



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No.: UI-2023-005081

First-tier Tribunal No: PA/54661/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

30<sup>th</sup> January 2024

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MONSON**

**Between**

**NAM (SOMALIA)**

**Appellant**

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**Respondent**

**Representation:**

For the Appellant: Ms Sonia Ferguson, Counsel instructed by CK Solicitors  
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

**Heard at Field House on 18 January 2024**

**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 has been granted permission to appeal against the decision of First-tier Tribunal Judge Farrelly promulgated on 29 October 2023 (“the Decision”). By the Decision, Judge Farrelly dismissed the appellant’s appeal against the respondent’s decision made on 12 October 2022 to refuse the appellant’s protection claim and to hold that he did not otherwise have a right to remain in the United Kingdom.

### **Relevant Background**

2. The appellant made a claim for protection on 24 September 2021. His account was that his father owned a shop in the city of Baidoa selling construction material. He provided material for work at the city’s airport. His father was approached by Al Shebab (“AS”) and told not to sell material for the airport as this was seen as supporting the Government. As his father did not comply, AS killed his father on 26 August 2020. The following day, the appellant and his older brother were kidnapped by AS. They were freed on 1 September 2020 when Government forces took control of the city. His brother went missing on 6 September 2020, and AS took to telephoning the appellant’s home. Because of this, his mother advised him to leave the country.
3. The appellant left Somalia on 17 September 2020 on a flight to Turkey. He then passed through various countries on his way to France. He made a claim for protection in Austria, but he was told that he would be sent back to Romania, as he had been fingerprinted there. He entered the United Kingdom by boat on 23 September 2021.
4. In the refusal decision, the respondent accepted the appellant’s account of past persecution by AS, including that AS began to make telephone calls to the family home after he and his brother had been taken back there; that his brother had gone missing on 6 September 2020; and that his mother believed that his brother had been kidnapped by AS for a second time.
5. However, it was not accepted that the appellant would be at risk on return from AS, because he did not fall into any of the categories of persons or institutions that represented, or were perceived to support, the international community or the Somali Government, as identified in the CPIN on Somalia. As he did not belong to any of these categories, he would have a significantly low profile in Somalia, and therefore he would not be a target of AS on his return to Somalia. In addition, it was noted that according to what he had said in interview, his father’s shop was now closed and his mother remained in Somalia without any issues.
6. In addition, he had not expressed a fear of other regions in Somalia, such as Mogadishu. AS would not be able to target him in Mogadishu, as AS no longer had a presence there. Based on the individual circumstances of his claim and the background information, it was considered reasonable to expect him to relocate to another area in his home country, such as Mogadishu. He was a 17-year-old healthy male who spoke Somali; who had been educated until aged 15 in Somalia; and who had had work experience in Somalia through helping his father in his shop. His

mother was also in Somalia and he was currently in contact with her. He was a member of the Rahanweyn clan, which was a majority clan in Somalia. In line with the Country Guidance, as a member of a majority clan he would be able to receive support from his clan in Mogadishu. Alternatively, he would be able to access funds if he was to take advantage of the Assisted Voluntary Return Scheme for reintegration assistance. As regards his prospects for securing a livelihood - whether that be employment or self-employment - the CPIN for Somalia dated May 2022 stated at 2.4.4 that it would be for the person facing return to Mogadishu to explain why he would not be able to access the economic opportunities there that had been produced by the economic boom, especially as there was evidence to the effect that returnees were taking jobs at the expense of those who have never been away.

