



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/09873/2013

THE IMMIGRATION ACTS

Heard at North Shields
On 11th June 2014

Determination Sent

Before

Upper Tribunal Judge Chalkley

Between

MR MAMADOU ALIOU BAH

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs Brakaj, a solicitor with Iris Law Ltd
For the Respondent: Mrs H Rackstraw, a Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Guinea and he was born on 8th July, 1992. He appealed to the First-tier Tribunal against the decision of the respondent, taken on 16th October, 2013, to issue directions for his removal. His appeal was heard by First-tier Tribunal Judge Fox at North Shields on 15th January, 2014.

Immigration History

2. The appellant made application for a student visa on 8th May, 2012, which was granted on 14th May, 2012, valid from 23rd May, 2012, until 23rd April, 2013. The appellant maintains that he entered the United Kingdom on 10th June, 2012. He attended at a Home Office Asylum Screening Unit on 23rd April, 2013 and lodged a claim for asylum.

Basis for the Appellant's Claim

3. The appellant maintains that he was an active member of *Union Des Force Democratiques De Guinee* ("UFDG"). He claims to have been arrested on 16th January, 2012 and held in detention for two weeks. During that time, he claims that he was beaten by police officers and subsequently released by an army officer who had been paid a bribe to secure the appellant's release by attending at the police station and asking for the appellant. The appellant says that he left Conakry and went to stay in his father's village where his grandmother lived. He claimed that he remained there for three to four months without any difficulties. He was not in hiding because it was a remote village. He claims that his father arranged for him to obtain a visa and that he travelled to Sierra Leone on two occasions to obtain the visa.
4. The appellant maintains that on 18th April, 2013, whilst he was in the United Kingdom, there was a demonstration in Guinea which turned violent and, as a result, the police attended at his home in search of him, because they believed that the appellant was involved in those demonstrations. He maintains that he cannot return to Guinea as he will be persecuted by the authorities.
5. First-tier Tribunal Judge Fox found that the appellant had not been the subject of any adverse attention from the authorities in Guinea and dismissed the appellant's appeal. In doing so he purported to have examined an expert's report, but failed to demonstrate that he had examined it before making his findings of fact. Permission was granted because the judge failed to make cogent findings about the expert's evidence and failed to demonstrate that it was examined before he made his findings of fact.

The Hearing on 31st March 2014

6. The matter came before me briefly on 31st March, 2014, when Mrs Brakaj again represented the appellant and the respondent was represented by Mr P Mangion, a Senior Home Office Presenting Officer. On that occasion I found an error of law in the determination of Judge Fox and proceeded to hear evidence. During the course of that evidence it appeared that the appellant had given contradictory evidence and when I pointed that out to the appellant, the interpreter told me that she had made a mistake in translation.

7. I did not feel that I could continue hearing the appeal with this interpreter, given that the consequences for the appellant are such that I might have concluded that he was not a truthful witness and he might, as a result, have been returned to his own country and suffered serious harm. I abandoned the hearing, having found that Judge Fox erred in his determination by failing to demonstrate that before making his findings of fact he had properly considered the expert's report. I set aside Judge Fox's determination.
8. The matter came for hearing before me next on 11th June.
9. I ensured that I and the representatives all had the same documents before us. I confirmed that I had an original *Ordre De Mission*, purporting to be issued by UFDG, an original UFDG *Carte De Membre*, no 305306 dated 2008 in the name of the appellant and a *Convocation* written in French. I also had two copies of a US State Department 2013 Country Report on human rights practices for Guinea, a report of the Office of UNHCR published 11th February 2014, a copy of Voice of America News of 16th January 2014, a copy of the Immigration and Refugee Board Canada Report on ethnic composition of police and military forces dated 7th May, 2014, a letter from Iris Law addressed to Anita Schroven of 4th December 2013, an unsigned certificate by Legal & General Legal Services Ltd dated 20th June 2013 and a copy of the *Convocation* with an English translation. I also had the Home Office bundle and an appellant's bundle.
10. I confirm that before considering the appellant's evidence, I have carefully examined all these documents.

