



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: PA/50365/2020  
(LP/00157/2021)**

**THE IMMIGRATION ACTS**

**Heard at a hearing at Bradford      Decision & Reasons Promulgated  
IAC      On the 12 October 2022  
On the 24 August 2022**

**Before**

**UPPER TRIBUNAL JUDGE REEDS  
DEPUTY UPPER TRIBUNAL JUDGE SAFFER**

**Between**

**LJ  
(anonymity direction made)**

Appellant

**AND**

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

Respondent

**Representation:**

For the Appellant: Ms S. Khan, Counsel instructed on behalf of the appellant.  
For the Respondent: Mr McVeety, Senior Presenting Officer.

**DECISION AND REASONS**

**Introduction:**

1. The appellant who is a national of Ethiopia, appeals with permission against the decision of the First-tier Tribunal (Judge Hands) (hereinafter referred to as the "FtTJ") who dismissed her protection and human rights appeal in a decision promulgated on the 22 April 2021.

2. We 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.

Background:

3. The history of the appellant is set out in the decision of the FtTJ, the decision letter and the evidence contained in the bundle, including the witness statements.
4. The appellant is a national of Ethiopia and of Oromo ethnicity. The appellant claimed that she was detained in Ethiopia in March 2010 as the café that she and her sister ran was frequented by students who were of Oromo ethnicity and that the authorities believed that they and the appellant and her sister were involved in OLF activities because of this and because of her ethnicity. The appellant claimed she had been detained for 17 days and during her detention she was ill-treated and questioned about students who attended the café. She was released without charge and signed a declaration stating that she would not participate in any further political activities.
5. The appellant claims that after this she became a supporter of the OLF, meetings were held in her house as well as the houses of other supporters within their seven or eight man cell. It is said that her husband, brother and sister were also in the same cell. The appellant stated that she raised funds, attended meetings and encouraged others to join the OLF (see asylum interview 36 - 45 and SEF).
6. The appellant left Ethiopia in 2012 legally to take up employment as a domestic servant in Saudi Arabia. In 2013, she moved to another employer where she was joined by her sister in 2015. Between September 2014 to May 2018 the appellant travelled between Saudi Arabia and Ethiopia 4 times. In 2015 she gave birth in Ethiopia. From there, she and her sister regularly sent home parcels of second-hand clothes to be used to assist the OLF cause. On 18 August 2018, as a result of her sister telephoning home, she heard that her husband, brother and mother had been detained by the authorities.
7. In May 2018, the appellant went to Ethiopia and returned to Saudi Arabia in July 2018. The appellant came to the UK with her employer and stated that she was under their control at all times. Her sister came to the UK in May 2018. The appellant and her sister decided to escape from their employers and claimed asylum 27 days later.

8. In October 2018, a referral was made to the NRM. It was concluded on 21 June 2019 that the appellant was a victim of modern slavery.
9. The respondent refused her claim in a decision letter dated 15 June 2020. In the decision, the respondent accepted that the appellant was a national of Ethiopia but when considering her factual claim to have been a supporter of the OLF and having provided support, including collecting donations for the party and attending meetings in private homes, the respondent considered that her claim remained vague in its detail. The respondent considered that she was able to provide basic information about the OLF but when asked more detailed questions, the appellant provided limited detail and it was considered that that undermined her claim to have been an active supporter of the OLF. It was further noted that she travelled legally between Ethiopia and Saudi Arabia between 2014 in 2018 without any issues from the authorities and it undermined her claim that they had an interest in her and thus undermining her claim that she was a supporter of the OLF. In respect of her claim that her brother and husband were members of the OLF, the appellant was not able to provide any details regarding their activities, role or level of involvement with the party which undermined her claim to be involved with the OLF through her family members. The respondent concluded that it had not demonstrated that she had been an active supporter or that she was able to provide a consistent level of detail regarding her alleged activities in Ethiopia.
10. As to the assessment of future fear, it was not accepted that the appellant had demonstrated a genuine subjective fear of returning to Ethiopia. However if it were accepted that she had been involved with the OLF, (which it was not) the respondent considered that the appellant would not be at risk on return to Ethiopia.
11. Consideration was given to country materials set out in the CPIN dated November 2019, and that in April 2018 the Ethiopian government appointed Abiy Ahmed as Prime Minister and he is of Oromo ethnicity. Consideration was also given to the Home Office fact-finding mission: Ethiopia the political situation dated February 2020.
12. In light of the more recent evidence, the respondent considered that since the CG determination of MB the country situation had improved, and that during 2018 the Prime Minister removed the designation of the OLF, ONLF and Ginbot as terrorist organisations and welcomed back high-profile leaders back to Ethiopia where they can register as political parties. Hundreds of thousands of people gathered in Addis Ababa to welcome back OLF leaders which is reported to have passed without incident. A number of high-profile prisoners had also been released and/or pardoned, including the deputy leader of Ginbot 7 who been detained since 2014.

