



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/01249/2017**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 1<sup>st</sup> December 2017**

**Decision & Reasons  
Promulgated  
On 19<sup>th</sup> February 2018**

**Before**

**UPPER TRIBUNAL JUDGE RIMINGTON**

**Between**

**MISS K Y  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms Gemma Loughram, Counsel instructed by UK Law,  
Solicitors

For the Respondent: Mr P Nath, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Ethiopia and she applied for permission to appeal against the decision of the First-tier Tribunal promulgated on 22<sup>nd</sup> March 2017 dismissing her appeal against the respondent's decision to refuse her protection and human rights claim.
2. She left Ethiopia on 21<sup>st</sup> September 2015, travelled through Sudan, Libya and France and arrived in the UK in 2016 and was encountered in the back

of a lorry. She claimed asylum on the basis that she would be imprisoned or harmed owing to her affiliation with the Ginbot 7 in Ethiopia of which she claimed she was a low-level member.

3. The grounds for permission asserted the following:-

(1) There was a lack of reasoned findings in relation to the decision and credibility. The judge found the appellant's account to be lacking in credibility partly because of the discrepancies in her evidence. She gave mixed evidence as to when she became a member of the PG7, whether in 2013 or as early as 2006, which the judge stated "as she stated in her oral evidence today". It was contended in the grounds, however, that the appellant stated in 2006 in oral evidence in court as she spoke referring to the Amharic Julian calendar not the Gregorian calendar. The appellant's interview record of question 76 supported that assertion, and the witness statement prepared in English stated 2013 and was consistent with the appellant's account. As such the judge was misled by the factual error and that led to an error in law by basing a finding on a misapprehension of fact.

I find that it is arguable the judge may have made a mistake regarding the appellant's evidence of when the appellant became a member of the PG7 in Ethiopia. The judge's findings are based on the totality of the discrepancies in the appellant's evidence and indeed it is clear that in her interview record she stated that she joined the party in 2013.

(2) It was further contended that the appellant was not asked by the interviewing officer or her solicitors as to what she was doing when she was not attending the cell meeting, but in oral evidence stated where she was and what she was doing. Further, the judge's observation that the appellant was not a member until 28<sup>th</sup> December 2016 was incorrect. It was that she did not provide her membership *number* until that date.

It does appear that the appellant in her witness statement did make clear that she was a member prior to 2016 but was not sent the code until 28<sup>th</sup> December 2016, but this did not mean that she was *not* an actual member and the judge erred in his approach at paragraph 32.

4. In my view the judge did approach the assessment of credibility with a misapprehension of the evidence which renders his findings on credibility unsafe.

5. In relation to ground 2 it was advanced that at paragraph 33 of the determination the judge had found that she was a low-level affiliate to PG7 and that was not likely to put her at risk, but the court's attention was drawn to the fact that G7/PG7 was a banned and illegal party in Ethiopia and labelled as a terrorist organisation. There is no CIG note on PG7, but the fact that she is a low-level affiliate did not prevent the authorities from targeting her. I find that the judge has made very limited findings and in essence given inadequate reasoning as to why he concluded that she would not be at risk because she was low-level.

6. The third ground was that the judge's dismissal of the appellant's sur place activities corroborated with a series of demonstrations in the UK and the question was whether she would be perceived as being at risk on return on this basis. It was argued that there was extensive surveillance practiced by the authorities in Ethiopia and that dissidents abroad were monitored by the Ethiopian authorities and it is likely that she may have been identified in demonstrations.
7. I note the judge stated at paragraph 32:-

*"She also says that she has attended demonstrations in the UK and the authorities will be aware of her attendance through Facebook and other social media sources, though she accepted that this has not yet been published"*.
8. The judge proceeded to state "I have not found the appellant's account to be credible". That may be the case but the judge has failed to address **YB Eritrea v SSHD [2008] EWCA Civ 360** and address how the appellant would be perceived on return as a result of activities in the United Kingdom regardless of credibility in relation to matters prior to relocation from Ethiopia.
9. The judge however did not appear to assess the risk to the appellant in relation to the sur place activity itself, regardless of credibility, and the reasoning is inadequate further to **MK (duty to give reasons) Pakistan [2013] UKUT 641. Shizad (sufficiency of reasons: set aside) [2013] UKUT 00085** (IAC) confirms that there is no need to give extensive reasoning but to my mind the reasoning here is too truncated to be clear.
10. There is merit in the fourth ground the judge failed to take into account the background evidence in relation to assessing credibility and the fifth ground of challenge that there was an inadequate risk on return assessment. It was asserted the judge had materially failed to take into account, on the findings, that the appellant would be persecuted if returned to Ethiopia on the basis of country background information and I note that the judge at paragraph 33 states:-

*"Even taking her case at the highest, her activities with PG7 were at low level and not likely to put her at any risk. Her activities in the UK have been to enhance her asylum claim"*.
11. The judge has failed to assess the risk on return through an analysis of the country background that was produced and the evidence overall. In view of my findings on credibility which are fundamental although the latter errors are of import the overall approach by the judge renders the decision unsafe.
12. I find that there is an error of law and the decision shall be set aside with no findings preserved.
13. The Judge erred materially for the reasons identified. I set aside the decision pursuant to Section 12(2)(a) of the Tribunals Courts and

Enforcement Act 2007 (TCE 2007). Bearing in mind the nature and extent of the findings to be made the matter should be remitted to the First-tier Tribunal under section 12(2) (b) (i) of the TCE 2007 and further to 7.2 (b) of the Presidential Practice Statement.

**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 or any member of her family. 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 Helen Rimington

Date 21<sup>st</sup> December 2017

Upper Tribunal Judge Rimington