his claim to the lower standard, and that the findings by Judge Nazir in [27 to 31] and [33 to 36] are preserved.
20. I am satisfied it is reasonably likely the Appellant has attended the demonstrations claimed having seen the pictures, noted the consistent oral and written evidence, and noted the lack of challenge to the assertion that he did. From seeing the picture of the posters they are plainly against the actions of the Ethiopian government. I note the Respondent’s concession that the genuineness of the Appellant’s commitment to the cause is not doubted. I am satisfied that this is an acceptance that they are genuinely held political beliefs. I accept that the evidence establishes he has held these views since at least 2016 given the finding of Judge Nazir at [31]. It is correct to note that he has not attended before the Ethiopian Embassy. That does not mean the Ethiopian authorities are unaware of his activities as the events are public and I accept it is reasonably likely an organisation seeking to publicly promote political change will have an on line presence where they express those views, even if I have not seen evidence of it.
21. I accept it is reasonably likely that if asked on return what he has done while here he will tell them of the demonstrations he has been on and why as I have no reason to doubt him. He should not have to lie. I also accept it is reasonably likely that on return to Ethiopia, given the activities he has undertaken here in support of his genuinely held views, he is reasonably likely to carry on with those activities.
22. Even therefore if he does not get asked at the airport what he has been doing here, it is reasonably likely his activity in Ethiopia will bring him to the attention of the Ethiopian authorities.
23. Consequently there is a real risk he will be suspected and perceived by the authorities as possessing an anti-government agenda and consequently will be at a real risk of persecution by them as explained in Roba.

Notice of Decision

24. The Judge made a material error of law. I set aside that decision.
25. I remake the decision and allow the appeal.

Laurence Saffer

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber
6 December 2023

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A **“working day”** means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is “sent” is that appearing on the covering letter or covering email.