



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/07767/2019**

THE IMMIGRATION ACTS

**Heard at Birmingham CJC
On the 4 August 2022**

**Decision & Reasons Promulgated
On the 05 September 2022**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

GSA

(Anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Howard of Fountain Solicitors.

For the Respondent: Mr Williams, a Senior Home Office Presenting Officer.

DECISION AND REASONS

- 1.** The appellant, a citizen of Ethiopia born on 23 March 1991, appealed the decision to refuse his application for international protection dated 5 August 2019.
- 2.** The basis of the appellant's claim was that he is a member of the Patriotic Ginbot 7 (PG7) party. He claimed in 2005 his father was imprisoned for opposing and undertaking anti-government activities, although later released from prison, and that the appellant started to work with his father in 2013 and was caught distributing anti-government leaflets. He was detained, interrogated and mistreated, and only released after payment of a bribe by his uncle following

which he travelled through Sudan, Libya and other European countries before entering the UK on 16 November 2017, claiming asylum on the same day.

3. The appellant states he met his partner in the UK at a PG 7 meeting in 2017 and that they have twin sons born on 14 April 2019.

4. The appeal was considered by First-tier Tribunal Judge Chohan who in relation to the protection claim found:

14. In view of the above, I do find that the appellant's account is not credible. As I have stated, the appellant may well have been a supporter of the PG7 in Ethiopia, but due to the significant discrepancies, I do not find credible that he had ever been detained by the authorities. The appellant may be a member of the PG7 in this country but there is nothing to suggest that he has undertaken any sur place activities which would attract the adverse attention of the Ethiopian authorities. In short, the appellant has never been of any adverse interest to the Ethiopian authorities and if he were to be removed there would be no such adverse interest in him. Upon return to Ethiopia, the appellant would not be at any risk of persecution, serious harm or ill-treatment.

5. Judge Chohan noted, when considering article 8 ECHR the appellant's relationship with his partner, who also has no status in the UK, and comments upon a number of evidential concerns as to whether the alleged relationship actually existed. Judge Chohan concludes at [15] that there was no evidence to establish that the claimed woman was the appellant's partner, no evidence the relationship was ongoing, and that even though the birth certificate for the twins named the appellant, that did not establish the appellant had an ongoing relationship with the mother of the children or that he has any parental relationship with the twins. Judge Chohan specifically finds there was insufficient evidence to support the appellant's claim that he saw the twins on a daily basis. Judge Chohan finds the appellant had failed to establish any family life in the United Kingdom.

6. Judge Chohan then considered paragraph 276 ADE noting it was submitted on the appellant's behalf that his political opinion lead to very significant obstacles to his integration into Ethiopia, but it was found such argument fell away in light of the appellant's protection claim not being found to be credible, that the appellant had been in the United Kingdom since November 2017, had spent the bulk of his life in Ethiopia, was familiar with the customs language and culture of Ethiopia, and had not established insurmountable obstacles to re-establishing himself in his home country. It was therefore found that the appellant could not succeed under the Immigration Rules or any aspect of ECHR.

7. The appellant applied for permission to appeal on three grounds.

8. Ground 1 asserts Judge Chohan failed to make findings on material matters namely any risk to the appellant on return to Ethiopia due to his political opinion by reference to the finding that the appellant had been a supporter of PG7 indicating it was accepted the appellant held the political belief in supporting the PG7 political party that opposed

the Ethiopian regime. It had also been found the appellant was a member of PG7.

9. Ground 2 asserts Judge Chohan had failed to provide adequate reasons for why the appellant could not succeed pursuant to paragraph 276 ADE and article 8 ECHR.
10. Ground 3 asserts Judge Chohan provided inadequate reasons for finding the appellant's account of his problems in Ethiopia are not credible and in finding that the appellant would not be at risk on return to Ethiopia due to his sur place political activities in the UK.
11. The question of whether an error had been made was originally determined by another judge of the Upper Tribunal, but that decision was overturned by the Court Appeal in the decision reported as GA (Ethiopia) v Secretary of State the Home Department [2022] EWCA Civ 145 on the basis it was found there had been an unfair determination of the appellant's appeal to UTIAC. In relation to the scope of this hearing, the appeal having been remitted to the Upper Tribunal, the Court of Appeal found:

69. I do not consider that this Court should decide the underlying error of law appeal from the FTT to the UT, which raised the issue about whether the FTT erred in law in not finding that there was a real risk of persecution in GA's case. This is because it is apparent that there have been recent developments in relation to the Country Guidance in Ethiopia and it is better for these matters to be addressed by the UT.

