



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

Appeal Number: PA/01330/2020 (V)

THE IMMIGRATION ACTS

**Heard by Skype for business
On the 14 April 2021**

**Decision & Reasons Promulgated
On 28 April 2021**

Before

UPPER TRIBUNAL JUDGE REEDS

Between

**Y G
(ANONYMITY DIRECTION MADE)**

Appellant

AND

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms. E. Rutherford, Counsel instructed on behalf of the appellant.

For the Respondent: Mr. M. Diwnycz, Senior Presenting Officer.

DECISION AND REASONS

Introduction:

1. The appellant, who claims to be a national of Eritrea, appeals with permission against the decision of the First-tier Tribunal (Judge Athwal) (hereinafter referred to as the "FtTJ") who dismissed her protection and human rights appeal in a decision promulgated on the 7 September 2020.

2. I make a direction regarding anonymity under Rule 14 of the Tribunal Procedure (Upper Tribunal Rules) Rules 2008 as the proceedings relate to the circumstances of a protection claim. Unless and until a Tribunal or court directs otherwise the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.
3. The hearing took place on 14 April 2021, by means of *Skype for Business* which has been consented to and not objected to by the parties. A face-to-face hearing was not held because it was not practicable, and both parties agreed that all issues could be determined in a remote hearing. The advocates attended remotely via video as did the appellant so that she could listen and observe the hearing. There were no issues regarding sound, and no technical problems were encountered during the hearing and I am satisfied both advocates were able to make their respective cases by the chosen means.

Background:

4. The history of the appellant is set out in the decision of the FtTJ, the decision letter and the evidence contained in the bundle.
5. The appellant claims to be a citizen of Eritrea born in 1995. She entered the United Kingdom clandestinely on 26 November 2018 and claimed asylum on the same day, on the basis that she feared persecution as a result of imputed political opinion.
6. The factual basis of her claim is that she had lived in Eritrea until her mother died at a time when she was four or five years of age. She had no contact with the father who left her mother before the appellant was born.
7. Her maternal aunt assumed parental responsibility after her mother's death and took her to Sudan in 2000 when they lived together until her aunt died in 2008. The appellant remained in Sudan and initially stayed with a friend of her aunts.
8. In 2011 she met a man (AA) who offered to enrol her into a school and provide paid employment. She went with him and he raped her and forced her to live with him. She gave birth to his child in August 2013 and she continued to live with him for 5 to 6 years during which time she was mistreated.
9. In 2017 AA paid the appellant to leave his house with his daughter because he did not want the authorities to discover that he had an illegitimate child.

10. The appellant returned to the home of her aunt's friend (S). S told her that she could not remain in Sudan because she was there illegally but that she would take care of the appellant's daughter. S made arrangements for the appellant to leave Sudan. She left on 27 March 2018 on a forged passport and travel to Turkey, Greece, and Belgium before arriving in the UK on 26 November 2018.
11. The appellant stated that she feared returned to Eritrea because she would be subject to national service and arrested because she left the country illegally. She could not return to Sudan she is not a national that country.
12. The respondent refused her claim in a decision letter dated 28 January 2020.
13. In the decision, the respondent undertook an assessment of the appellant's claimed nationality. In doing so, the respondent assessed it alongside her current age and the claimed age of 5 on departure from Eritrea. The following matters were set out:
 - (1) it was noted that the screening interview was conducted in Arabic and Tigrinya however the substantive AI was conducted in Amharic. When questioned about the reasons for the interviews being conducted in different languages, she stated "because I can express myself better in Amharic" (AR 55). However in the screening interview the appellant stated that her main language and dialect was Tigrinya. As she had stated Tigrinya was her main language, it was reasonable to expect to express herself best in this language and across all the communications consistently. This internal inconsistency as to her main spoken language damaged her credibility.
 - (2) Furthermore, the screening interview in Tigrinya alongside Arabic was a brief interview which required basic unlimited answers only. The appellant opted to conduct substantive AI in Amharic which is a longer and in-depth interview which required detailed responses.
 - (3) The respondent considered that the appellant had not provided a reasonable explanation as how she learnt to speak Amharic at a native level when considering her own admission she lived in Eritrea and Sudan where Amharic is not a language spoken. As this was a core aspect of a claim, it is reasonable for her to explain why the language she is able to speak with native fluency is one which is most commonly spoken Ethiopia. Failure to do so damaged her credibility.
 - (4) The respondent placed weight upon the language analysis interview which took place on 18 December 2019. The appellant claimed to come from Enda Gergis and be a national Eritrea

however in the language analysis interview she claimed to have come from Asmara in Eritrea. This inconsistency which related to a basic background question of her hometown highly damaged her credibility.

