



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

Appeal Number: PA/07767/2019

THE IMMIGRATION ACTS

**Heard at Field House
On 26 August 2020**

**Decision & Reasons
Promulgated
On 2 September 2020**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**G S A (ETHIOPIA)
[ANONYMITY ORDER MADE]**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

Anonymity order

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) The Tribunal has ORDERED that no one shall publish or reveal the name or address of G S A who is the subject of these proceedings or publish or reveal any information which would be likely to lead to the identification of him or of any member of his family in connection with these proceedings.

Any failure to comply with this direction could give rise to contempt of court proceedings.

Decision and reasons

- 1.** The appellant appeals with permission against the decision of the First-tier Tribunal to refuse him refugee status under the 1951 Convention, humanitarian protection, or leave to remain in the United Kingdom on human rights grounds. The appellant is a citizen of Ethiopia.
- 2.** The appellant does not speak English: he gave evidence in Amharic through an interpreter.

Background

- 3.** The appellant came to the United Kingdom clandestinely on in November 2017. He says that four years earlier, he helped his father with leafleting for the oppositionist Patriotic Ginbot Party (PG7) and was detained and abused during interrogation.
- 4.** The appellant did not leave Ethiopia immediately but he now claims to fear being imprisoned or killed by the Ethiopian authorities if he is returned. In the United Kingdom, he has become a member of PG7 and he produced a rather sparse email from that organisation, which does no more than confirm his membership.
- 5.** The claimant also relies on family life with his Ethiopian citizen partner, whom he met and perhaps married in Ethiopia, before coming here. She has no status in the United Kingdom, but they have twin sons born in April 2019 while the parents were unlawfully resident. The appellant's partner did not attend the hearing but photographs of a woman he said was his partner were produced.
- 6.** Neither the partner nor the children are 'qualifying' as defined in section 117D of the Nationality, Immigration and Asylum Act 2002 (as amended): all members of the family have only Ethiopian citizenship.

First-tier Tribunal decision

- 7.** The First-tier Judge found the political opinion claim to lack credibility and that the appellant did not qualify for leave to remain under paragraph 276ADE of the Immigration Rules HC 395 (as amended) or outside the Rules. He dismissed the appeal on all grounds.
- 8.** The appellant appealed to the Upper Tribunal.

Permission to appeal

- 9.** Permission to appeal was granted by Upper Tribunal Judge Bruce, principally because she considered that the First-tier Tribunal had arguably failed to consider the appellant's accepted membership of the PG7 group in the United Kingdom as a risk factor on return to Ethiopia. Given the positive credibility finding the First-tier Judge had made on that single issue, the

credibility of any past persecution was not relevant to assessment of that particular risk.

10. The grant of permission was not limited and permission was granted on all grounds.

Further directions

11. On 1 June 2020, the Tribunal sent out triage directions made by Upper Tribunal Judge Bruce in the light of the COVID-19 pandemic. The appellant was invited to make further submissions on the error of law issue, if so advised, with a right for the respondent to reply, if triage submissions were made, and a further right of reply for the appellant thereafter.
12. Both parties were directed to say whether they considered that a further hearing, oral or remote, was required. In default, the appeal would be considered on the papers and triage submissions, if any.

Appellant's triage submissions

13. Triage submissions were received from the appellant. He submitted that, his membership of the United Kingdom branch of PG7 having been accepted, that meant that his oppositionist political beliefs should also be accepted. He relied on the Upper Tribunal's country guidance in *MB (OLF and MTA - risk) Ethiopia CG* [2007] UKAIT 00030 for the risk to oppositionist groups in Ethiopia. The appellant acknowledged that *MB (Ethiopia)* was not a decision on PG7 specifically but argued that it applied to all oppositionist groups in Ethiopia and thus that there was a continuing risk to him as a United Kingdom member of PG7.
14. The appellant relied on pages [11]-[13] of his skeleton argument for the First-tier Tribunal to support his contention that there was no cogent evidence of durable change in Ethiopia in the last 4 years to rebut the risk which the AIT found to exist in 2007. The appellant could not be expected to dissemble about his political opinion: see *RT (Zimbabwe) v Secretary of State for the Home Department* [2012] UKSC 38 and *HJ and HT (Iran) v Secretary of State for the Home Department* [2010] UKSC 31.
15. In relation to Article 8 ECHR, the appellant relied on the same passages in his First-tier Tribunal skeleton argument and argued that his PG7 political opinion was a very significant obstacle to reintegration in Ethiopia.
16. Finally, the appellant asserted that the First-tier Judge's decision was inadequately reasoned and/or irrational, in its failure to assess the risk arising from his sur place activities for the PG7 in the United Kingdom. The evidence produced included not just the email confirming membership but also a copy of what was said to be his rail ticket to a PG7 meeting held in the United Kingdom on 16 December 2017, which the First-tier Judge appeared to have overlooked in his decision.