Oral Evidence of the Appellant

11. I ensured that the appellant and interpreter both understood each other. I cautioned both to listen carefully to the questions, to speak in short sentences and to tell me if they encountered any difficulty at any stage. I warned the appellant that it was very difficult to give evidence through an interpreter and that he and I must safeguard against any possibility of our misunderstanding each other. I asked him to speak and tell me how he had travelled from his home that morning after which the interpreter confirmed that she understood the appellant. He confirmed that he understood the interpreter.
12. I explained that this was his asylum appeal and that having applied to the United Kingdom government for recognition as a refugee, the United Kingdom government had stated that he was not entitled to international protection. I also explained that I was independent of the United Kingdom government and had nothing to do with the United Kingdom government. I told him that if I had any reason to believe that he was at real risk in his home country I would allow his appeal.

Evidence-in-Chief

13. The Appellant confirmed his full names, his date of birth, nationality and address. He was shown the signature at page 13 of his bundle and confirmed that that was his signature. He confirmed that he had signed the statement after it had been read to him in his own language and after he had confirmed that it was true and accurate in all respects.
14. I warned the appellant that he was about to be invited, by his representative, to adopt the statement as part of his evidence. I explained that if he was happy to adopt the statement then the statement would stand as his evidence before the Tribunal. I explained that he was free to adopt anything he wished to adopt but that he should only do so if he was entirely satisfied that the contents of the document were true and accurate in all respects. I explained that in the event that he contradicted something that he had earlier said in his statement when he was later cross-examined, that may cause me to believe that he was not telling the truth. I pointed out to him that if I was of the opinion that he was not telling the truth then there was a danger that he may damage his asylum appeal.
15. The appellant confirmed that he understood the warning. He also confirmed that he wished to adopt his statement. The appellant was then referred to page 14 of the bundle which was a copy of the *Ordre De Mission*. He told me that he had been given this document by the party in order to represent them at the polling station on polling day.
16. The English translation indicated that the appellant had been designated to fulfil the role of alternate delegate of the UFDG at the polling station of GS Alama Traore No Corat 246. The position gives the person concerned the competence to substitute the incumbent delegate in case of absence or unavailability in order to ensure the monitoring of the voting process and to receive a copy of the minutes containing the voting results, in accordance with the applicable legal and regulatory provisions. It appeared to be dated 6th November, 2010 and was signed by the Secretary General of the section or his representative.
17. The appellant explained to me that he was given the document by the person responsible in his sector when he was at the party headquarters. It was given to him on 5th November 2010. They gave him the document on the 5th because they did not work on Saturdays. It was given so that he could prove that he was the party representative at the polling office. He was due to attend the polling office on Sunday 7th. When he attended he had to show this document. He went to the polling office to count how many people voted at the voting station and how many voted for his party and how many votes there were for the opponent. He had to arrive by 7.20am. The poll started at 8am in the morning. He was there all day and left at around 8.45 to 8.50 in the evening. The polling station had closed at 8pm.

18. The appellant's role was to count those voting and to count which party the vote was for. His role was to ensure that there were no false votes and to ensure that people knew how to vote. When the station was closed the votes were opened and counted. They then had to prepare some minutes with the person responsible for the vote. There were other people there from other parties.
19. The appellant was then referred to a document which appeared at B57 of the respondent's bundle. This was the *Convocation* in French. That document was from the police who left it at his home. He was not there when the police arrived. It was left at his home on 30th January 2012. It had been placed with his other documents. His parents put it with all the appellant's other documents. The appellant knew of this document when his father told him while he was hiding in his father's village. He told the appellant that it had been left at home and that he had to go to the police station the next day. The appellant was then shown a photocopy of the UFDG *Carte De Membre*. He told me that it was his membership card relating to his membership of the UFDG. He obtained it in 2010. It is dated 2008, because that was the year that the party produced a lot of these cards. Since, they have not produced any more because they used to use these 2008 cards to use them up, he explained. The document was amongst the papers the appellant brought with him.
20. The appellant was then referred to the record of his asylum interview and to what was recorded on page 11 of the interview record continuation sheet in answer to question 35. Question 35 was, "Where is membership?" to which the appellant replied, "I left in Guinea". The appellant explained that he had not seen it amongst his documents. When he later went back to immigration he gave them the card. He gave them the card less than a week later when he went to sign on.
21. It was pointed out that at his screening interview conducted on 3rd June, 2013, reference is made to supporting documents which he explained he had handed into the Home Office in Central London, but that he had not managed to obtain translations. He was then referred to page B18 of his asylum interview conducted on Wednesday 15th May which, on page B18, shows that he handed the convocation document to the authorities.
22. The appellant could not remember when he handed the immigration card to the Home Office. He had been asked for a translation of the convocation. It was either before he first reported to the immigration authorities following his interview or on the first occasion that he reported when he handed the documents in.
23. In answer to further questions from his solicitor he confirmed that he had nothing to corroborate this.
24. The appellant explained that he had three siblings. A sister lives in Guinea with her husband and one brother and one sister are in Senegal studying. The appellant's parents live at home. He last spoke to them over a month ago. It is a long time since he spoke to his siblings.