13. Thus, the respondent considered that the country information indicated there had been cogent and durable changes in regard to the opposition generally and former and current armed groups in particular and thus there were very strong grounds supported by cogent evidence to depart from the findings in MB.
14. The respondent considered that based on that material, and whilst it was not accepted that she was a supporter of the OLF, even if she were, it was not accepted that she would be at risk of persecution or serious harm on return to Ethiopia.
15. The remainder of the decision letter considered Article 8 and the issue of discretionary leave based on medical grounds.
16. The appellant appealed that decision to the FtT (Judge Hands) on the 8 April 2021. In a decision promulgated on 22 April 2021 the judge dismissed her appeal.
17. The FtT set out her factual findings and analysis of the evidence at paragraphs [25 -55]. The judge began by setting out a summary of the country materials before turning to the appellant's personal account of events in Ethiopia relating to both her and her family members. The FtT rejected her claim to have been arrested, detained in ill-treated in March 2010 (at [31]) and at [38] found that the appellant's account of her arrest and detention was inconsistent with the account that she subsequently gave to the psychiatrist. In the alternative the FtT considered that she was released without charge and was allowed to continue with her everyday life which indicated the authorities had no adverse interest in her ([32]). The judge took into account that she was able to leave Ethiopia legally using her own passport and with a Visa in 2012 and that she travelled between 2014 until 2018 on numerous occasions to visit her family. This included the appellant giving birth in Ethiopia to her son and visiting him when he was ill (at [33] and see [42]). The FtT considered her claim that following her arrest and with the encouragement of her husband and father that she was motivated to support the OLF. However the judge took into account that in her asylum statement she claimed her father passed away in 2003 and it was her brother who encouraged her to join the OLF. The judge found that the appellant had been inconsistent in her evidence, and that either her father had not passed away or it was not her father who had encouraged her to support the OLF as both versions of the account could not be true (at [34]).
18. At paragraphs [35] - [37] and [42] the FtT considered the events that the appellant claimed had occurred in 2018. The judge found that the appellant has no direct knowledge of any of the events in Ethiopia and had been told these things by her sister who had not provided evidence in support of the appellant at the hearing although resident in the UK. The judge found that in respect of the packages, there would be no reason for the authorities to suspect the clothes were

anything other than for wearing when they discovered them on their way to a husband, with 2 children at home, sent from his wife who was working legally in Saudi Arabia. The judge also found that the appellant's evidence on the issue of how this information became known to her was inconsistent in material aspects. At [42] the FtTJ considered the timeline of events and found that there was no reference to a package of second-hand clothes being sent between the time of her arrival in Saudi Arabia in July and her departure in August, therefore the discovery of such packages could not have been the trigger for the actions the appellant claims the authorities took by arresting family members or issuing a warrant for her arrest in August 2018.

19. The FtTJ therefore concluded that given her assessment of the evidence and credibility she did not find that the return of the appellant to Ethiopia would present a real risk of persecution or serious harm. In reaching that conclusion the FtTJ rejected her account of being a support of the OLF or that she assisted her husband by doing domestic chores to facilitate his support for the OLF. She did not accept her arrest and detention 2010 and did not accept that members of her family had been detained by reason of their association with the OLF.
20. The FtTJ also considered the appellant's claim concerning support for the OLF in the United Kingdom, and for the reasons set out at [52 - 54] the judge rejected her claim to have demonstrated that she had a significant history which would be likely known to the authorities of OLF involvement or sympathy.
21. Consequently, she dismissed her appeal.
22. Permission to appeal was sought and permission was refused by Upper Tribunal Judge Martin but on renewal was granted by UTJ Blundell on 19 October 2021 for the following reasons:

"I grant permission on each of the points in the concise grounds. I consider it particularly arguable that the judge was not entitled to find that the appellant was merely an economic migrant when it has been accepted on conclusive grounds that she was a victim of modern slavery at the hands of a wealthy Saudi family. The presenting officer seemingly did not seek, in submissions which are recorded at [20] of the judge's decision, to go behind the NRM's acceptance and the findings at [44] and [51] were arguably improper in those circumstances. Whether there was any such error, and whether that error was material to the remaining assessment undertaken by the judge, are matters for argument."

#### The hearing before the Upper Tribunal:

23. The hearing came before the Upper Tribunal on 3 August 2022. Ms Khan and Mr McVeety, Senior Presenting Officer appeared on behalf of the respondent. It was accepted at the hearing that the grounds upon

which permission was granted had been set out in brief terms. They had been drafted by the appellant when acting in person. Ms Khan confirmed that her submissions followed those concise grounds but that she sought to advance those grounds by reference to the evidence and material that was before the FtT including the background evidence.