7. Regarding the availability of remittances from abroad, and considering his ability to fund his journey to the West, it was noted that he had a maternal uncle in Sweden who had sent him the money to make the journey to the UK, according to the Unaccompanied Child Welfare Form at section 4. Based on the information he had provided, there was nothing to suggest that his maternal uncle could not continue to provide support to him if required.
8. On the topic of humanitarian protection, the respondent relied on the Country Guidance case of *OA* for the proposition that generally a person who is an ordinary civilian and who is returning to Mogadishu after a period of absence will not face a real risk of persecution or risk of harm such as to require protection under Article 15(1)(c) of the Qualification Directive or under Article 3 ECHR. It has been over 2 years since he had been in Somalia. There was no reason why AS would be actively looking for him if he were to return there.
9. The appellant's case on appeal was set out by Ms Ferguson in an ASA dated 27 January 2023. Although Mogadishu was not AS-controlled, AS was reasonably capable of abducting anyone perceived as supporting the Government. If AS knew the appellant's background, he would be at risk. Alternatively, his behaviour might give rise to a suspicion that he did not conform with their beliefs or was spying against AS.
10. The refusal relied on the Unaccompanied Child Welfare Form to say that the appellant's maternal uncle had paid for his journey. But the Form had not been provided and it contradicted what the appellant had said in interview - which was that his mother had funded his journey. There was nothing to suggest that the appellant would be in receipt of remittances from abroad. The difficulties that he would face in securing accommodation and a livelihood, in the absence of a family support network or the receipt of regular remittances, meant that he faced a prospect of being in circumstances falling below that which would be reasonable for internal relocation purposes.
11. Ms Ferguson submitted that the reasoning in the refusal decision made it clear that the respondent accepted that the appellant would most likely not have the assistance

of clan members. This was because he did not have family or diaspora links in the UK.

### **The Decision of the First-tier Tribunal**

12. The appellant's appeal came before Judge Farrelly sitting at Taylor House on 11 July 2023. Both parties were legally represented, with Ms Ferguson appearing on behalf of the appellant.
13. In the decision, the Judge began by summarising the appellant's claim. He then moved on to discuss the contents of the appellant's appeal statement dated 9 January 2023. At para [9], he observed that in the substantive interview which took place on 13 May 2022, the appellant did not complain of any health conditions, and he was not on any medication. He said in interview that his father's business had been closed down and the money from it was used for his journey. He referred to his mother sending him money to pay for the agent in Europe.
14. At paras [14] to [17], the Judge summarised what had happened at the hearing. In cross-examination, the appellant confirmed that he was in contact with his mother on an almost daily basis. He was attending college here. His father's business premises had now closed. His mother sold vegetables to support herself. His brother was in Nairobi and they were in contact. He said that his mother was sending his brother money to support him in Nairobi. He indicated that he had relations in Somalia through his parents. He said that as recently as two months ago, AS had threatened his family. He was asked why they continued to threaten his family, and he said that it was because they did not follow their instructions to close down their business. He was asked why he could not relocate to Mogadishu. He said that AS had his photograph.
15. In closing submissions, the Presenting Officer submitted that, as a member of a majority clan, the appellant would have assistance in resettling in Mogadishu, as well as the Facilitated Return Package. There would also be the possibility that his mother could go to Mogadishu and they would be reunited there.
16. In response, Ms Ferguson relied upon the ASA. She said that the whole family would be targeted by AS, because they had defied the order to close the business. The appellant's mother had been contacted two months ago and there was a network of surveillance in Mogadishu. He was still only a young man, and she submitted that it was likely he would end up in an IDP camp.
17. The Judge's consideration of the evidence began at [18]. At [22], the Judge said that the factors which he took into account on the issue of relocation in Mogadishu were that the appellant was now a young adult; on the account given, he had the trauma of his father being killed and his own kidnapping; as evidence of maturity, he had been able to travel under no-doubt difficult conditions, on his own, through various European countries. He appreciated that an agent was engaged, but it seemed

unlikely that they would have done everything for him. The appellant had had to adjust to living in the UK since September 2021. He was a man who enjoyed life here and felt safe.