- (5) The LAR summarised her fluency in Amharic at a native level (2.1) and further concluded, with a very high degree of certainty, that a spoken language of Amharic displayed phonological, grammatical, and lexical features consistent with the expected language use amongst speakers of Amharic with a background in or around Addis Ababa in Ethiopia (1.1, 1.3, 2.2 - 2.4).
- (6) When the findings were provided to the appellant with the opportunity to clarify or provide representations for the inconsistency, no response was provided.
- (7) the respondent considered that even if it were accepted that she had acquired the ability to speak Amharic from her aunt's friend and her children (AI 51; paragraph 34) it was considered that her ability to speak Amharic would not carry features which are consistent with a native or fluent level of speech.
- (8) The respondent concluded that the language analysis report "strongly supported the conclusion that her linguistic abilities were consistent with those in a specific part of Ethiopia, which is considered to be externally inconsistent with your claimed nationality of Eritrea."
- (9) The appellant denied visiting or living in Ethiopia when questioned about where she learnt Amharic, the official language of Ethiopia, and in which neither countries that she claimed to have lived in uses, she stated that in Sudan her aunt's friend and her children spoke Amharic and this was the source of her learning the language. However it was not considered plausible for her to acquire native fluency to a level where, by her own account she can express herself better than her first language by spending time with only one family who spoke the language.
- (10) Th respondent took into account that in certain regions within Eritrea, the elder generation can speak Amharic by the consequence of the Ethiopian occupation in 1961 to 1991. However, the appellant stated that her parents spoke Tigrinya and therefore this further does not bear an explanation as to fluency in Amharic in her individual circumstances. The inconsistencies relating to her spoken languages damage to credibility.
- (11) In the substantive AI, she was tested on her knowledge of basic words and phrases in Tigrinya. She correctly cited the words

bread, potato, and breakfast. However were unable to cite “happy birthday” accurately.

- (12) In the round it was considered that although she was able to accurately cite basic words but not a basic phrase in Tigrinya, and in light of the other evidence in relation to her nationality, little weight was attached to her correctly identified words to support a nationality claim.
- (13) In the substantive interview she was questioned on her knowledge and awareness of Enda Gergis and Eritrea and consideration was given to her age at the time she claimed to have left Eritrea (aged five).
- (14) When questioned about the surrounding villages to Enda Gergis she identified “Adi Qualla” while objective information confirms the existence of this town, objective information could not confirm if this was the surrounding town of Enda Ceorgis. Further objective evidence could not confirm with her other response of “Stinater” was another surrounding village. However the appellant was unable to cite any landmarks, main roads, or markets in or near the village. She stated she was unable to recall information in relation to villages she left Eritrea when she was young. Notwithstanding this, she stated that her aunt spoke to her about the culture and history of Eritrea and in particular about the food, sea, rivers, and mountains (AI 25). The substantive interview therefore provided the appellant with the opportunity to recall the information she claimed to possess and when questioned on these rivers and mountain she stated “I do not remember” to both subject matters. The internal inconsistency about being unable to recall any information about a village in Eritrea damaged the credibility of her claim.
- (15) The appellant was also questioned on the awareness of Eritrea cuisine in the interview and she provided some responses which were considered externally consistent with the objective evidence which confirmed that foods comprise the national and traditional foods of Eritrea. However it was noted that the cuisine in Eritrea and Ethiopia were very similar in that the dishes identified were widely popular dishes and Ethiopian as well and recognises national decision of both countries. Therefore it is considered that she had not satisfactorily provided cuisine which is exclusive to Eritrea. Thus it did not provide strong evidence for being from Eritrea.
- (16) When asked about the traditional coffee ceremony performed in Eritrea, the description was reasonably accurate with external evidence. However again the external evidence confirm the coffee ceremony in Ethiopia is very similar to the coffee

ceremony Eritrea. This did not provide strong evidence of being from Eritrea.

- (17) In light of the above, the respondent attached little weight to her knowledge of the cuisine and coffee ceremony in Eritrea to support her claim nationality.
- (18) The appellant was unable to explain the route that she and aunt took in order to exit Eritrea, but she did state that she passed cassava (Kassala) in Sudan which is a town in eastern Sudan but in the absence of any further details, little weight was attached to her account of her route to Sudan.
- (19) In the substantive interview she was asked questions concerning general information of Eritrea she was able to identify the general country information including the national emblem, description of the flag, the current president, and the national holidays (paragraphs 48-49 of the decision letter) the currency and denominations used in Eritrea. She was able to describe with reasonable accuracy the regions in Eritrea and the police uniform.
- (20) However she was unable to name any mobile network providers in Eritrea, any TV channels and Eritrea however the age when she claimed to have left Eritrea had been noted.
- (21) The respondent concluded that whilst she could cite with a reasonable degree of accuracy the general information about Eritrea, she was unable to recall any of the specific background information in relation to villages and landmarks. When asked how she learned the general country information as she was of a young age when leaving Eritrea, she stated “because my aunt told me” (62). However it is not reasonable to expect her aunt to strictly speak about the general information about Eritrea such as the regions of the country, and not the customs and locality she lived in for 30 to 35 years (question 66).
- (22) It was noted that the appellant stated her aunt told her about some rivers and mountains in Eritrea but she was unable then to name any of them. Furthermore the general information accurately answered were available in the public domain, therefore the weight attached was less.
- (23) The appellant stated that the reason for exiting Eritrea was because around age 30 to 35 at the time of the X she was separated from her husband and feared national service. When set against the objective evidence, it was not clear how the appellant’s aunt avoided national service until the age of 30 – 35 and it was unclear what specifically prompted her aunt to leave Eritrea at that age is the fear of national service would have