24. There had been no written submissions or summary of those grounds and it was agreed between the advocates that Ms Khan would set out her written submissions on the grounds and that upon the receipt Mr McVeety on behalf of the respondent would file a rule 24 response. The appeal was adjourned until 24 August 2022.
25. We confirm that the Tribunal have received the written submissions submitted by Ms Khan and the Rule 24 response by way of reply from Mr McVeety. We further confirm that we have considered those written documents when considering the issues that arise in this appeal.
26. We are grateful for the assistance of both advocates and pay regard to their clear oral submissions.

The submissions made on behalf of the appellant:

27. Ms Khan of Counsel appeared on behalf of the appellant and relied upon the written grounds of appeal in conjunction with her written submissions alongside her oral submissions.
28. It is submitted that the FtTJ failed to assess the evidence and the background information relevant to her claim. In particular it was asserted that the judge failed to consider the background information about the treatment by the authorities of OLF supporters or those who are suspected to be OLF supporters and that she had in fact provided a consistent and credible account in line with the subjective and objective evidence.
29. Dealing with the 2010 detention, the FtTJ rejected the appellant's account that she was arrested, detained and ill-treated in 2010. The FtTJ stated at [31]:

*“The background material does not say that owners of cafés where Oromo students meet would be a matter of suspicion, but it does say family members would have been at risk in 2010. The Appellant has clearly stated she was not an OLF supporter at that time and could not, therefore, have been arrested in respect of her own activities. I do not, therefore, accept the Appellant was arrested, detained and ill- treated in 2010”.*
30. However Ms Khan submitted that the evidence about her detention was set out in her asylum interview dated 12 February 2019. The appellant was asked what questions she was asked in detention and

stated “they kept asking what were you doing for OLF and accused us of using for we were organising all raiding their awareness” she was then asked “given that, in 2010 you had not been involved with the OLF, why did the authorities believe you were? The appellant answered, “on suspicion of those who used to come into the café and secondly because of being an Oromo” (see question 77 SB Page 214 ).

31. The relevant country guidance case at the time was MB (OLF and MTA, risk) Ethiopia CG [2007] UKAIT 00030 (mentioned by Judge Hands at para. 49). The head notes specifically states:

*“(2) OLF members and sympathisers and those specifically perceived by the authorities to be such members or sympathisers will in general be at real risk if they have been previously arrested or detained on suspicion of OLF involvement. So too will those who have a significant history, known to the authorities, of OLF membership or sympathy. Whether any such 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.”*

32. MB itself states:

*“38. On 4 September 2006 it was reported that the Government had detained without charge more than 250 members of the Oromo ethnic group, including teachers, high school students and politicians. Most, however, were subsequently released without charge.”*

33. On the issue of Oromo’s facing detention the decision in MB states:

“46. Paragraphs 3.7.1 to 3.7.8 deal with the Oromo ethnic group. The Operational Guidance Note considers that Oromo nationalism:-

*"has evolved in response to the Oromo people's long, difficult and often antagonistic relationship with the Ethiopian State. Oromos who come to the adverse attention of the authorities are usually those who are known to be involved with or suspected of being involved with the OLF."*

34. Paragraph 3.7.8 concludes that:-

*"Whilst there is evidence that Oromos who are active in, or who are suspected of being active in, the OLF are likely to come to the attention of the authorities, there is no evidence that the State authorities systematically harass, discriminate or persecute Oromo Ethiopians solely on account of their ethnic origin. Claimants who express a fear of ill-treatment amounting to persecution by the State*



*authorities solely on the basis of their Oromo ethnic origin are therefore not likely to qualify for asylum."*

35. The Respondent's 'Report of a Home Office Fact-Finding Mission Ethiopia: the political situation' published on the 10 February 2020 expressly states in Annex D (SB p338-339)

*"Students, in the past university students and especially Oromo, tried to use universities as a space in which to express themselves and as a result there were clampdowns (see tweet 2 days ago ref Maekelawi Oromo student). Universities were spaces where they tried to exert cultural expression if not political. Protests from 2015 initially mainly involved school students (not all of them children per se given that many students go to school/start school late), more so than university students. Later, it spread on and off to university campuses."*

36. The Respondent's CIPN Ethiopia: Oromos dated November 2019 confirms:

*"2.4.5 Historically, harassment and ill-treatment by the state against Oromos has been in the context of the government's handling of those in opposition to, or who were perceived to be, in opposition to the government, rather than on the basis of Oromo ethnicity alone. With the arrival of Prime Minister Abiy Ahmed in April 2018 and the widening of the political space, treatment of political opponents - including politically active Oromos who opposed the government - has generally improved (see Treatment of Oromos and the Country Policy and Information Note on Ethiopia: Opposition to the government). (SB p413)*