25. His parents have not specifically told him that the police have called at home recently but he said that he was aware of what is happening in Guinea. He cannot speak very much over the telephone because it is expensive and his parents have no access to internet. He confirmed that he was aware of the recent election results and told me that the risk had not changed because of the political situation. A week ago the opposition which had formed an alliance at the assembly decided to withdraw from parliament because the authorities would not talk in a democratic manner. Demonstrations were threatened again and they are likely to be violent. The appellant was referred to what he had said during his visa application interview. In answer to question 85 he indicated that at the end of his course he would return to Guinea and apply for an academic programme in business administration. The appellant said that that was his intention. He still had two years of his original degree left.
26. His solicitor referred him to what he had said at page 4 of his statement. He had been arrested at a demonstration on 16th January, 2012 and during his detention he was seen by his family. On 18th January, 2012 an army officer came to the police station and intimidated police officers by claiming to be one of his relatives. The officer asked for the appellant and a guard took the appellant to the army officer inside the police station. He was then allowed to leave the station with the army officer. The army officer told him that the appellant's father had sent him to get the appellant out of custody. The appellant said that he did not know whether this officer would be in a position to assist him in the future were he to be arrested.

Questions put by me to clarify the appellant's evidence.

27. In answer to questions put by me in order to clarify the appellant's evidence, he confirmed that between February, following his release from custody, and May 2012 when he left Guinea and travelled by taxi to Sierra Leone for an appointment with the British Embassy, he had been staying at Prefecture De Telimel, where his ancestors came from and where his father was originally from. He could not stay in Sierra Leone, because he did not know anybody there and he had never lived alone and it would cost money. That is why he had been staying with his grandmother. He was terrified at the thought of being caught by the Guinea authorities. He said it was easy to get into Sierra Leone, because he paid money to avoid checkpoints. I asked him if it was right that having gone to Sierra Leone on 8th May, 2012 he then returned to Guinea and then went back again to Sierra Leone on 28th May, 2012 to collect his visa only to return to Guinea again. The appellant confirmed that that was correct.

Cross-Examination

28. The appellant was referred to page B25 of his asylum interview and to the answer recorded to question 53. At question 53 he was asked:-

“What is your role within UFDG?”

To which the appellant replied,

“I don’t have a specific post but I was an active member”.

29. The appellant agreed that he had been to monthly branch meetings in Lambanye. He was asked why, when asked at question 151 of the interview if there was anything else he wanted to add he had not made any mention of having acted as the representative for the party at the polling station in 2010? It was pointed out to him that there was no mention of this in his interview or in his written statement. He said it did not come to his mind and within the party he had various different roles. He was referred to paragraph 8 of his statement which he had earlier adopted where he had said, “One of the party rules is that if you are a member you need to give the party 100%”. He confirmed that he had been committed. He did not pay a membership fee, because at that time he was not actually in the party, just taking part. He was committed when he took up his membership. He joined the party in August 2010.
30. The appellant said he did not inform his party of his arrest. He could not because he was detained. He did not ask his parents to inform the party, because it would have endangered party members who visited him. He did not tell the party later of his mistreatment, because he was not the only person being arrested and mistreated. The head of the party knew that members were being detained and mistreated. The head is always condemning arrests.
31. The appellant confirmed that after his release from custody he went to his father’s village because he wanted to stay in hiding to avoid the authorities. He said that the village was a large area, but he was not actually in hiding in the village. The authorities would have been interested in him because they knew very well that he was involved in demonstrations against the government. He was always the first in line.
32. 107 people voted at the polling station.

Further questions put by me in order to clarify the Appellant’s Evidence

33. I asked the appellant what subjects he had studied at university and he told me that he was studying mechanical engineering. It was a four year course and he had done two years but not actually completed his second year exam.
34. I asked the appellant why he thought the party had asked him to attend as a representative at the polling station when he had only been a member of the party for a matter of weeks? He said that he had been asked by the head of his sector who believed in him. The head of his sector had known him for many years. He had not joined the party earlier because he was at college and in Guinea people have to be 18 years of age to be involved in politics. I pointed out to the appellant that he had

claimed that he had been doing work on behalf of the party with “youth” and told me that youths meant 18 and 19 year olds.

