



IAC-AH-DP-V1

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

Appeal Number: AA/07139/2014

**THE IMMIGRATION ACTS**

**Heard at Royal Courts of Justice, Belfast  
On 26 October 2015**

**Decision & Reasons Promulgated  
On 28 January 2016**

**Before**

**UPPER TRIBUNAL JUDGE KOPIECZEK**

**Between**

**MR ABDIAZIZ ABDULLAHI HAJI**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr M Brennan, Solicitor

For the Respondent: Ms M O'Brian, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Somalia, born on 25 March 1992. The date of his arrival in the UK is not entirely clear from the respondent's decision, but appears to be 20 July 2013. His claim for asylum is said to have been made on 9 September 2013.
2. The respondent refused the asylum claim and made a decision on 20 August 2014 to remove the appellant to Somalia. The appellant appealed against that decision and his appeal came before First-tier Tribunal judge Grimes at a hearing on 21 April 2015 whereby she dismissed the appeal on all grounds.

3. It is not necessary to set out in detail the basis of the appellant's claim for asylum. Suffice to say, he claimed that he was abducted, detained and ill-treated by Al-Shabaab but managed to escape. He claims, and it is accepted that, he is a member of the Reer Hamar clan, a minority clan in Somalia.
4. Judge Grimes accepted the appellant's account of his abduction and detention by Al-Shabaab and his escape from an Al-Shabaab training camp. She also accepted that he had given a consistent account of his journey to Mogadishu (from whence he came to the United Kingdom).
5. Having considered the decision in *MOJ & Ors (Return to Mogadishu) Somalia CG* [2014] UKUT 00442 (IAC), she concluded that the appellant would be able to return to and live in Mogadishu without fear of persecution and that it would be reasonable, and not therefore unduly harsh, to expect him to do so.
6. Complaint is made in the grounds to the Upper Tribunal about the judge's assessment of the appellant's ability to live in Mogadishu, in terms of the support that he could expect there and the extent to which it could be said that there was no real risk of his having to live in make-shift accommodation within an IDP camp. It is submitted that the judge's decision overlooks part of the guidance in *MOJ* and factors to be taken into account.
7. Those grounds were amplified in submissions before me. Reliance was also placed on the skeleton argument that was before the First-tier Tribunal and which it is argued the First-tier judge failed to have regard to. It was submitted that the judge appears to have expected the appellant to rely on minority clan members, it being accepted that he is himself a member of a minority clan. However, this fails to take into account the guidance in *MOJ*.
8. Although aspects of the appellant's account were not accepted, for example in terms of the availability of funds for him, and his claim of having lost contact with his aunt, there was no evidence before the First-tier judge to the effect that support from his aunt would be available to him. The evidence was that the aunt had borrowed money to fund the appellant's journey and there was no evidence that she could borrow such funds again.
9. If it was accepted that there would be no funds available to the appellant, and other factors in his favour within the guidance set out in *MOJ* apply, he would therefore, have to have resort to an IDP camp in Mogadishu which would be unduly harsh.
10. Ms O'Brian relied on the rule 24 response. It was submitted that the appellant's argument is in reality a simple disagreement with the judge's findings. The factors set out in *MOJ* needed to be taken into account as a whole. A 'person-centred' approach was required. The judge was entitled to conclude that the appellant previously having had support, for example from an imam in Mogadishu, and significant financial support from his family, would be able to avail himself of those sources of support on return. The judge did not believe that the appellant's aunt

could not be called upon again to assist. It was not accepted by the judge that there was a loss of contact with his aunt.

11. She had also taken into account the short time that the appellant had been away from Somalia.
12. The appellant had not established why he could not avail himself of the economic opportunities available in Mogadishu. He had some skills which he could avail himself of. The judge had considered every relevant factor.
13. In reply, Mr Brennan relied again on the matters identified in the skeleton argument and reiterated that the appellant was an unskilled and uneducated person, those being relevant factors in terms of his ability to live in Mogadishu.

*My conclusions*

14. It is helpful to summarise the First-tier judge's conclusions. As already indicated, she found that the core of the appellant's account as to what happened to him in his home area has been consistent, aside from a matter that she resolved in his favour, and is consistent with the background evidence. She accepted his account of his abduction, detention and escape from Al-Shabaab. However, she concluded that there were "difficulties" with his account in terms of contact being made through an imam with his aunt in Saudi Arabia, and the arrangements thereby made for funding his journey out of Somalia.
15. She found that his account suffered from inconsistency, and concluded that it was not credible that the appellant's mother had his aunt's number and that the imam got his aunt's number in a market in Mogadishu. She found that it was difficult to believe that the appellant's aunt would have found sufficient money to pay for the appellant's journey to the UK, having spoken to him for the first time ever as a result of the imam's enquiries. She concluded that it was not clear how she could have been satisfied as to the appellant's identity on the basis of such tenuous means of contact [12].
16. At [13] she concluded that it was not credible that the appellant would not have contacted his aunt on his arrival in the UK to let her know that he had arrived safely. After referring to other aspects of the evidence, she stated that she did not accept that he would have failed to obtain his aunt's contact details and rejected the claim that he could not contact her after he arrived in the UK.
17. At [15] she rejected the appellant's claim that he had also lost contact with his mother, for the reasons given in that paragraph.
18. She summarised her conclusions at [16] to the effect that she accepted that the appellant left his home area for the reasons he gave but did not accept his account of making contact with his aunt in Mogadishu or his account of (lack of) contact with his mother and aunt since coming to the UK.