persisted prior to her exit. (This was not put to her in the asylum interview).

- (24) Following her departure Eritrea, she claimed to have lived in Sudan from 2000 to 2018. She correctly identified the currency used but did not accurately cite the denominations for the banknotes. The description given was inaccurate and was not consistent with the background evidence cited at paragraph 55 of the decision letter.
- (25) When asked about locality questions she was unable to name any of the hospitals, local schools, colleges or universities or major roads in or around Bash Dar nor the national holidays celebrated.
- (26) She was provided with the opportunity to name some mountains, rivers or landmarks in or near her village but she said, "there are no mountains and rivers", there is nothing".
- (27) The respondent considered that in her own account she claimed to have lived in Sudan for 18 years and it was reasonable to expect to provide a sufficiently detailed account of the area or where she lived over the significant period of time. She claimed she was living with her aunt and friend AA during her residence and it was reasonable for to require some knowledge and awareness of her surroundings when travelling.
- (28) The appellant was also unable to confirm the address of her aunt's friend she claimed to have left her daughter with stating "I just know my area we live in Bash dar".
- (29) As to her status, she said that her aunt had held a form of temporary legal status in Sudan which she renewed every five months. However the appellant did not hold any legal status. It is considered that as her aunt apply for and secured a form of legal status in Sudan, it was reasonable to expect her aunt to also apply for a form of legal status for the appellant given the light of the lengthy duration she lived there.
- (30) In light of the above, the respondent considered the appellant's lack of ability to recall information about Sudan, despite living in the country for 18 years including her earlier mature years significantly damaged the credibility of her overall account and claim.
- (31) In conclusion, taking into account all the evidence and the age on departure and current age, it was not accepted that the appellant was from Eritrea, the language analysis report strongly stated that a linguistic background was Ethiopian. The appellant was unable to provide a credible account of living in Eritrea, and

in Sudan and her knowledge and awareness Eritrea was confined to general information about the country which was available in the public domain. She was unable to recall or cite any specific information about a village in its locality. Therefore her claim to be national of Eritrea was rejected in its entirety and it was believed that she was a national of Ethiopia.

14. The respondent considered that her claim to fear national service was related to her claim to be a national of Eritrea which had been rejected. Therefore it was not accepted that she would be subject to conscription to national service.
15. In addition, in determining the claim, consideration was given Section 8 of the 2004 Act noting that before arrival she travelled to Belgium which is considered a safe country and that she failed to take advantage of a reasonable opportunity to make a human right to assign claim in a safe country.
16. At paragraphs 72 - 82 the respondent set out reasons as to why the appellant could return to Ethiopia in safety.
17. The remainder of the decision letter considered her Article 8 claim at paragraphs [89 - 115].
18. The appellant appealed that decision to the FtT (Judge Athwal) on the 21 August 2021. In a decision promulgated on 7 September 2020 the judge dismissed her appeal. The issue before the FtTJ related to the appellant's claimed nationality.
19. At paragraphs [38]-42] the judge set out her factual findings and analysis of the evidence and set out in some detail the contradictory and inconsistent evidence given by the appellant concerning the circumstances that she claimed occurred in Sudan which had led her to leaving that country, including harm that she said had occurred to her, her lack of knowledge of that country despite having lived there since she was five years of age, the inconsistency in her evidence as to what family she had in Eritrea and inconsistent evidence concerning the nature of her first language. The judge had in addition evidence in the form of a language assessment report from Sprakab ("LAR") and the language analysis was that the appellant spoke Amharic on a native level which displayed features consistent with expected language use among speakers Amharic with a background in Ethiopia. The judge also had an expert report from a country expert and lecturer in law which sought to provide a criticism of the linguistic report and analysis and having undertaken an interview with her considered that the appellant's claim to be an Eritrean national was plausible (see paragraph 32 of that report).
20. In the judge's analysis, she considered that the linguistic report (LAR) should be given more weight than that of the appellant's expert

report and at [39] gave reasons for reaching that conclusion and that the expert's conclusion that the LAR was "questionable and misleading" and that this was using his personal experience and that this was outside his remit as an expert witness and thus the FtJ attached little weight to his evidence.