Re-examination

35. The appellant confirmed that he did not hide in the village. It was remote and he was safe. He could not stay there permanently. He could not live in the village because there was nothing there and because he was used to cities. The village is a large spread out area. His grandfather had been a farmer who had sold his own cultivated products at market.

Submissions

36. Mrs Rackstraw relied on the Reasons for Refusal Letter and asked me to consider the timing of the appellant’s claim. He did not claim asylum until his visa was about to expire which indicated that this was an opportunist claim. She suggested that if this was a genuine fear then the appellant would have made a claim at a much earlier opportunity. He claims to have been a party activist but in truth was someone with no great responsibility or authority and was only involved with the party at youth level. He subsequently claims to have had a much more involved role. His claimed role at supervision on behalf of the party at the polling station has simply been bolted on. It is not likely that he would have overlooked this role had he genuinely taken part in the polling station when describing his activities on behalf of the party.
37. The appellant is not credible and she asked me to make adverse findings. She suggested that his arrest was not credible and while arrests of that type do occur, his release is simply not credible. People can be released on payment of a bribe, but this appellant was not fingerprinted or photographed and any records of detention are usually destroyed after payment of a bribe.
38. For the appellant, Mrs Bakaj asked that I find him credible. The US State Department Report does not indicate that in the case of payment of a bribe custody records are always destroyed. In any event, the police have a continuing interest in the appellant because the convocation was delivered subsequently and the fact that the police have visited his home again in April 2013. The appellant has explained the apparent error concerning his membership card and he has spoken of not paying any membership fees. He joined the party shortly after his 18th birthday but was well-known to people within the party. His role was as an assistant or subordinate at the polling station as the document makes clear.
39. So far as the failure to mention his role in 2010 was concerned this was historic and it was a one-off occasion that he acted as representative. She invited me to allow the appeal and referred me to various parts of the objective evidence.

The Law

40. In asylum appeals the burden of proof is on the appellant to show that returning him to Guinea would expose him to a **real risk** of persecution for one of the five grounds recognised by the 1951 Refugee Convention, or to a breach of his protected human rights. The question of whether a person has a well-founded fear of persecution for a Convention reason has to be looked at in the round in the light of all relevant circumstances and be judged against the situation as at the time of the appeal. In human rights appeals, if it is established that there will be an interference with the appellant's human rights and the relevant article permits, then it is for the respondent to establish that the interference is justified.
41. The standard of proof in asylum appeals as regards both the likelihood of persecution and the establishment of past and future risks, is a **real risk**. In *Kacaj v Secretary of State for the Home Department* (01/TH/0634*) it was held by the former Immigration Appeal Tribunal that the standard of proof in human rights appeals is the same as that in asylum appeals.

Background Evidence

42. I first considered the background, evidence in order that I could put the appellant's account into context and to better inform me as to the risk which might face this appellant, were he to be returned to Guinea.
43. I first considered the **Freedom House, *Freedom in the World 2013: Guinea*** paper of 16th January, 2013. This gave a brief history of the country since its independence from France in 1958. The country is not an electoral democracy. The president is said to be elected by popular vote for up to two five year terms. The legislature was dissolved in 2008 and replaced in 2010 by an appointed 150 member national transitional council. The 2010 constitution reinforces democratic rights including explicitly outlining the legal status of the prime minister and establishing a number of bodies such as CENI, a national human rights body, and a constitutional court. The two main political parties are said to be RPG and the UFDG but there are more than 130 registered parties most of which have clear ethnic or regional basis. Corruption is said to be a serious problem and despite its rich natural resources most of the population lives in poverty. Despite the constitution guaranteeing media freedom there was said to be evidence that the government had shut down private radio stations and issued warnings to another. Journalists were harassed and assaulted while covering public demonstrations.
44. Respect for freedom of assembly is enshrined in the constitution but repressed in practice. The judicial system demonstrated a modest degree of independence beginning in 2010. Social discrimination against women is common. The **Human Watch World Report 2013: Guinea** spoke of decades of neglect by the judiciary of successive regimes leading to striking deficiencies in the sector and allowing perpetrators of abuses to enjoy impunity for crimes. Prison and detention centres are

overcrowded and inmates lack adequate nutrition, sanitation and medical care. There were numerous allegations of unprofessional conduct and several of excessive use of force by security forces. They were said to have killed at least three protestors in often violent demonstrations and to have arbitrarily detained and beaten others. There were said to be few attempts to investigate, discipline or prosecute those implicated. There was said to have been little systematic effort to improve economic governance.