17. The appellant did not ask for a hearing for the error of law consideration but if a material error of law were found, he considered that a remaking decision would require a hearing and that the positive finding about his membership of PG7 in the United Kingdom should be preserved.

Respondent's triage submissions

18. The respondent on 23 June 2020 served submissions in response, which were erroneously described as an (out of time) Rule 24 reply to the grant of permission. I have treated that document as her triage submissions.

19. The submission identifies the circularity of the appellant's three points, which really all turn on the acceptance of his membership of PG7 in the United Kingdom. The First-tier Judge had roundly rejected the assertion of previous activity in Ethiopia before he came to the United Kingdom. The country guidance in *MB (Ethiopia)* was specific to the OLF and the MTA in 2007 and not cross-applicable to PG7 in 2020.

20. The respondent relied on her August 2019 CPIN entitled *Ethiopia; Opposition to the Government* and in particular, paragraph 8.1.7 which noted that in June 2018 PG7 had announced a unilateral ceasefire, suspended all armed operations, and returned to Ethiopia from its expatriate base in Eritrea, to continue the struggle by peaceful political means.

21. The OLF and PG7, also known as Ginbot 7, were no longer proscribed organisations in Ethiopia and PG7 had ceased to have any independent existence. In 2018/2019, seven opposition parties, including PG7, had dissolved and merged into a new political party, Ethiopian Citizens for Social Justice. PG7 members abroad had voted with their feet and returned to Ethiopia to pursue their aims through the democratic process. It had been open to the judge to find that there was no present risk to members of the United Kingdom PG7 if they were returned to Ethiopia now.

22. The respondent's triage submissions did not address the issue of whether any hearing was required at the error of law stage. She is taken therefore to concur with the indication in the triage direction that the question of a material error of law would be resolved on the documents and submissions before the Tribunal.

23. That is the basis on which this appeal came before the Upper Tribunal.

Analysis

24. I am satisfied that it is appropriate to decide whether the First-tier Tribunal decision contains a material error of law on the basis of the decisions and submissions before me.

25. I remind myself that it is not necessary for a judge to set out all of the evidence before him and I note that the First-tier Judge set out the correct standard and burden of proof at [6], and that at [7] he said that he had

taken account of all relevant evidence, including written statements, screening interview, the asylum interview record and oral evidence.

- 26.** The appellant relied on the email already mentioned, and various untranslated documents from Ethiopia which the judge could not assess as they were written in Amharic. The judge was entitled to find that he could place no weight on the asserted contents of those documents.
- 27.** The up to date country evidence before the First-tier Judge, as set out above, was more than sufficient to be cogent evidence of a durable change of circumstances in relation to oppositionists in Ethiopia, and PG7/Ginbot 7 in particular. The evidence now is that the party no longer exists, is not proscribed, and has ceased armed oppositionist activities, preferring to join with other parties to seek democratic change through the political process. Even if the appellant is an active member of PG7 in the United Kingdom, which the judge did not find to be credible, that was not sufficient to establish a risk on return, on the present evidence.
- 28.** There is no material error of law in the decision of the First-tier Judge, which is upheld.

DECISION

- 29.** For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of no error on a point of law

I do not set aside the decision but order that it shall stand.

Signed [Judith AJC Gleeson](#)
Upper Tribunal Judge Gleeson

Date: 26 August 2020