21. The judge considered the evidence "in the round" and directed herself that fact the appellant had not been truthful about other events did not mean that she had lied about her nationality but having carefully considered the evidence "and in particular her lack of knowledge about Sudan, her contradictory accounts about key events, her changing explanation about what her first language and the LAR, even on the lower standard of proof, I am not satisfied that the appellant is an Eritrean national." The judge found the appellant to be a national of Ethiopia.
22. Permission to appeal was sought and permission was refused by Upper Tribunal Judge Martin but on renewal was granted by UTJ Blundell on 5 November 2020 for the following reasons:

"the grounds of appeal are discursive and frequently expressed in the language of disagreement rather than legal error. UTJ Martin, who refused the application for permission to appeal, concluded that the grounds were indeed nothing more than a disagreement. I respectfully take the contrary view and have concluded that the grounds are just arguable.

It is arguable, in particular, that the judge's analysis at [39] represented a legally inadequate basis for rejecting the report of the expert.

Even if he strayed outside his remit in commenting on the linguistic analysis conducted by Sprakab, the fact is that he also interviewed the appellant himself and expressed an opinion about the appellant's nationality based upon what she said in that interview. It might properly be said that Dr Allo was well placed to do so. The judge did not mention or analyse what he said in that regard, which arguably remained relevant even if he had overstretched himself in other respects.

Permission is accordingly granted on the first numbered ground of appeal. The second from ground of appeal is obviously wrong, as the judge said, and was also stated by UTJ Martin, there is no risk of the appellant been returned Eritrea for as long as it is concluded that she is not from that country."

The hearing before the Upper Tribunal:

23. In the light of the COVID-19 pandemic the Upper Tribunal issued directions on the 5 November 2020, inter alia, indicating that it was provisionally of the view that the error of law issue could be determined without a face-to-face hearing and that this could take

place via Skype. Both parties have indicated that they were content for the hearing to proceed by this method. Therefore, the Tribunal listed the hearing to enable oral submissions to be given by each of the parties.

24. I am grateful for their assistance and their clear oral submissions.

The submissions:

25. Ms Rutherford, of Counsel, appeared on behalf of the appellant and relied upon the written grounds of appeal.
26. The written grounds submit that the FtTJ erred in law at paragraph [39] by rejecting the expert report of solely on the basis that he was not a linguistic expert despite his detailed country report on his personal experiences.
27. It is submitted that at paragraph 22 of the report he provided substantive details as to why he concluded that the language analysis in the sprakab report was misleading and questionable and concluded that the Amharic dialect spoken in Addis Ababa was the dialect spoken by the majority of apparent speakers in and outside Ethiopian.
28. The expert also set out at paragraphs [23 - 26] of the report further information which had been disregarded by the judge solely on the basis that he was not a linguistic expert.
29. At paragraph 26 of the report, he stated the appellant spoke to Tigrinya when she was still living in Eritrea and later on she was speaking Amharic as she was living with a friend of her aunt and her family spoke Amharic following the death of a mother and aunt. The judge rejected the findings of the expert without giving it due consideration in particular other relevant paragraphs that were at paragraph 28-32 of the report.
30. The conclusions of the expert at paragraphs 77 to 82 were rejected again on the basis that he was not a language linguistic expert.
31. Thus it was submitted that the judge erred in finding that the appellant was an Ethiopian national solely on the basis that she was able to express herself well in Amharic, a language she spoke with the people she grew up with when living in Sudan.
32. It is further submitted in the written grounds that there was no material evidence to find the appellant to be an Ethiopian national and that the judge did not give the appellant's evidence "sufficient weight" and this amounted to an error of law. The judge should have accepted the explanations which the appellant gave regarding her nationality.

33. In her oral submissions, Ms Rutherford submitted that the FtTJ dealt with the expert report at paragraph 39 in brief terms and rejected the conclusion that the appellant was in Eritrean national. She submitted that the judge did so based on the language report.
34. Ms Rutherford accepted that the expert had “overstretched himself” but looking at the report as a whole she submitted there were other aspects as to why he came to the conclusion that she was an Eritrea national.
35. Ms Rutherford submitted that the expert had had a conversation with the appellant and gave evidence as to her language ability and why she would speak Amharic as her first language. She also submitted that at paragraph 21 – 30 the expert put that in a country context.
36. Looking at paragraph [31] she submitted that the expert asked questions to test her knowledge of Eritrea and her culture and connections and commented on her inability to identify roads et cetera did so in a cultural context.
37. Ms Rutherford submitted there was more to the report that the language. Furthermore he was from Ethiopia. The judge rejected the report by giving inadequate reasons and needed to consider it in the context and that this was other evidence that the appellant was from Eritrea rather than an Ethiopian national.
38. Thus the judge ignored the significance of the report and the conclusion that she was a citizen of Ethiopia rather than Eritrea was not one that was sufficiently reasoned.
39. There was a Rule 24 response issued on behalf of the respondent dated 1 December 2020.
40. The submissions made in the written grounds can be summarised as follows:
 - (1) as noted by the UTJ, the grounds of appeal are “discursive and frequent expressed in the language of disagreement rather than legal error”.
 - (2) The judge properly considered all of the evidence in the round (paragraph 38 and 42, before making adequately recent findings of fact on the appellant’s nationality (38 – 42).
 - (3) In reaching his finding that the appellant had not established that she was in Eritrea national (42), the judge considered the appellant’s account and made a number of adverse credibility findings at paragraphs 38 – 40. The grounds challenge paragraph 39 but not paragraphs 38 or 40. There is no challenge to the judge’s factual findings that the appellant had changed her