18. At [23], the Judge said that the evidence did not indicate to him that AS would have an ongoing interest in the appellant. He did not have a profile which would attract their interest. The underlying reason for their previous interest - namely his father's business - no longer existed. He could not see anything about the appellant's past involvement with AS which would indicate that they would have a sustained interest in him.
19. At [26], the Judge referenced the appellant's evidence that AS had been telephoning his mother wanting to know about his whereabouts and that of his brother. This would suggest some ongoing interest, although he did say that this has stopped. In his oral evidence, the appellant said that they had contacted her again two months before the hearing. He did not find this part of the evidence credible, given the passage of time.
20. At [27], the Judge referred to the ASA, in which it was argued that there was a risk of the appellant being exposed to a breach of Article 3 should he be obliged to resort to an IDP camp. At paras [28] and [29], the Judge referred to the respondent's response to the ASA contained in the respondent's review of 9 March 2023. The respondent continued to feel that he could relocate reasonably to Mogadishu, having regard to the Country Guidance on internal relocation.
21. At para [30], the Judge said that he had considered the Country Information available. He referred to the CPIN dated November 2020. AS conducted attacks in Mogadishu and other areas outside its control. They targeted certain groups such as members of the Security Forces and Government officials, and so forth. At 2.4.6 of the report, it was recorded that AS did not generally target local staff or individuals with a low profile working for Government organisations. At 2.4.7 it said that in general people without a government or international profile were unlikely to be at risk.
22. At [31], the Judge observed that *MOJ & Others (Return to Mogadishu) Somalia* [2014] UKUT was now an old case, but was reaffirmed recently in *OA*. There was no real risk of forced recruitment by AS of civilians living in Mogadishu. Large numbers of Somalis had moved to Mogadishu and there was no evidence of clan-based discrimination. Such individuals could settle and they had some form of social support network which could include membership of a majority clan.
23. At [33], the Judge said that there was a more up-to-date CPIN focusing upon Mogadishu dated May 2022 and that there was the new Country Guidance authority of *OA (Somalia) CG* [2022] UKUT 00033, which was promulgated on 2 February 2022. This decision largely reaffirmed the earlier *MOJ & Others (Return to Mogadishu)* [2014] UKUT 00442. The latter referred to the significance of clan membership in

Mogadishu changing from protection to support mechanisms. It said that a returnee with family in the country would be unlikely to be far from establishing contact with members of the clan or extended family. OA recorded that very few if any returning members would be forced to resort to IDP camps.

24. The Judge stated his conclusions as follows:

34. The country information would indicate that the appellant may be safe in his home area. As I have indicated, I do not see him having any particular profile for Al Shabab would have a continuing interest in him. The country information is quite clear that in any event relocation to Mogadishu is viable. There is freedom of movement and he would have the support of a majority clan membership.
35. I have borne in mind the reasonableness of relocation and the fact that the appellant is still only a young man. Nevertheless, the evidence would indicate that he has sufficient independence to be able to adjust. There is the possibility of support from his clan and family members either within Somalia or abroad as well as the Resettlement Package. Consequently, I do not see him facing a real risk of persecution for a Convention reason, nor do I see a real risk of a breach of any of his protected rights. The country information does not suggest a claim for humanitarian protection should succeed. I do not see him falling into destitution, nor is it inevitable that he would end up in a camp.

### **The Reasons for the Grant of Permission to Appeal**

25. The grounds of appeal were settled by Ms Ferguson. On 15 November 2023, First-tier Tribunal Judge Dainty granted permission as it was arguable that the reasons given for the lack of ongoing interest were not sufficient in light of the severity of the past persecution. Further, arguably the approach to internal relocation and the reasons given were at odds with the Country Guidance in *OA (Somalia) CG [2002] UKUT 00033 (IAC)*, especially in the light of the appellant's past persecution arguably increasing his risk of being located/persecuted and there being no thorough consideration of the practical difficulties he would face in Mogadishu and his individual circumstances.

### **The Hearing in the Upper Tribunal**

26. At the hearing before me to determine whether an error of law was made out, Ms Ferguson developed her grounds of appeal. For this purpose, she directed my attention to various paragraphs in the Decision, and to the appellant's appeal statement.
27. On behalf of the respondent, Mr Tufan submitted that the Judge had directed himself appropriately by reference to the Country Guidance case of *OA*, and that he had given adequate reasons for finding that the appellant would not be at risk of persecution by AS in Mogadishu and that internal relocation to Mogadishu would be reasonable, especially given the fact that he was a majority clan member.