70. I would therefore allow GA's appeal against the decision and reasons promulgated on 2 September 2020. I would remit GA's error of law appeal from the FTT to be determined by the UT. I would not make a direction about the way in which the UT should determine that appeal. This is because that is a matter for the UT to determine on a fair basis.

Error of law

12. It is not disputed that if a person has a genuinely held political opinion that is averse to the authorities in their home country that they cannot be expected to lie about the same if the reason they are doing so is to avoid persecution. That is the principle derived from HJ (Iran) [2010] UKSC 31 which is still applicable today.
13. Insofar as it is suggested Judge Chohan failed to consider in light of his findings that the appellant was a member and supporter of PG7 that the appellant would face a real risk on return if he expressed his political beliefs Ethiopia, on the basis the background material in the skeleton argument provided which showed the authorities targeted individuals and groups who oppose them, them giving rise to a real risk of persecution and ill-treatment in Ethiopia, it was not disputed before me that Judge Chohan had erred in law.
14. The question in this appeal is whether any such error is material.
15. Judge Chohan made a specific finding that even though the appellant claimed to be a supporter of PG7 in Ethiopia his claimed detention and

his having come to the adverse interest of the authorities and suffered ill-treatment was found not to be credible. It was also found by Judge Chohan that although the appellant had become a member of PG7 in the UK he had not undertaken activities that would attract the adverse attention of the Ethiopian authorities.

- 16.** If the appellant was asked at the point of return about his political beliefs and what he had done in the UK he would be entitled to say that he had attended demonstrations and joined PG7UK. Whether that would give rise to a real risk of persecution or harm depends upon the country conditions that prevailed on the relevant day, which for the purposes of the decision is taken as the date the determination was promulgated by Judge Chohan which was 3 February 2020.
- 17.** I do not dispute the material referred to by Mr Howard shows those of adverse interest the authorities in Ethiopia faced a real risk at that time. It is necessary, however, to consider the individual's profile and whether any group they have joined or whose views they hold will create a real risk for them if they shared the same in Ethiopia.
- 18.** The recent county guidance case of Roba (OLF - MB confirmed) Ethiopia CG [2022] UKUT 00001 (IAC) held that:

Country guidance: OLF members and sympathisers (supporters)

- (1) *MB (OLF and MTA - risk) Ethiopia CG [2007] UKAIT 00030 still accurately reflects the situation facing members and supporters of the OLF if returned to Ethiopia. However, in material respects, it is appropriate to clarify the existing guidance.*
 - (2) *OLF members and supporters and those specifically perceived by the authorities to be such members or supporters will in general be at real risk if they have been previously arrested or detained on suspicion of OLF involvement.*
 - (3) *Those who have a significant history, known to the authorities, of OLF membership or support, or are perceived by the authorities to have such significant history will in general be at real risk of persecution by the authorities.*
 - (4) *'Significant' should not be read as denoting a very high level of involvement or support. Rather, it relates to suspicion being established that a person is perceived by the authorities as possessing an anti-government agenda. This is a fact sensitive assessment.*
 - (5) *Whether persons are to be excluded from recognition as refugees or from the grant of humanitarian protection by reason of armed activities may need to be addressed in particular cases.*
- 19.** The appellant did not claim to be a supporter of the OLF before Judge Chohan and it is important to note that it is only members and supporters who have been previously arrested and detained on suspicion of involvement who have a significant history that will face a

real risk on return, emphasising the importance of the individual's profile to the risk assessment in every case.

- 20.** PG7 was an Ethiopian opposition political organisation founded in 2008 whose aims were to create a national political system in which government power and political authority was assumed through peaceful and democratic process based on free will and choice of citizens of the country. Notwithstanding, country material records that GB7 also espoused violent overthrow of the Ethiopian government which resulted in the party being labelled as a terrorist group in 2011 by the Ethiopian government.
- 21.** Following the election of Abiy Ahmed as prime minister in Ethiopia a number of fundamental changes occurred. Andargachew Tsege, the leader of GB7 was pardoned and released from prison, a number of websites and TV channels were unblocked in 2018, leading GB7 to suspending its armed resistance to the government in Ethiopia.
- 22.** The Human Rights report Ethiopia, recording events of 2018, relied upon by the appellant, contains the following paragraphs:

After years of widespread protests against government policies, and brutal security force repression, the human rights landscape transformed in 2018 after Abiy Ahmed became Prime Minister in April. The government lifted the state of emergency in June and released thousands of political prisoners from detention, including journalists and key opposition leaders such as Eskinder Nega and Merera Gudina. The government lifted restrictions on access to the Internet, admitted that security forces relied on torture, committed to legal reforms of repressive laws and introduced numerous other reforms, paving the way for improved respect for human rights.