19. As to risk on return, she set out the guidance in *MOJ* in its totality. At [20] she referred to the appellant being a member of a minority clan whose clan members live in the Hamaar Weyne area of Mogadishu. She referred to his having been able to access the assistance of an imam there, and the claim that he was able to make contact with his aunt in Saudi Arabia through people in that area. She concluded therefore that despite the fact that he is from a minority clan he could access social support mechanisms and assistance with access to a livelihood from the imam and members of his clan in Hamaar Weyne.
20. She referred to the fact that the appellant left Mogadishu in August 2013, less than two years earlier, that not being a lengthy absence.
21. She also concluded that the appellant had accessed significant resources to finance his journey from Somalia. She referred to her rejection of his claim that he had not had contact with his aunt since he left Somalia or that his mother is no longer in contact with her. She did not accept that he had lost contact with his aunt or that he could not secure financial support from his aunt on return to Mogadishu.
22. She further noted that the appellant said in oral evidence that he had been learning English in Belfast, and that he is a fit young man who had previously sold samosas in his home area. She concluded that he could secure a livelihood through employment or self-employment. Finally, she stated that the appellant had not explained why he would not be able to access the economic opportunities that have been produced by the 'economic boom'.
23. The guidance in the headnote to *MOJ* reflects the substance of the Upper Tribunal's decision. The guidance is as follows:
  - (i) The country guidance issues addressed in this determination are not identical to those engaged with by the Tribunal in AMM and others (conflict; humanitarian crisis; returnees; FGM) Somalia CG [2011] UKUT 445 (IAC). Therefore, where country guidance has been given by the Tribunal in AMM in respect of issues not addressed in this determination then the guidance provided by AMM shall continue to have effect.
  - (ii) Generally, a person who is "an ordinary civilian" (i.e. not associated with the security forces; any aspect of government or official administration or any NGO or international organisation) on returning to Mogadishu after a period of absence will face no real risk of persecution or risk of harm such as to require protection under Article 3 of the ECHR or Article 15(c) of the Qualification Directive. In particular, he will not be at real risk simply on account of having lived in a European location for a period of time of being viewed with suspicion either by the authorities as a possible supporter of Al Shabaab or by Al Shabaab as an apostate or someone whose Islamic integrity has been compromised by living in a Western country.
  - (iii) There has been durable change in the sense that the Al Shabaab withdrawal from Mogadishu is complete and there is no real prospect of a re-established presence within the city. That was not the case at the time of the country guidance given by the Tribunal in AMM.
  - (iv) The level of civilian casualties, excluding non-military casualties that clearly fall within Al Shabaab target groups such as politicians, police officers, government officials and

those associated with NGOs and international organisations, cannot be precisely established by the statistical evidence which is incomplete and unreliable. However, it is established by the evidence considered as a whole that there has been a reduction in the level of civilian casualties since 2011, largely due to the cessation of confrontational warfare within the city and Al Shabaab's resort to asymmetrical warfare on carefully selected targets. The present level of casualties does not amount to a sufficient risk to ordinary civilians such as to represent an Article 15(c) risk.

- (v) It is open to an ordinary citizen of Mogadishu to reduce further still his personal exposure to the risk of "collateral damage" in being caught up in an Al Shabaab attack that was not targeted at him by avoiding areas and establishments that are clearly identifiable as likely Al Shabaab targets, and it is not unreasonable for him to do so.
- (vi) There is no real risk of forced recruitment to Al Shabaab for civilian citizens of Mogadishu, including for recent returnees from the West.
- (vii) A person returning to Mogadishu after a period of absence will look to his nuclear family, if he has one living in the city, for assistance in re-establishing himself and securing a livelihood. Although a returnee may also seek assistance from his clan members who are not close relatives, such help is only likely to be forthcoming for majority clan members, as minority clans may have little to offer.
- (viii) The significance of clan membership in Mogadishu has changed. Clans now provide, potentially, social support mechanisms and assist with access to livelihoods, performing less of a protection function than previously. There are no clan militias in Mogadishu, no clan violence, and no clan based discriminatory treatment, even for minority clan members.
- (ix) If it is accepted that a person facing a return to Mogadishu after a period of absence has no nuclear family or close relatives in the city to assist him in re-establishing himself on return, there will need to be a careful assessment of all of the circumstances. These considerations will include, but are not limited to:
  - circumstances in Mogadishu before departure;
  - length of absence from Mogadishu;
  - family or clan associations to call upon in Mogadishu;
  - access to financial resources;
  - prospects of securing a livelihood, whether that be employment or self employment;
  - availability of remittances from abroad;
  - means of support during the time spent in the United Kingdom;
  - why his ability to fund the journey to the West no longer enables an appellant to secure financial support on return.
- (x) Put another way, it will be for the person facing return to explain why he would not be able to access the economic opportunities that have been produced by the economic boom, especially as there is evidence to the effect that returnees are taking jobs at the expense of those who have never been away.
- (xi) It will, therefore, only be those with no clan or family support who will not be in receipt of remittances from abroad and who have no real prospect of securing access to

a livelihood on return who will face the prospect of living in circumstances falling below that which is acceptable in humanitarian protection terms.