37. It is submitted that the appellant was detained because she was Oromo and was perceived to be involved with the OLF and that as students have been the subject of clampdowns in the past the appellant's claim was in line with the background evidence.
38. It is further submitted that the appellant has never mentioned that her husband and brother used to attend the café. Therefore the assumption made by the Judge that her husband and brother would have visited the café is purely speculative. The fact that the appellant had not mentioned that her husband and brother were ever interrogated about their OLF membership at this time is in line with the evidence given by the appellant. However the FtJ uses this as a point against the appellant's credibility .
39. Ms Khan submitted that the FtJ's findings against the appellant did not properly take account of the appellant's evidence and the background evidence.



40. Dealing with the appellant's release, at paragraph [32] the FtT considered in the alternative the appellant being detained in 2010. The FtT states that the fact that the appellant was able to leave Ethiopia and travel to Saudi Arabia shows that she was not of any interest. However it is not indicative of a lack of risk. The decision in MB states that a history of previous detention is a relevant factor. In MB, the tribunal quoted the previous country guidance case of HA (OLF members and sympathisers - risk) Ethiopia[2005] UKAIT 00136 and stated that the appellant in HA had previously been detained and on release had stopped all her political activities. However her history of previous involvement was found to still place her at risk (see paragraphs [50 - 54]). It is therefore submitted that the appellant's release from detention was consistent with HA's release.
41. As to the appellant's travel history, at paragraphs [32, 42- 44] the FtT stated that the appellant was allowed to leave Ethiopia and take up employment in Saudi Arabia. She states the appellant was able to go to Ethiopia and return on a number of occasions between 2014 and 2018. She states she did not accept the appellant was of any interest to the authorities until July 2018. The appellant's own evidence was that she was able to travel freely during this time.
42. In her interview she was asked the following:  
*"Q142 given you had been to the UK before why had you not claimed asylum  
A142 I didn't have problem and my family were not detained"*
43. The appellant's evidence in her SEF interview on her release was:  
*"Q78 - were you charged with anything  
A78 - they couldn't find any proof and finally they made me sign a paper and got released.  
Q80 - were there any conditions of your release  
A80 - we were given warning if next time let people get together or have meeting you would be in at risk and be charged and bought to court"*
44. It is further submitted that the FtT failed to take into account the evidence of Dr Love in MB. The appellant in MB had been arrested and released on bail (see paragraph [11]).
45. MB states:  
*"60. Dr Love's evidence, however, was that the nature of Ethiopian record-keeping was such that it was quite likely that a person who had been bailed would not feature in the records available to those officials charged with responsibility for issuing exit permits. The Tribunal accepts Dr Love's evidence in this regard. There is no evidence*

*before us, to the effect that the Ethiopian authorities maintain any centralised system of record-keeping, which enables the officials responsible for immigration and emigration matters to access information regarding all those who have been detained by the authorities and released on bail..."*

46. Therefore, the authorities at the airport would not know of the appellant's detention as there would be no official record held at the airport.
47. Ms Khan submitted that in respect of paragraph [35] the FtTJ stated there was no direct evidence of the events that happened in Ethiopia and the appellant only knows what her sister has told her. However, the appellant had her interview at the same time as her sister had her interview (see SB p200, Q7). The appellant had expressly consented for her interview to be taken into account in her sister's claim (SB p215, Q81). This appears not to have been done. In any event, the appellant in MB also was asked about events in Ethiopia after speaking to his family and friends over the telephone (see paragraph [13]).
48. Ms Khan sought to challenge the finding at paragraph [36] where the FtTJ stated there was no reason why the authorities would suspect the clothes sent by the appellant would be linked to the OLF support. The appellant's evidence was that her husband was detained and accused of being a member of the OLF (SB p202, Q15). She states that other family members were arrested, including her mother (SB p203, Q21). She stated she was wanted for being a supporter (SB p2013, Q24-25). She stated the authorities had discovered her continued support for the OLF (SB p209 Q53). The appellant is unaware precisely how the continued support was discovered.
49. Ms Kahn submitted that in MB there was evidence of the Government utilising a system of paid informers (see paragraphs [36 and 63]) and this has not been taken into account when this aspect of the appellant's evidence was assessed.
50. Ms Khan made reference to the medical evidence. She submitted that at paragraphs [38 - 39] the FtTJ set out the medical report but made no mention of the actual diagnosis of adjustment disorder with prolonged depressive reaction of mild severity (see SB p83, paragraph 8.9.1). The doctor confirmed that this usually interferes with social functioning and performance. However the FtTJ did not take any account of the actual diagnosis made for the appellant.
51. At paragraph 41 of the determination the FtTJ said the appellant had failed to mention her miscarriage in her evidence. However, the appellant did mention her miscarriage in her SEF interview at SB p228 Q143.