account on several material issues, with the result that he did not find her to be a credible witness (paragraph 38).

- (4) The judge made allowance for the appellant's claim to have left Eritrea when she was five years old and that she did not know many geographical details about Eritrea (paragraph 41). The judge did not find that the appellant was an Ethiopian national solely on the basis that she chose to be interviewed in Amharic and not being interviewed in Tigrinya. The judge's consideration of the appellant's nationality is at paragraphs [38 - 42].
- (5) The judge was aware that at a screening interview the appellant claimed that her first language was Tigrinya (paragraph 40)
- (6) The judge was aware of the appellant's claim to have learnt to speak Amharic from her aunt and her aunt's friend during the formative year.
- (7) As to the report of the expert, he accepted in his report that he was not a linguist and did not have any technical training in linguistic analysis (paragraph 2125 of the report). However he went on to engage in linguistic analysis (22 - 24 and 26 - 27 of his report.
- (8) It is also of note that the section of the report on Amharic dialects (paragraph 21-22) is not supported by footnoted sources, in contrast to other sections of the report. Whereas the LAR , the result of cooperation between an analyst and two linguists, as stated in the methodology, assessed the appellant's link with the background to be Ethiopian with a "very high" degree of certainty and to be "unlikely" to be Eritrean or Sudanese.
- (9) Thus it was open to the judge to give more weight to the LAR than the other report on the key issue of the appellant's linguistic background [paragraph 39)
- (10) The judge was aware of the expert's opinion that the LAR was "questionable and misleading" (see 39).
- (11) The expert's finding at [32] of the report that the appellant's claim to be in Eritrea national is based entirely on linguistic issues.
- (12) In making a contrary finding on the appellant's nationality, the judge took into account a lack of knowledge about Sudan, changing evidence on a number of material issues and also the language analysis report.
- (13) There was no error of law and the decision should be upheld.

41. In his oral submissions Mr Diwnycz submitted that he relied upon the written response summarised above. He further submitted that this was a case where the expert had overstretched himself, that the expert was not a linguist and could not give evidence about her language ability. He did not have the technical expertise. He invited the Tribunal to uphold the decision of the FtTJ.

Decision on error of law:

42. This is a limited granted permission with permission granted only in relation to ground one. The thrust of the grounds advanced on behalf of the appellant is that the FtTJ erred in law by rejecting the expert report provided on behalf of the appellant and that whilst he was not a linguistic expert at paragraph 22 he provided substantive details as to why he concluded the language analysis report was “misleading and questionable”.
43. The point pressed by Ms Rutherford in her submissions was that there were other aspects in the report as to why he reached the conclusion that she was an Eritrean national and that having undertaken an interview with her, he was able to consider her claim in the country context between paragraphs 21 and 30 and also commented upon the knowledge that she had demonstrated and further commented about her inability to identify or provide relevant knowledge in the light of her age. Thus the submission advanced on behalf of the appellant is that there was more to the report than the issue of language.
44. I have given careful consideration to those submissions and have considered them in the light of the report of the expert, the language analysis report and the evidence that was before the FtTJ alongside the factual findings that were made.
45. Having done so I am satisfied that the grounds have no merit and that the analysis of the report at [39], when seen in the light of the contents of the report and the factual findings that were made in this case demonstrate that the judge reached an overall conclusion that was firmly based on the evidence and in doing so gave adequate reasons for reaching those conclusions and in particular that the appellant was not a national of Eritrea.
46. I shall set out my reasons for reaching that conclusion.
47. There is, nor can there be, any dispute that the author of the report is not a linguistic expert.
48. In MN and KY, the Supreme Court acknowledged that weight could be given to expert linguistic analysis produced by the Sprakab organisation. However, central to that view was that the evidence considered by the Upper Tribunal was "sufficient to demonstrate

acceptable expertise and method" (see [51] *per* Lord Carnwath). Here, the expertise of the analysts is to be found in their qualifications and experience.