45. The **US State Department Report 2012 Country Reports on Human Practices** suggested that there were reports that the government or its agents committed arbitrary or unlawful killings and that UFDG had reported at least two politically motivated disappearances during the year. Security force personnel use violence to quell demonstrations and to punish participants and leaders.
46. I also read the **Amnesty International Annual Report of 2013** which confirmed that allegations of torture and ill-treatment by security forces continued. Restrictions of freedom of expression and of the press as well as the targeting of certain journalists remain cause for concern.
47. The **UNHCR Report** of 17th January, 2012 spoke of major shortcomings remaining in the follow-up to human rights violations despite some positive steps. Human rights were said to have improved since the post-electoral crisis at the end of 2010 but there were reported cases of arbitrary arrest and detention by security forces during peaceful demonstrations. Impunity remained a serious problem in Guinea especially amongst the security forces. There appeared to be a shortage of trained personnel and resources and a lack of independence and corruption which caused difficulties in the judicial system.
48. I very carefully read the **Immigration and Refugee Board of Canada Guinea: The Union of Guinea's Democratic Forces (UFDG) party, including its structure, the name of its president and its main leaders; how its members are treated by the authorities 01 03 2014**. Unfortunately this dealt with events between 2009 and 2012, but it was clear that the UFDG were complaining that numerous party members had been imprisoned and that others had been killed during clashes between the police and demonstrators at a banned opposition rally. **I read other reports** of police in Guinea clamping down on protestors against voter registration software in 2003 and of police having been involved in a violent crackdown on opposition protestors who were demanding free and credible legislative elections.
49. I paid particular attention to the **US State Department 2013 Country Reports on Human Rights Practices: Guinea** which confirmed that government officials continued to employ torture and cruel, inhumane and degrading treatment or punishment with impunity and continued to use violence to quell demonstrations and punish participants and leaders resulting in deaths and numerous injuries. Abuse of prisoners was said to be common. There were said to be reports that the government or its agents committed arbitrary or unlawful killings and that the

authorities had failed to conduct investigations into the outbreak of violence leaving as many as 200 dead. Prison record keeping was said to be inadequate and it was explained that if prisoners pay bribes for their releases then records of their arrests would often be lost.

50. Whilst the law provided that detainees be charged before a magistrate within 48 hours many detainees were held for much longer periods and despite the fact that the law precluded arrest between the hours of 9pm and 6am night arrests continued. Corruption remained widespread amongst the police and security apparatus and the judicial system lacked independence, was underfunded, inefficient and overtly corrupt.
51. The **Immigration and Refugee Board of Canada** paper of 7th May, 2014 referred to a 2009 UN Commission of Inquiry which found that the president and members of the presidential guard, national gendarmerie, specialised police units, civilian militia and police were responsible for crimes against humanity for actions taken against protestors on 28th September, 2009. A series of opposition demonstrations held throughout 2013 turned violent as a result of clashes between opposition demonstrators, pro-government supporters and security forces. Excessive use was said to be used against demonstrators supporting the opposition and there was systematic use of torture and ill-treatment against persons in detention, police custody or held at controlled posts.
52. I also read the **UNHCR Report** of 11th February, 2014 which highlighted difficulties adequately explained in other background material. The **Voice of America News** of 16th January referred to Guinea's prime minister and cabinet resigning following last September's bitterly contested parliamentary election.

Expert Evidence

53. I carefully considered the report of Dr Anita Schroven. Dr Schroven is an anthropologist by training and she possesses a very impressive curriculum vitae. She is a researcher at the Centre for Interdisciplinary Studies Bielefeld University. She has written widely on Guinea and Sierra Leone. However, she does not purport to be a forensic document examiner despite, her comments on the *Convocation*. She confirms that the qualities of paper, print and style of the pre-printed form is typical and that the look, style and quality of print of the seal are typical for ones used in the Guinean public service. She also explained that filling in blanks by hand using a ballpoint pen is common practice in the processing of cases like arrest warrants or convocations which are usually delivered to the designated person's house. As part of her research on public administration, she reports having seen a large number of convocations of the same style, official form and seals. She concluded that she had no doubt as to the authenticity of the document.
54. The expert then examined the *Ordre De Mission* and said that this also had a typical look for the official forms used in Guinean public service or other public institutions

like political parties. The qualities of paper, print and style of the pre-printed form were typical. She confirmed that the filling in of blanks by hand using a ballpoint pen was common practice and that the seal and signature were part of the printed document and not applied to paper individually. She confirmed that as part of her research she had seen a variety of such documents in the same basic style, official form and seals. She said that she had no indication to doubt the authenticity of this document.