52. Ms Khan in her oral submissions referred to the accepted history of the appellant's claim and that the respondent had accepted that she was a victim of modern slavery. However when looking at the FtTJ's decision at paragraphs [44 and 51], the FtTJ made a finding that the appellant was an economic migrant who had taken the opportunistic action of leaving employment and claiming asylum in the United Kingdom. She submitted that this was a material factor in the appeal because the Judge had the perception the appellant was an economic migrant who took advantage of the opportunity presented to her to come to the UK and claim asylum and it was this perception which tainted her assessment of the appellant's evidence. She submitted that this finding underpinned her reasoning at paragraph [44] and thus the credibility findings were tainted by that.
53. Ms Khan submitted that the appellant showed knowledge commensurate with her level of education (not educated - see SB paragraph [5] p233) and her involvement and experience with the OLF. She expressly stated she was not a member of the OLF because she did not have the capacity or knowledge (see SB p209, Q55).
54. She was asked questions on the OLF in her SEF interview at Q83-96. The decision letter recognises she gave the correct details of the leader and date the party was founded. She gave limited details of the aims and objectives, but she did broadly give the right answers. It is submitted this evidence should have been taken into account by the FtTJ in assessing the appellant's credibility.
55. It is therefore submitted on behalf of the appellant that the decision of the FtTJ was flawed in law, and the decision should be set aside and remitted to the FtT for a fresh hearing.

The submissions on behalf of the respondent:

56. Mr McVeety relied upon his rule 24 response. In summary, the respondent submits that the FtTJ directed herself appropriately.
57. The appellant claimed that she was detained because her café had been frequented by students who were suspected of OLF membership. At paragraph [31] the Judge notes that it was somewhat odd that the appellant was questioned about students who attended the café, but not about her husband and brother who were active OLF members. Whilst the Judge may not have heard evidence that her husband and brother attended the café, it was open for the Judge to conclude that the appellant's husband and brother would have been to a café owned by their close family member.
58. It was submitted that the background evidence referred to in the appellant's grounds at paragraphs [7-11] did not support the appellant's claim that being a café owner would have aroused the suspicion of the authorities based solely on her ownership of that

café, and not as a result of her being the sister and spouse of active OLF members.

59. The Judge was therefore correct to conclude that nothing in the background evidence supported her claim.
60. In respect of paragraph [32] the finding was one evidently made in the alternative that she accepted her claim to have been detained.
61. As regards the appellant's grounds at paragraph [18] he submitted that they were misconceived. Mr McVeety submitted that it was not possible to place weight upon the factual circumstances of the appellant in MB (and also HA). In the case of MB, he was found to be a credible witness.
62. Whilst the grounds relied on a paragraph from MB to support her claim that the authorities would allow her to enter or re-enter the country despite their on-going interest as the airport authorities have no records of those released on bail, Mr McVeety submitted that the appellant did not claim to have been released on bail but was in fact released for lack of any formal evidence and was in fact threatened with further consequences if she undertook any OLF activities. It was therefore open to the FtTJ to conclude that someone who had allegedly been under the suspicion of anti-regime activities would be unlikely to be able to move as freely as she did.
63. In respect of paragraph [35] of the decision the respondent submitted that there was nothing in this paragraph that could be described as factually incorrect. Despite the fact that her sister is the only person who allegedly had any direct knowledge of the arrest of her family, she did not give any evidence in support of the appellant's claim. It is submitted it is difficult to see what relevance the fact that the appellant had given her permission for her interview to be used in her sister's application has to the appellant's own appeal.
64. In respect of the appellant's medical report the respondent submits that as the FtTJ noted, and the grounds do not challenge this finding, the appellant's account was significantly different to the account she gave to the Home Office and to the account she gave at the hearing. As such the fact she may suffer from depressive reaction and adjustment disorder did nothing to explain the inconsistencies or implausibility's in her account and was evidently not supportive of her claim.
65. Mr McVeety submitted that the factors leading to a positive conclusion in the appellant's NRM decision were not in any way connected to her asylum claim. The appellant makes no protection based claim based on her trafficking experiences and as such, once the appellant was no longer under the control of her traffickers, it was open for the FtTJ to conclude that her reasons for not wishing to

return to Ethiopia were motivated by means other than a fear of her life. He submitted that she did not seek to go behind the conclusive grounds decision and in any event paragraph [44] does not underpin the factual findings made by the FtTJ in respect of events in Ethiopia because the FtTJ set out the credibility issues concerning the events in that country prior to referring to events in the UK.