49. As recognised by both the Supreme Court and the Court of Appeal, the term "appropriate expert qualification", related to the question of whether it had been shown that the analysts had appropriate expertise to express an opinion on the particular issue in question.
50. The type of expertise or level of expertise demonstrated and that which is set out in the linguistic analysis report ("LAR") dated 26 December 2019, is not expressly challenged on behalf of the appellant.
51. The report is a language analysis of an assessment of the speaker's language use based on linguistic features. The language analysis is done in cooperation between one or several linguists and one or several analysts and the quality of the analysis is reviewed both internally and externally. In this case there was language analysis of both regional and local linguistic features and was carried out by two linguists.
52. What is made plain from the language analysis is that it cannot reach conclusions concerning the actual domicile or citizenship of the speaker. Language use, citizenship and national borders do not necessarily have to coincide. This is the case, for example, in border areas where the same language and ethnic groups are found on both sides of the border. Another example is speakers born and/or raised in a language community in a certain country, but with origins from another country.
53. The analysis of the report set out that by reference to the linguistic level (which refers to what level the speaker has mastered the language in question) was stated to be Amharic to the "native level". This denotes a speaker who has mastered the language to a level equivalent to the mother tongue speakers. This is different from "fluent level" which denotes a speaker that has mastered the language without difficulties, however not the level of the mother tongue speaker. As to the phonology and prosody, this concerns features such as pronunciation and intonation that characterises speaker's language usage and/or the language usage in a specific area and/or among a specific group of speakers, the conclusion reached that the speakers language displayed phonological features consistent with expected language use among speakers of Amharic with a background in and around Addis Ababa in Ethiopia. When considering morphology and syntax (such as inflections and word order that characterises speaker's language use) it was recorded that the speaker's language use displayed grammatical features consistent with expected language use among speakers of Amharic with a background in Ethiopia. Finally, when considering lexical (such

features as common words and expression that characterises speaker's language usage and/or the language usage in a specific area, it was concluded that the speaker's language use displayed lexical features consistent with expected language use among speakers of Amharic with a background in Ethiopia.

54. When looking at the result reached, the assessment of the speaker's linguistic background was concluded to be assessed as Ethiopian and the result had been reached with a "very high degree of certainty" to be Ethiopia. The speakers stated linguistic background of Eritrea and Sudan was assessed to be "unlikely".
55. The summary of findings is set out at 1.3 as follows:

"the speaker spoke Amharic on a native level during the interview. The speaker stated to have been born in Asmara in Eritrea and have lived in Sudan from the age of five. In Eritrea Amharic is not typically spoken. In some areas Amharic is spoken among the elderly. The speaker's language use displayed features consistent with expected language use among speakers of Amharic with a background in Ethiopia. "
56. The report that was provided in support the appellant's case was from Dr Allo, who is a senior lecturer and director of the international law program. His expertise is set out in his report at paragraphs 1 - 5 which includes research in areas of human rights law, having published academic writings and having had 14 years of research experience in the Horn of Africa including Ethiopia, Eritrea, Somalia, and South Sudan. He also taught at Addis Ababa University between 2006 and 2010. However whilst that expertise is not in dispute, Dr Allo is not an expert in linguistic analysis. In fairness to him, he accepts this at paragraphs 21 and 25 in which he states that he has no technical training in linguistic analysis. Nonetheless when undertaking a careful consideration of the report he seeks to provide evidence which is properly viewed as an analysis of language despite the lack of expertise in support of the claim that the LAR is "questionable and misleading". He bases his expertise to reach such a conclusion on the basis that he is someone who speaks Amharic at a native level and has lived in Ethiopia for nearly 3 decades and also conducted research there.
57. Whilst no one takes issue with that personal background, in my judgement that is not qualify him as a "linguistic expert" in the sense that he has the proper expertise in the same way as described in the LAR which I have summarised above.
58. Notwithstanding that lack of expertise in the area, he seeks to provide a criticism of the LAR on the basis that it is "questionable and misleading" because "in the context of Ethiopia, the Amharic dialect spoken in around Addis Ababa is also spoken across the country, particularly in urban areas, by native Amharic speakers. He then gives

an example at paragraph 21 about dialect spoken. Furthermore, at [22] he identifies that the report refers to a native accent by people who speak Amharic at a native level but the suggestion that there was a distinct kind of dialect spoken in and around Addis Ababa is “deeply misleading and the SSHD’s conclusion that the linguistic abilities consistent with that in a specific part of Ethiopia and that that was inconsistent with his claimed nationality of Eritrea is “highly problematic. “The report then goes on to offer a critique of the LAR and its phonological features.