55. Next she considered the *Carte De Membre* and said that this was typical of the official forms used in the Guinean public service including political parties and that the qualities of paper, print and style of the pre-printed form was typical. The look, style and quality print of the seal were typical for ones used by public institutions in Guinea and the serial number of the card was marked on the backside of the document. She noted that the year of membership was shown as being 2008, but the signatures of the party treasurer and cardholder were visible on the bottom of the card. She said that weighing the signature of the cardholder (seemingly consistent with other signatures of the appellant) higher than questions of the membership year (considered separately below, question 2) "I have no indication to doubt the authenticity of the document". She then notes that the year 2008 is indicated on the membership card and says that political party chapters often offer annual membership cards in order to keep their membership registries more up-to-date and facilitate record keeping as well as collect membership fees. Office infrastructure and financial resources for such infrastructure is generally very weak and large parties such as UFDG often have to rely on paper-based rather than IT-based solutions for office management. She said that taking into account the broad political mobilisation process in Guinea in 2010 with comparatively free elections taking place for the first time, political parties experienced a surge in membership and thus it was plausible that membership cards were under high demand. She said that she was not surprised that a membership card once printed in 2008 should be used on a later occasion and used for the year 2010.
56. The expert then referred to arbitrary arrest by security forces and the fact that members of the police or army gain side income from family members' bribes aiming to liberate family members who are captured. Given the general level of corruption, personalised alliances and cliques within the Guinean security forces she said that it was possible for individuals by paying bribes to certain officers or guards who will either see to the person's liberation personally or have them released by subordinate members of the security forces. Accountability, administrative procedures and equipment for record keeping were said, she said, to be lacking in Guinean prisons and concluded that it was very possible that the appellant was freed from prison during night by family relations and bribes and it was therefore likely that the appellant had been set free without formal charges still issued against him.
57. I thought it was a very great pity that the expert had not read carefully the appellant's claims. He had not claimed to have been held in a prison. It was claimed that an army officer was bribed to visit the guards at the police station and to

intimidate them into releasing the appellant into his custody. The expert has not commented on this form of release at all.

58. The expert suggested that travel across porous borders in West Africa is not difficult and that the infrastructure at the airport is weak. Scanners do not work and identity is checked by personnel looking at travel documents. There is no electronic reading or scanning of passports or checking of travellers against a list of names beyond those of the airline passenger list. Convocations were said to be sent to the person's house and another copy to the neighbourhood chief's office or house. Public service including security forces and border control in Guinea have no integrated data system to quickly share information as this would require IT infrastructure not available in Guinea. The information on search warrants, convocations and the like would not reach security personnel at the airport unless a high-profile individual was wanted. The expert believed that it was possible that the appellant could travel out of Conakry using his own passport without problems of being linked to convocation or other legal matters.
59. The expert then commented on internal relocation and said that this would be difficult. Information originating from a village or town in the countryside could reach people of the same regional and family origin in distant cities directly by mobile phone or within weeks by travellers who may travel through the town in question and pass on the information to the people they know who have relatives or friends in the region. Sooner or later, she believed that the appellant would be identified and his whereabouts known to his connections in Conakry or Telimelle.

Findings

60. It was against this background and in the light of the expert's evidence that I considered the appellant's evidence before me and made the following findings of fact:-
- (a) I believe that the appellant is who he claims to be and is a citizen of Guinea.
 - (b) I believe that there is a **reasonable likelihood** that the appellant did begin university in 2010. He said that he left after his second year of studies due to his problems. His second year of studies would have been in 2012. The appellant told me that he left his studies before he took his second year examinations. When he spoke of leaving university after the second year of his studies, "due to my problems".
 - (c) I believe that the only problems the appellant had were in completing his studies at university. I do not believe that this appellant was ever involved in politics in Guinea. I do not believe that he was ever a member of the UFDG. I do not believe that he was ever required to attend a polling station as a representative on behalf of the UFDG in 2010 and I do not believe that he was

ever arrested or detained in Guinea. I give my reasons for those findings as follows:-

- (i) The appellant told me that he joined the UFDG in August 2010 and as evidence of his membership he produced a membership card no 305306, which is actually dated 2008. I did not believe for one moment that if the appellant had joined the UFDG in 2010, he would have been issued with a party membership card with a printed date of 2008 on it, without the people who were issuing the card having altered the date to show its date of issue. I accept, as the expert points out, that in the run-up to the 2010 election there was an increase in political activity, but I do not believe that a political party would issue a membership card dated 2008 if it was not actually issued until 2010. Any political party would wish to issue a party membership card to a member as a means of identity. The holder of the card could hardly prove membership by producing a membership card which was two years out of date when it was issued. Nothing would have prevented the signatories on the card having altered the date to show its true date of issue.