66. At the conclusion of the submissions we reserved our decision.

Decision on error of law:

67. The grounds seek to challenge the FtTJ's factual assessment of the appellant's claim. Ms Khan in her written submissions, which are provided in greater detail than those set out in the grounds of permission, seek to highlight particular findings made by the FtTJ by reference to the material.

68. There are many authorities on the approach of an appellate tribunal or court to reviewing a first instance judge's findings of fact. The constraints to which appellate tribunals and courts are subject in relation to appeals against findings of fact were recently (re)summarised by the Court of Appeal in *Volpi v Volpi* [2022] EWCA Civ 464 in these terms, per Lewison LJ:

"2. The approach of an appeal court to that kind of appeal is a well-trodden path. It is unnecessary to refer in detail to the many cases that have discussed it; but the following principles are well-settled:

i) An appeal court should not interfere with the trial judge's conclusions on primary facts unless it is satisfied that he was plainly wrong.

ii) The adverb 'plainly' does not refer to the degree of confidence felt by the appeal court that it would not have reached the same conclusion as the trial judge. It does not matter, with whatever degree of certainty, that the appeal court considers that it would have reached a different conclusion. What matters is whether the decision under appeal is one that no reasonable judge could have reached.

iii) An appeal court is bound, unless there is compelling reason to the contrary, to assume that the trial judge has taken the whole of the evidence into his consideration. The mere fact that a judge does not mention a specific piece of evidence does not mean that he overlooked it.

iv) The validity of the findings of fact made by a trial judge is not aptly tested by considering whether the judgment presents a balanced account of the evidence. The trial judge must of course consider all the material evidence (although it need not all be discussed in his judgment). The weight which he gives to it is however pre-eminently a matter for him.

v) An appeal court can therefore set aside a judgment on the basis that the judge failed to give the evidence a balanced consideration only if the judge's conclusion was rationally insupportable.

vi) Reasons for judgment will always be capable of having been better expressed. An appeal court should not subject a judgment to narrow textual analysis. Nor should it be picked over or construed as though it was a piece of legislation or a contract."

69. We also remind ourselves that the decision of the FtTJ should be read as a whole and not by considering paragraphs or points made in isolation.

70. The grounds begin their challenge to the factual findings made at paragraph [31] concerning the appellant's claimed detention May 2010.

71. At [31] the FtTJ stated as follows:

"31. The appellant claimed that she was arrested, detained and ill-treated in March 2010. The claim is that during her detention she was asked about students who visited her café and the involvement of those students with the OLF. The appellant claimed she was married in 2007 and that her husband, as well as a brother were strong supporters of the OLF and active in their support. She and her sister were running a café which was frequented by students. As she worked there every day, it is reasonable to expect that her husband and brother would also have visited the café and yet, the appellant makes no reference to being interrogated about her husband's OLF activities or her brothers. The background material does not say that owners of cafés where Oromo students meet would be a matter of suspicion, but it does say family members would have been at risk in 2010. The appellant clearly stated that she was not an OLF supporter at that time and could not, therefore, have been arrested in respect of her own activities. I do not, therefore, accept that the appellant was arrested, detained and ill-treated in 2010".

72. The appellant's claim was that she was detained because the café had been frequented by students who had been suspected of OLF membership and due to her ethnicity as an Oromo. Ms Khan in support of her submission has cited various parts of the country materials as set out in her skeleton argument and as advanced in her oral submissions. They are recited in the earlier part of this decision. We consider that the parts that we have been directed to reflect the general country evidence and are not inconsistent with the country material cited and set out by the FtTJ between paragraphs [25] - [30].

73. The FtTJ's assessment of the background evidence and note that it did not say that owners of cafés where Oromo students meet would be a matter of suspicion that but family members of OLF members or



supporters would be, was in accordance with the background evidence. The factual finding made by the FtTJ related to the questions asked during her detention where she stated she was asked questions about the students, but the appellant had made no reference to being questioned at all about her family members (who would also be of Oromo ethnicity) and were on her account active OLF members.

