



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

Appeal Number: AA/07644/2014

THE IMMIGRATION ACTS

Heard at Glasgow

**Decision and Reasons
Promulgated**

On 8 April 2015

On 14 April 2015

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

GEBREMESKEL TEFAY

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr A J Bradley, of P G Farrell, Solicitors

For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant appeals against a determination by a panel of the First-tier Tribunal comprising Designated Judge Murray and Judge Watt, dismissing on all available grounds his appeal against refusal of recognition as a refugee from Eritrea.
2. The grounds firstly complain, in a rather confused way, about the panel's findings on whether the appellant may be a national of Ethiopia. Permission was not granted on that part of the grounds, and Mr Bradley did not seek to pursue them.
3. The grounds secondly assert error going to Article 8 of the ECHR, by failing to realise the significance of the fact that by the time of the hearing the appellant's wife had been recognised as a refugee.

4. The SSHD's response to the grant of permission says that there is no error of law in the Article 8 outcome, but in generalised terms which fail to acknowledge the significance of the refugee status of the appellant's wife.
5. The issue was raised before the First-tier Tribunal. On the facts as they stood at the date of the respondent's decision (18 September 2014) the appellant's case was hopeless under Article 8. However, as the facts stood at the date of hearing in the First-tier Tribunal (2 December 2014) the appellant was entitled (subject to the usual checks) to a grant of status arising from his family life interests and those of his wife in accordance with the respondent's policies on refugee family members. His removal to Eritrea could no longer be held to be a proportionate outcome.
6. The determination of the First-tier Tribunal is **set aside**. The appeal, as originally brought to the First-tier Tribunal, is **allowed under Article 8 of the ECHR**.
7. No anonymity direction has been requested or made.



8 April 2015
Upper Tribunal Judge Macleman