## Discussion and Conclusions

28. In the grounds of appeal, Ms Ferguson submits that the Judge failed to make clear findings about key matters; or that his findings are inadequately reasoned; or that they do not reflect all of the evidence.
29. In the light of the case put forward by Ms Ferguson, I consider that it is helpful to bear in mind the observations of Lord Brown in *South Bucks County Council -v- Porter* [2004] UKHL 33; 2004 1 WLR 1953. The guidance is cited with approval by the Presidential Panel in *TC (PS compliance - "Issues-based reasoning") Zimbabwe* [2023] UKUT 00164 (IAC). Lord Brown's observations were as follows:

"36. The reasons for a decision must be intelligible and they must be adequate. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the "principal controversial issues", disclosing how any issue of law or fact was resolved. Reasons can be briefly stated, the degree of particularity required depending entirely on the nature of the issues falling for decision. The reasoning must not give rise to a substantial doubt as to whether the decision-maker erred in law, for example by misunderstanding some relevant policy or some other important matter or by failing to reach a rational decision on relevant grounds. But such adverse inference will not readily be drawn. The reasons need refer only to the main issues in dispute, not to every material consideration...Decision letters must be read in a straightforward manner, recognising that they are addressed to parties well aware of the issues involved and the arguments advanced. A reasons challenge will only succeed if the party aggrieved can satisfy the court that he has genuinely been substantially prejudiced by the failure to provide an adequately reasoned decision."

30. Ms Ferguson's first criticism is that there was a lack of clear findings, or findings supported by the evidence, in relation to the risk that the appellant would face on return to his former home area in Somalia.
31. The Judge's conclusion that the appellant "*may be safe in his home area*" is unacceptably ambiguous, as it does not preclude the appellant being at risk from AS by reference to the lower standard of proof. However, I do not consider that the Judge thereby erred in law, because he rightly did not purport to resolve the question of whether the appellant had made out his protection claim on the basis that there was no real risk of persecution from AS in his former home area. Although, as is explored below, the Judge gave adequate reasons for finding that AS did not have an ongoing adverse interest in the appellant due to the past support for a government construction project that had been provided by his father's business, the background evidence to which the Judge alluded at [31] indicated that there was a risk of forced recruitment by AS of young men such as him in areas where AS were in control or had a presence, in contrast to the situation which prevailed in Mogadishu, where, as the Judge expressly noted, there was no risk of forced recruitment by AS.
32. The Judge clearly ended up rejecting the protection claim on the sole ground that it was both safe and reasonable for the appellant to relocate to Mogadishu, and so the issue is whether the Judge's conclusion on the viability of internal relocation is adequately reasoned.

33. Ms Ferguson submits that the Judge's finding that the appellant would be safe in Mogadishu is inadequately reasoned. In particular, she submits that the Judge failed to engage with her submission in the ASA that he acknowledged at para [27] - namely, that the appellant's captors had taken a photograph of him and therefore they would be able to track him down in Mogadishu.
34. At para [26], the Judge made a clear finding that the appellant was not credible in his oral evidence that AS had contacted his mother again two months before the hearing. Ms Ferguson initially sought to persuade me in oral argument that this was not a sustainable finding. But having directed me to the relevant evidence, she was constrained to acknowledge that the Judge had correctly observed that the appellant's previous evidence was that AS had stopped telephoning his mother some time ago. Against this background, it was entirely open to the Judge to find it not credible that AS should have started telephoning his mother again, without anything having happened to provoke a resumption of adverse interest.
35. Another reason given by the Judge for holding that the appellant did not have a profile that would attract the interest of AS was that the underlying reason for their previous interest no longer existed. I consider that Ms Ferguson's challenge to this finding is, on analysis, an attempt to re-argue the case. In effect, she submits that because the reason for the adverse interest of AS in 2021 was the family's perceived support for the government - through the supply of materials from the shop for the building of an airport - the appellant would still be perceived as a supporter of the government on return to Somalia.
36. But it is precisely because the appellant's account of past persecution is linked to the supply of material for a government project that it was reasonably open to the Judge to find that the closure of the business - and hence the impossibility of the business providing further support to the Government - would mean that the appellant and other family members would no longer be of adverse interest to AS.
37. Although the Judge did not spell out the implication of his findings for the appellant's safety in Mogadishu, it necessarily followed from these sustainable findings that (a) the appellant would not be a potential target for AS in Mogadishu, as he was no longer of specific interest to AS; and (b) that it was not a relevant consideration that A's evidence was that AS had taken his photograph at the time of his capture, when the business was still in operation.
38. It is tolerably clear from the Judge's citation of paragraphs 2.4.6 and 2.4.7 of the CPIN at the end of [30] that his conclusion was that the appellant would not have a profile in Mogadishu which would attract renewed interest in him from AS. This conclusion is entirely in line with country guidance authority, and no error of law is disclosed.
39. On the issue of whether the Judge gave adequate reasons for finding that internal relocation to Mogadishu was reasonable, as well as being safe, it is helpful to be



reminded of the relevant country guidance on this issue that is given in the headnote of OA as follows:

*13.If there are particular features of an individual returnee's circumstances or characteristics that mean that there are substantial grounds to conclude that there will be a real risk that, notwithstanding the availability of the Facilitated Returns Scheme and the other means available to a returnee of establishing themselves in Mogadishu, residence in an IDP camp or informal settlement will be reasonably likely, a careful consideration of all the circumstances will be required in order to determine whether their return will entail a real risk of Article 3 being breached. Such cases are likely to be rare, in light of the evidence that very few, if any, returning members of the diaspora are forced to resort to IDP camps.*

*14.It will 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 would be reasonable for internal relocation purposes.*

40. Ms Ferguson recognised in the ASA that the appellant's majority clan membership presented a major obstacle to the submission that his relocation was unreasonable. For that reason, she submitted that the respondent had conceded in the refusal decision that majority clan membership would not be sufficient to ensure that the appellant would be able to survive and prosper in Mogadishu. But the respondent did not make such a concession, and Ms Ferguson does not contend otherwise in the grounds of appeal.
41. On the potential implications of the appellant's age and his experience of past persecution, Ms Ferguson submits that the Judge's line of reasoning in para [22] is confused and contradictory. However, it is clear that in para [22] the Judge is weighing up competing considerations bearing upon the reasonableness of internal relocation. The past trauma that the appellant had experienced is balanced by the Judge against the competing considerations that the appellant has since then displayed independence, maturity and resilience. There was no medical evidence that the appellant was suffering from PTSD or any other condition that would impact on his ability to access a support network provided by his majority clan in Mogadishu, or that would impact on his ability to secure a livelihood in Mogadishu.
42. On the potential availability of remittances, Ms Ferguson's challenge to the Judge's findings on this issue is merely argumentative. It was open to the Judge to find that, as well as the possibility of support from his clan, there was also the possibility of support from family members, either within Somalia or abroad, as well as the Resettlement Package. It is not correct to say that the Judge had no evidential basis for this finding. Although the appellant's evidence in interview was that he was sent money by his mother to pay for the agent in Europe, this is not inconsistent with what was apparently recorded in a Child Welfare Form, which was that the appellant said he had obtained funding from a maternal uncle in Sweden. He could have had funding from both sources. Although the Child Welfare Form was not included in the respondent's bundle, it is not suggested that the appellant denied the truth of the statement attributed to him. In addition, the appellant acknowledged in his oral

evidence that he had relations in Somalia through his parents. In his conclusion, the Judge did not specify that the financial support from family would necessarily come from abroad.

43. The Judge's closing observation that it is not inevitable that the appellant will end up in an ID camp lacks the required level of confidence. But I remind myself that a decision should not be analysed as if it is a contract or a piece of legislation. On a holistic assessment, the Judge's reasoning was good enough. The Judge supplied adequate reasons for finding that the appellant had not shown to the lower standard of proof that he would be without clan or family support, and that he would not have a real prospect of securing a livelihood on return, so as to face a real risk of destitution or the prospect of living in circumstances which fall below that which would be reasonable for internal relocation purposes.
44. In conclusion, for the reasons given above, I find that no error of law is made out.

### **Notice of Decision**

**The decision of the First-tier Tribunal did not contain an error of law, and accordingly the decision stands. This appeal to the Upper Tribunal is dismissed.**

### **Anonymity**

The First-tier Tribunal made an anonymity direction in favour of the appellant, and I consider that it is appropriate that the appellant retains anonymity for these proceedings in the Upper Tribunal.

*Andrew Monson*  
Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber  
25 January 2024