74. The FtTJ's finding that the appellant would have been questioned about family members was supported by the background evidence set out earlier at [25] where reference is made to family members of activists also falling under suspicion.
75. We have considered the background material highlighted by Ms Khan in her submissions. Paragraph [38] of MB refers to reports in 2006 of "detaining without charge more than 250 members of the Oromo ethnic group including teachers, high school students and politicians." Similarly the reference made to the fact-finding mission report (10 February 2020; Annex D) referred to students in the past using universities as a space in which to express themselves and which resulted in clampdowns. In our view, the material we were directed to by Ms Khan amounts to no more than generalised evidence referring to students and does not, without more, provide a basis for the submission that it is evidence to support the appellant's claim that she was arrested. Consequently it was open to the FtTJ to conclude that on that point the background evidence did not support her claim.
76. Whilst the FtTJ observed that it would be reasonable to expect that the appellant's husband and brother would have visited the café based on her relationship with them, we do not consider that that undermines the finding reached by the FtTJ on the background evidence concerning how family members were treated and that the appellant was not questioned in any respect about her family members.
77. We also consider that it is important not to view the finding made at paragraph [31] in isolation from the other relevant factual findings made by the FtTJ.
78. We do not find any merit in the submission that the judge did not properly take into account the background evidence by failing to take note of the circumstances of the appellant in HA. Whilst Ms Khan submits that the appellant in that appeal had a history of being detained and released on condition to stop all her political activities and that the appellant's release from detention was consistent with the release of HA, we do not accept that the judge would have been assisted by factual assertions made about the appellant in the light of another appellant's factual claim. We observe that the appellant in HA had been found to be credible in a number of aspects, which differs from the appellant in this particular appeal.

79. The grounds seek to challenge the factual findings made at paragraph [33]. We do not accept that the finding made failed to take account of the evidence of Dr Love in MB set out at paragraph [60] of that decision. We can find no reference to the judge being expressly referred to this in evidence either in the skeleton argument or in the submissions which were summarised at paragraph [22] of the FtTJ's decision.
80. Furthermore the factual finding at paragraph [33] should be viewed in the light of the appellant's evidence at the hearing. At paragraph [33] the FtTJ considered the appellant's extensive travel history from 2012 when she first left for Saudi Arabia and between 2014 - 2018 where she regularly travelled between Saudi Arabia and Ethiopia. She spent significant periods in Ethiopia including numerous family visits and gave birth to her son there in 2015. The FtTJ found that on each of those occasions the appellant visited using the passport issued to her personally from the Ethiopian government and a Visa from the Saudi Arabian government which entitled her to travel legally between the 2 countries. The judge found that "the authorities in Ethiopia did not show any interest in the appellant and took no action to prevent her from leaving Ethiopia or detaining her at the airport to prevent her travelling to her home. I do not accept the appellant was of any interest to the Ethiopian government up until July 2018, which is the last time she visited." We consider that the point being made by the FtTJ was that her ability to travel freely and move freely in Ethiopia and being able to lead a life free of interest from the authorities was not consistent with her claimed detention in 2010, the activism of her family members or her own OLF support.
81. We further note that the position of the appellant in MB, differed significantly from the appellant and the present appeal and the circumstances of the appeal where MB had been detained and released with the intervention of a friend who was a police officer and was granted bail. The appellant in MB was found to be credible in all aspects of his factual claim as to events in Ethiopia where it was accepted he was detained and that there was an arrest warrant issued by the authorities.
82. Whilst it is submitted that at paragraph [32] of the FtTJ's decision is not consistent with the country guidance decision of MB, the grounds do not demonstrate any material error of law as it is plain that paragraph [32] was a finding made in the alternative (that she was detained) and did not affect the primary finding made which the judge set out at [46] that she was not arrested and detained in 2010.
83. The grounds seek to challenge the factual findings made concerning events in 2018. The first challenge is to paragraph [35] of the decision. The judge considered the appellant's account that she travelled to the UK in August 2018 and at a time when her sister was in the UK having travelled earlier in May 2018. It was claimed that the

appellant's sister had telephoned her family in Ethiopia on 18 August 2018 and advised the appellant of the arrest of her husband and brother, and then 8 days later her mother was also arrested because the appellant and her sister could not be found.

84. It was claimed that they were arrested because the appellant and her sister were sending second-hand clothes in packages to the appellant's husband who was selling the clothes for funds for the OLF. It was claimed that the information was given to the appellant's sister by their uncle in 2018.
85. The judge set out at paragraph [35] "the appellant has no direct knowledge of any of these matters. She has been told all these things by her sister who has not provided evidence in support of the appellant at the hearing."
86. Contrary to the submissions made on behalf of the appellant, the findings at paragraph [35] were factually correct. The appellant had no direct evidence of the events in Ethiopia. Furthermore as Mr McVeety submits, despite the appellant's sister being the only person who had direct knowledge of the arrest of her family members and also we observe had direct evidence of the appellant's account of being detained as it was claimed that both were detained at the same time in 2010, she did not give evidence in the appellant's appeal.
87. We see no relevance to the fact that the appellant gave permission to the Home Office to use both the interview records of the appellant and her sister when deciding the claim (as referred to question 81). It is plain from reading the decision letter and the interview with the appellant, the evidence from her sister played no part in the assessment.
88. In our judgement the FtJ was entitled to make the finding she did as to the absence of the appellant's sisters evidence in light of the decisions in ST (corroboration -Kasolo) Ethiopia [2004] UKIAT 00115 and TK (Burundi) v SSHD [2009] EWCA Civ 240. Whilst corroboration is not necessarily required, in asylum cases where evidence is readily available a judge is plainly entitled to take into account the failure to provide that evidence. As Thomas LJ stated at [60] that may be a factor of weight in relation to credibility where there are other doubts about the credibility of a party for other reasons.
89. In the light of the appellant's claim that she and her sister were detained together (see paragraph [15] witness statement page 9) and that her sister had knowledge of the alleged arrests of family members, the judge was entitled to take into account the absence of that evidence and reach her finding at paragraph [35].
90. The finding made at [35] was not made in isolation and further factual findings were made by the FtJ at [36], [37] and [42].