I do not believe that the card was genuinely issued to the appellant. He was asked for evidence of membership when he was interviewed and said that he had left it in Guinea. In giving evidence to me he sought to persuade me that he had handed the original membership card in to immigration officials when he subsequently went to sign on, because he had found the card amongst his papers. I do not believe him. I believe that having attended his interview and having been asked for a membership card, he then contacted his friends in Guinea who posted this document to him.

- (ii) The appellant maintains that he was known by the head of his sector for many years and that was why he was trusted, so soon after having joined the party in August 2010, to act as a delegate at the polling station in November 2010. I did not believe the appellant. I did not believe that someone who was so politically naïve as the appellant and who, according to him, had only joined the party in August 2010, would have been invited on behalf of the party to act as a delegate at a polling station during polling and to oversee the polling count, even as an alternate delegate. I appreciate of course that the polling station was obviously a very small one, because according to the appellant only 107 people voted at it. However I do not believe it to be credible that someone with such a short connection with the party would have been invited to undertake such a role.
- (iii) I believe that the appellant is politically naïve. When asked what he did as an active member, he said that when there was a meeting he would deliver leaflets to inform people of the meetings, organise meetings and

organise musicians to come for the youth to make it “lighter for the youth”. I believe that if the appellant had participated in monthly meetings over a two year period he would have been able to give much greater detail of his activities and a much better idea of the particular policies of UFDG that appealed to him. The only thing he mentioned was that he liked the fact that the party wanted to help the youth find jobs after university. I do not believe that the appellant had any interest at all in politics in Guinea while he was there and that his only interest in politics in Guinea now is because he wants to succeed in his asylum appeal.

- (iv) According to the appellant, he was at the polling station from shortly before it opened in the morning, until after it had closed in the evening. This was an unusual role for the appellant; he never, according to him, performed this role again on behalf of the party and yet when asked to describe his activities on behalf of the party he made no mention at all of it. I felt this further undermined the appellant’s credibility.
- (v) According to the appellant, he used to let people know when there were meetings of the party. The head office or one of the secretaries would tell him when there was a meeting and he would pass the information on. One his duties was to distribute flyers. I thought it curious that if monthly meetings of the party were held, members could be advised at the meeting they attended when the next meeting was going to be held and there would have been no need for the appellant to pass on messages from the secretary to individual members. The appellant said that commune meetings were held in Taouyah, but he did not attend these and he did not know how often the meetings took place, and yet he claimed to be an active member and said that the party rules demanded 100%. He claims to have had direct contact with members of the public as a UFDG representative. And yet the only activity he could describe was delivering leaflets and trying to encourage and attract new members. Given that the appellant seemed incapable of giving any further detail of his claimed role, I concluded that he could not possibly have been involved in politics in Guinea on behalf of the UFDG.
- (vi) The appellant claimed that he participated in five or six demonstrations which were organised by party members when the government made decisions which the party disagreed with. He gave an example of when members of the opposition did not agree with the head of the electoral commission, or suspected that the head of the commission was working for the government and that another occasion was when the party suspected that materials used during the election were corrupt. The appellant said that these demonstrations always turned violent and that he managed to escape.