...

Parliament lifted the ban on three opposition groups, Ginbot 7, Oromo Liberation Front (OLF), and Ogaden National Liberation Front (ONLF) in June. The government had used the proscription as a pretext for brutal crackdowns on opposition members, activists, and journalists suspected of affiliation with the groups. Many members of these and other groups are now returning to Ethiopia from exile.

- 23.** Following its activities being regularised by the new administration in Ethiopia PG7 ceased to exist and disbanded for the purposes of forming a new party. That party, which was allied to the Ethiopian Citizens the Social Justice, is not a party with which this appellant claimed to have any contact before the Judge.
- 24.** Country material shows that following the announcement of a unilateral ceasefire in June 2018 by PG7 members of the group returned to Ethiopia from their base in Eritrea in September 2018 with no evidence that those with the profile of member or supporter such as the appellant faced any real risk from the authorities.
- 25.** Mr Howard referred in his submissions to material provided in the appellant's bundle, some of which substantially predates the developments in Ethiopia referred to above, but all of which has been considered.

- 26.** It is not disputed that ethnic violence has been prevalent in Ethiopia and that it is a country that still remains troubled in part today. But that is not an issue that is specifically relevant to this hearing. The question is whether if the appellant returned to Ethiopia and told potential persecutors he was a supporter of PG7 and the aims of that party, which was the limit of his claimed political beliefs, whether he would face a real risk of persecution. I find in light of the appellant's profile as found by Judge Chohan and specific finding that he would not be at real risk on return as a result of that profile, the changes in the country condition specifically in relation to PG7, and the lack of evidence before the Judge that the appellant would face a real risk on return for any reason, at the date the decision was promulgated, that had the Judge gone on to consider the matter forming the basis of Ground 1 of the application for permission to appeal, the Judge would still have dismissed the appeal. I find therefore that if the Judges erred in law in failing to consider the HJ (Iran) point that any such error is not material to the decision to dismiss the appellant's protection appeal, as the outcome would have been the same.
- 27.** Ground 2 does not establish legal error. The Judge gave adequate reasons for why the appellant's claim under paragraph 276ADE did not succeed and also why the article 8 ECHR claim failed. It may have been different if the appellant had made out Ground 1, but he did not. A reader of the determination is able to understand the findings the Judge made on these points and, more importantly, the reasons why.
- 28.** Ground 3 asserts irrational material findings of fact and inadequate reasoning but is without merit. The Judge has given adequate reasons enabling the reader to understand why the appellant's account of problems in Ethiopia was found to lack credibility. At [14] the Judge clearly states that it is in view of the matters recorded at [7 - 13] of the decision that leads to the finding of lack of credibility in the claim. Judge Chohan noted what he described as significant discrepancies in the appellant's evidence.
- 29.** In relation to sur place activities, Judge Chohan gives adequate reasons for why the appellant will not face a real risk on return which is because those activities did not create the type of profile that would give rise to such a risk. It is also relevant that the appellant fails on Ground 1 as it is claimed his activities for PG7 is the catalyst for such risk when, in light of country conditions, this has not been made out.
- 30.** I find the appellant fails to establish legal error material to the decision to dismiss the appeal and accordingly fails to establish it as appropriate for the Upper Tribunal to interfere any further in this matter.
- 31.** In the bundle filed for the purposes of this hearing the appellant provided a supplementary witness statement indicating that he had now formed allegiances to another Ethiopian political group in the UK. That is a new matter that was not before Judge Chohan and if the appellant believes that such activities create a real risk on return to Ethiopia he will no doubt be advised upon the merits of making a fresh claim.

Decision

32. There is no material error of law in the Immigration Judge's decision. The determination shall stand.

Anonymity.

33. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

Signed.....
Upper Tribunal Judge Hanson

Dated 10 August 2022