59. At paragraph [27], and after having spoken to the appellant on the telephone he states that the appellant’s spoken Amharic dialect is not as described by the report (similar to that spoken in and around Addis Ababa), instead her spoken Amharic “has an accent, very similar to that spoken by Ethiopians whose first language is Tigrinyan”.
60. There are three points that arise from those conclusions. Firstly, as I have set out above whilst being aware that he is not a linguist nor having any training in linguistic analysis, the author of report in essence seeks to provide a linguistic analysis and is therefore stepping outside his experience. Secondly, whilst he refers to the spoken Amharic to be similar to that spoken in and around Addis Ababa, the LAR did not identify that as the overwhelming conclusion but the summary was that the speaker’s language use displayed features consistent with expected language use among speakers of Amharic with a background in Ethiopia and at a “native level”(at 1.3 summary of findings). Thirdly, he offers no further explanation or material in support of the conclusion that the appellant had spoken Amharic similar to that spoken by Ethiopians whose first language is Tigrinyan.
61. Against that background, the FtTJ’s assessment that she could attach little weight to that evidence is an assessment that was wholly open to the FtTJ to make. Her analysis that he had extended beyond his remit as an expert witness was entirely correct as set out in my reasoning above.
62. Ms Rutherford in her submissions conceded that the description given of the author of report having “overreached himself” was a proper description but sought to argue that there were other aspects of his report which should have been given weight by the judge and the failure to do so undermined the conclusions reached that she was not a national of Eritrea.
63. The other aspects of the report that she referred to was that which the expert set out at paragraphs 26 – 31. The expert had arranged an interview with the appellant and the purpose of this was described as follows “to determine whether the conclusion reached in the report and relied upon by the Home Office is consistent with my knowledge of the country.” The expert then set out the conversation that he had

with the appellant at paragraphs 26 - 28. As I have stated at [27] whilst he stated her spoken Amharic had an accent similar to that spoken by Ethiopians whose first language is Tigrinyan, no further elucidation of that point was provided in the report nor any supporting methodology or evidence.

64. In my judgement the contents of the report wholly fails to take account of the adverse points relevant to the appellant's credibility which is set out in the decision letter which were later to be also assessed in the overall evidence by the FtTJ.
65. He did not identify that the appellant's account to him was not consistent. He records her as saying she spoke Tigrinyan as a child and recorded that she had stated in her witness statement that she had "lost practice in that language". However the decision letter set out, and as a judge ultimately found, the appellant has not been consistent about what is her first or predominant language. Despite claiming in her screening interview that Tigrinyan was her first language, before the FtTJ she resiled from that account stating "she did not say that Tigrinya was her main language, that was just written down on the record because there was a Tigrinya interpreter present " (set out at paragraph 40; the judge giving reasons why she disbelieve the appellant on this issue).
66. Neither the Secretary of State nor the FtTJ disputed that the appellant had little knowledge about Eritrea and that she had stated that she had left the country when she was five years old. If the appellant's account were true as the expert stated, it would be plausible to expect her to speak Amharic. However the difficulty with the expert report is that he did not make any critical assessment of her actual account or make any reference to the adverse points that were plainly raised in the decision letter.
67. Also the expert makes the point at [31] when asked questions about Eritrea she was able to provide correct answers but noted that she could not identify landmarks, main roads, and markets because "this will be rare for children to do so which they last saw aged 5". Again that is not unreasonable. However what is missing is the context in which those answers were given and which is not taken into account and was clearly set out in the evidence and in the decision letter.
68. The point made about this knowledge of Eritrea is that it was the appellant's own evidence that her aunt had told her about the culture, food, and history of Eritrea and in particular identified "food, sea and mountains" (I refer to her interview). Thus in the interview she was given the opportunity to recall the information she claimed to possess from the conversations with her aunt with whom she had lived with for a substantial period of time. Despite identifying her knowledge on those particular areas when questioned, she claimed not to remember.

69. Furthermore whilst she was able to cite general information about Eritrea (the national emblem, description of flags, current president and holidays, regions and police uniforms) the explanation given by her for being able to do so and have that general country information was “because my aunt told me” but that was strongly contrasted with the evidence demonstrated by her answers of her account that her aunt did not tell about the customs in the locality she lived in in Eritrea having lived there for a substantial period of 30 to 35 years.
70. At [32] the expert concludes that whilst the view taken by the respondent that the appellant is not Eritrean is “understandable, particularly on the basis of the LAR, I find the appellant’s claim to be an Eritrean national plausible”, there is no assessment of how her account fits in to the context of the factual claim, its consistency and the adverse points raised in the decision letter. For example, the appellant claims to have been born in Enda Gergis whereas reference was made in the LAR by her to Asmara. Furthermore, there was significant adverse credibility points raised about the appellant’s account of living in Sudan in the decision letter, for example that despite living in Sudan between 2000 – 2018 she could not provide any answers concerning the question of her locality; unable to identify the currency or describe it properly, which given the length of residence was reasonable to expect her to provide. Furthermore when asked to confirm the address she lived at in Sudan and where she had left her daughter, she was unable to do so.
71. Thus whilst the expert sought to explain her inability to answer some questions about Eritrea as being plausible, it is plain from the decision letter and the contents of the report that there was no consideration of the other implausibility’s from her account. All of which were relevant considerations when reaching an issue on the plausibility of her account to be an Eritrean national.
72. Therefore, I am satisfied that the contents of the expert report were concerned with linguistic analysis and as the FtTJ correctly noted the conclusions reached by him on the LAR could not properly be given on the basis on which it was offered given his lack of expertise in that area. Whilst he had experience of living in the country as a native Amharic speaker, that is not the same as being a linguistic expert. Furthermore as I have identified there was no explanation or evidence in support given to underpin the conclusion at [27] that her spoken Amharic had an accent very similar to that spoken by Ethiopians whose first language is Tigrinya, which was a point the appellant resiled from in her oral evidence.
73. Lastly, whilst Mr Rutherford sought to argue that there were other aspects of the report which was supportive of her claim to be a national of Eritrea, as I have set out above, those factors identified when scrutinised failed to take into account evidence of an adverse