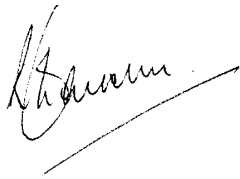
- (vii) In his statement the appellant claims that he was organising UFDG social gatherings which occurred once every three months when people talked, ate together and had a good time. He said he organised one of these on 16th January, which started at approximately 4pm. He believed that there were 400 people present and after an hour the police raided the gathering and threw tear gas and dispersed them. I did not believe the appellant. According to the appellant, this was a social gathering, not a demonstration or political meeting in the sense that speeches were delivered; musicians were playing and people were talking and eating together. The appellant says he was arrested and taken to a police station and then put in a cell. He then says he was transferred to a bigger police station and questioned and beaten up. His parents came to see him. The appellant claims to have been beaten on seven occasions and on 28th January an army officer came to the police station, intimidated the police officers and secured the appellant's release. While I accept that the objective material does suggest that such release might be plausible, I thought it curious that the appellant was taken to Prefecture Tellemille where he remained until 7th May 2012. According to him he was living in a remote area but not in hiding. He claims he then went to the British Embassy in Sierra Leone travelling by taxi. At the border he was taken on a motorbike through trees to avoid a formal checkpoint and having secured his safety by reaching Sierra Leone he decided not to remain there because he did not know anybody there, he had never lived alone and it would cost money to stay there. However, the appellant came to the United Kingdom where he had never been before and where his parents supported him. I accept that the *Convocation* may very well be a genuine form of *Convocation*, I do not, for all the reasons given in this paragraph 60 (c), believe it to have ever been issued to the appellant or accept that it is a reliable document (See *Tanveer Ahmed v Secretary of State for the Home Department* [2002] UKIAT 00439).
- (viii) Having arrived in Sierra Leone and attended at the embassy making his application for a visa to come to the United Kingdom, he then travelled back to Guinea the same way. I thought it wholly undermined the appellant's credibility that having escaped the country where he claimed he was living in fear, he then travelled back there. That did not appear to me to be the actions of somebody who was in fear of arrest by the authorities.
- (ix) The appellant said that he then returned to Sierra Leone on 28th May 2012 to collect his visa and again he paid money to avoid going through the checkpoints. Having obtained his visa he then decided to return to Guinea again, this time travelling to his uncle's house in Kissosso, Conakry. I thought this completely undermined the appellant's credibility. Not only did he return to Guinea on the second occasion

having reached Sierra Leone, but, according to him, he actually went to Conakry.

- (x) The appellant left Guinea on 10th June 2012 and flew to the United Kingdom. He then began studying in the United Kingdom and hoped things would calm down at home. It is that reason he gives for not having claimed asylum on his arrival.
 - (xi) I quite accept that very often it is not possible or practicable for an appellant to claim asylum immediately on arrival in the United Kingdom. There may be many reasons why they would choose to leave it for several weeks, or possibly even for a month or two before making a claim for asylum. However, this appellant actually embarked on his course of studies and did nothing at all about claiming asylum until a matter of days before his visa was due to expire, when he claims that he read of a large demonstration in Guinea which turned very violent. This occurred in April 2013, but according to the Freedom House Report of 16th January 2013, there were frequent violent clashes between security forces and demonstrators resulting in numerous injuries, detentions and arrests during 2012. It must have been apparent to the appellant that the situation in Guinea was not improving, and yet he still failed to claim asylum. I believe that this further undermined the appellant's credibility.
 - (xii) I do not believe that the police came looking for the appellant at his home in 2013, or that they went to his home in 2012 with a convocation. I believe that the appellant's claim bears no relationship at all to the truth and is pure fiction.
 - (xiii) Dr Schroven is a distinguished expert, but with very great respect to her, her expertise does not extend to forensic document examination. I fully accept that the *Convocation* might well be printed on the correct paper in the correct style form and with the correct seals but I am afraid that applying *Tanveer Ahmed* I have concluded that it is not a document upon which I can place any reliance. I have reached the same conclusion in respect of the *Ordre De Mission* and the *Carte De Membre*. I do not believe there to be any truth in the appellant's claims and I do not believe that he is of remotest interest to the authorities in Guinea.
- (d) Nothing in any of the evidence before me leads me to believe that the appellant will be in any danger of being persecuted or suffering ill-treatment or harm such as to amount to a breach of his Article 3 rights on return to Guinea. I dismiss the appellant's asylum appeal and, because it is based on the same factual matrix, his humanitarian protection appeal and Article 3 appeal.

Human rights appeal

61. The appellant's grounds of appeal to the First-tier Tribunal suggest that the appellant's removal from the United Kingdom would be unlawful under Section 6, Human Rights Act 1998 and that his removal would breach Articles 2 and 3. I am satisfied that Articles 2 and 3 would not be breached by the appellant's removal. I was not addressed on the appellant's Article 8 rights and it was not suggested that his removal would breach them.
62. I set aside the decision of First-tier Tribunal Judge Fox. My decision is that the appellant's asylum appeal be dismissed, his humanitarian protection appeal be dismissed and that his human rights appeal be dismissed under Articles 2 and 3.



Upper Tribunal Judge Chalkley