- (xii) The evidence indicates clearly that it is not simply those who originate from Mogadishu that may now generally return to live in the city without being subjected to an Article 15(c) risk or facing a real risk of destitution. On the other hand, relocation in Mogadishu for a person of a minority clan with no former links to the city, no access to funds and no other form of clan, family or social support is unlikely to be realistic as, in the absence of means to establish a home and some form of ongoing financial support there will be a real risk of having no alternative but to live in makeshift accommodation within an IDP camp where there is a real possibility of having to live in conditions that will fall below acceptable humanitarian standards.

- 24. The complaint made on behalf of the appellant is that although the judge took into account the factors set out at (ix) of the guidance, she had overlooked what was said at (vii). To repeat,

“A person returning to Mogadishu after a period of absence will look to his nuclear family, if he has one living in the city, for assistance in re-establishing himself and securing a livelihood. Although a returnee may also seek assistance from his clan members who are not close relatives, such help is only likely to be forthcoming for the majority clan members, as minority clans may have little to offer.”

- 25. Furthermore, the guidance at (xii) is to the effect that relocation in Mogadishu for a person of a minority clan with no former links to the city, no access to funds and no other form of clan, family or social support is unlikely to be unrealistic as, in the absence of means to establish a home and some form of ongoing financial support, there will be a real risk of having no alternative but to live in makeshift accommodation within an IDP camp where there is a real possibility of having to live in conditions that will fall below acceptable humanitarian standards.
- 26. The skeleton argument relies on the appellant’s claim that he has no close relatives currently living in Mogadishu and no current connections with that city, as well as the fact that the appellant’s aunt who previously assisted the flight from Somalia is no longer contactable. It is asserted that the appellant was assisted on a temporary basis by the imam at the mosque but does not have friends or relatives residing in Mogadishu. The length of time he has been absent from Mogadishu is said to be a substantial period of absence from his country of origin and that he would therefore be out of touch with everyday life in Mogadishu, and generally in Somalia. Similarly, his minority clan status is relied on in terms of the lack of family connections or associations with Mogadishu.
- 27. It is also said that he has no contact with relatives outside Somalia and no ability to call upon the financial resources of others. His lack of education and lack of employment skills would make it very difficult if not impossible for him to obtain employment given the other difficulties referred to, it is argued. It is also said that he does not have access to remittances from abroad.
- 28. Although it is asserted that the judge did not have regard to the guidance overall, I do not accept that proposition. Furthermore, applying the guidance I am satisfied

that she was entitled to conclude that the appellant would be able to live in Mogadishu without undue hardship. Although it is said that the appellant only had the assistance of the imam on a temporary basis, the fact remains that he was able to secure that assistance in Mogadishu without apparently having had any connection there before. The judge rejected the appellant's claim that he no longer had any contact with his mother, in his home area, or with his aunt who provided substantial funds apparently to secure his departure from Somalia. She was thus entitled to conclude that he had not established that he could not secure further financial support from his aunt on return to Mogadishu. No complaint is made in the grounds in relation to the judge's credibility assessment, notwithstanding what could be said to be some inconsistency between [12] and the findings at [20].

29. This was not a case of the judge concluding simply that, having had some assistance although a minority clan member, he could therefore turn to his minority clan for support. There was more depth to her conclusions than that. The conclusion was that he would not be cut off from financial or other support mechanisms given that in terms of other support mechanisms he had been able to secure assistance previously.
30. Furthermore, the conclusion at [20] that the appellant had not explained why he would not be able to access the economic opportunities available in Mogadishu is a significant one. This forms part of the guidance at (x). This is to the effect that it would be for the person facing return to explain why he would not be able to access those economic opportunities, the guidance stating that there is evidence to the effect that returnees are taking jobs at the expense of those who have never been away. The judge noted that the appellant had been learning English in Belfast and had had employment of his own in his home area. Added to which is the fact that the appellant is a fit young man.
31. In conclusion, I am satisfied that the First-tier judge undertook a holistic approach to the issue of return to Mogadishu, taking into account all relevant factors. I am satisfied that she gave legally sustainable reasons for concluding that it would be reasonable to expect the appellant to return to Mogadishu and that it would not be unduly harsh to expect him to do so.
32. Accordingly, I am not satisfied that there is any error of law in the decision of the First-tier Tribunal.

### *Decision*

The decision of the First-tier Tribunal did not involve the making of an error on a point of law. The decision to dismiss the appeal on all grounds therefore stands.

Upper Tribunal Judge Kopieczek

27/01/16