nature which had been set out in the decision letter and had not been assessed or considered.

74. The judge, however, did have the opportunity to consider all the evidence and was best placed to consider the overall evidence and to reach conclusions upon the appellant's nationality. There were a number of adverse findings on the evidence which went to the core of her account as a truthful and credible witness.
75. The FtJ considered the credibility of her account of being subject to harm in Sudan finding that she had been inconsistent concerning the factual circumstances of what had happened there. She gave a different factual account before the judge (at [38](i)) with an explanation given that she was "not thinking clearly" but then changed that account to say that in fact she had told her representatives about it (although it was not in her statement). The Judge properly concluded that she had provided contradictory accounts and that she had given no credible explanation as to why she had changed her account and the only conclusion to be reached was that she was not telling the truth about that.
76. As to the time that she spent in Sudan, the judge concluded that she demonstrated little knowledge of that country despite having lived there since the age of five. Her explanation that she was not able to move freely and that she had led an isolated life and one that was sheltered was considered in the light of her evidence in a witness statement where she had stated that she had a friend who had provided work for her to clean people's homes. When asked about that contradictory evidence she stated that again the statement was wrong and that she never said she had a friend or that she had ever cleaned homes. Again the judge recorded that she had confirmed that the witness statement was true when she had made it and before the judge and again this undermined her credibility. The example given in the decision letter was that when asked the address of her aunt and the location where she had left her daughter, she was unable to give any response. The judge also considered the account relating to the person identified as S at subparagraph (iii) and at (iv). The judge also identified a further inconsistency in her case; the appellant was asked whether she had any family in Eritrea and in interview she stated she had uncles and aunts on her mother's side. Whereas in her statement she recorded that she had no family in Eritrea. When that was clarified her oral evidence in response was that she had never said she had relatives. However the judge found that she had had sufficient time to check the records and had failed to highlight mistakes prior to the hearing. Other adverse credibility points are set out at paragraphs [40 - 41]. In my judgement, those were findings that were firmly based on the evidence and went to the core of her account.

77. What is made plain from the language analysis is that it cannot reach conclusions concerning the actual domicile or citizenship of the speaker. Language use, citizenship and national borders do not necessarily have to coincide. This is the case, for example, in border areas where the same language and ethnic groups are found on both sides of the border. Another example is speakers born and/or raised in a language community in a certain country, but with origins from another country. Therefore whatever the appellant's expert stated about language this could not be considered in isolation from the evidence.
78. At [42] the judge concluded after standing back and considering all the evidence in the round, including the report, and further taking into account the fact that while she had been untruthful about other events did not mean she had been untruthful about her nationality then stated "I have carefully considered the evidence and in particular her lack of knowledge about Sudan, contradictory accounts about key events, changing explanation about what a main languages in the LAR. Even on the lower standard of proof, I am not satisfied that the appellant is an Eritrea national, I find that she is an Ethiopian national."
79. I find that there is nothing in the judge's findings to indicate that she erred in her assessment of the evidence of the expert.
80. Having given careful consideration to the report and the submissions advanced on behalf of the appellant, I have reached the conclusion that the FtTJ properly considered all of the evidence, including the report of the expert but was entitled to find on the overall evidence that the appellant was not a national of Eritrea.
81. Consequently I am not satisfied that the judge erred in law in a consideration of the expert report.
82. For those reasons, I am satisfied that it has not been demonstrated that the decision of the FtTJ did involve the making of an error on a point of law and that the decision shall stand.

Notice of Decision:

The decision of the First-tier Tribunal did not involve the making of an error on a point of law and therefore the decision of the FtT shall be stand. The appeal is dismissed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify

her. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed Upper Tribunal Judge Reeds
Dated 15 April 2021

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.