91. At [36] the judge took into account the appellant's evidence that she claimed the packages had been discovered by the Ethiopian authorities and not that her husband or brother were caught by the authorities selling the clothes and using the clothes for funds for the OLF. Thus the judge found "there would be no reason for the authorities to suspect the clothes were anything other than for wearing when they discovered them on their way to a husband, with 2 children at home, from his wife who was working legally in Saudi Arabia".
92. Paragraph [36] is challenged on the basis that the judge had failed to take into account the evidence referred to in the CG decision of MB of the government utilising a system of paid informers. We reject that submission. We see no evidence of that submission ever being made to the FtTJ nor was it suggested that the information had come from an informant.
93. Furthermore the judge went on to consider the factual claim at paragraph [37] and the timing of the arrests. The judge recorded that the appellant's evidence was unclear if she, or her sister had spoken to her uncle since 2018. The judge also recorded the evidence that the appellant said that her uncle told her when she called in 2018 that there was a document delivered to her mother a few days before her mother was arrested, which the appellant believed to be a warrant for the appellant's arrest. The appellant had also said that it was her sister who was told. The judge went on to record "the appellant has no recollection of when her mother was arrested but she has also said her husband and brother were arrested 4 days before either she or her sister called her uncle on 18 August 2018 and her mother's arrest was 2 days before the phone call." The FtTJ found "If the appellant has not spoken to her uncle since 2018, and neither has her sister, then she has no knowledge of what is happening in Ethiopia today. "
94. Consequently the FtTJ found the appellant's factual claim as to the events in Ethiopia in 2018 to be inconsistent in an important aspect.
95. At [42] the FtTJ made a further factual finding on this issue. The judge set out the travel history of the appellant and that she had last left Ethiopia in July 2018 returning to Saudi Arabia before she travelled to the United Kingdom on 8 August 2018. The judge found "there is no reference to a package of second-hand clothes being sent between the time of her arrival in Saudi Arabia in July and a departure in August, therefore, the discovery of such packages would not have been the trigger for the actions the appellant claims authorities took in arresting family members or issuing a warrant for her arrest in August 2018. In my judgement the appellant has invented her account of events to substantiate her erroneous claim for asylum." This was not challenged in the written grounds; we consider that the FtTJ was entitled to reach this finding on the evidence which further

undermined her account that family members had been arrested in Ethiopia.

96. At [38] the FtJ referred to the psychiatric report dated 9/10/20, where the appellant had given an account of her detention in Ethiopia which referred to her being arrested with about a hundred other people as part of a rebel group that she was part of. The report further recorded that the appellant had said she was part of the rebel group and took part in their meetings and activities. The judge concluded that “the only consistency is that she worked in a café that was frequented by members of the group.”
97. The FtJ therefore identified a significant inconsistency in the appellant’s account of the detention which she had given to the psychiatrist which was not only inconsistent with the account given to the Home Office but as the FtJ stated had been inconsistent with the account given to the tribunal (see paragraph [38]).
98. Ms Khan makes the general submission that the FtJ did not make any reference to the actual diagnosis of the appellant as having “an adjustment disorder with prolonged depressive reaction of mild severity” and this interferes with social functioning and performance, and that the FtJ did not take any account of the diagnosis made.
99. Having read the psychiatric report in conjunction with the FtJ’s decision, we are satisfied that the FtJ had full regard to the contents of the report when reaching her factual findings which she referred to at paragraphs [16, 37, 38, 39 and 40-41].
100. At [37] the FtJ engaged with the submission made by counsel but gave adequate and sustainable reasons for rejecting the submission having found that the appellant was able to remember dates and details connected to her account of events that were not of such importance. The FtJ was entitled to take into account that the account given of her detention that was so significantly different to that given previously, could not be attributed to her mental health diagnosis. As Mr McVeety submitted the grounds do not seek to challenge the finding made that the appellant’s account as recorded in the psychiatric report was significantly different to the account she gave to the Home Office and the account that she gave at the hearing.
101. The judge was entitled to take into account that the appellant was not reported to have any “significant cognitive impairment or states of dissociation”, and it was not suggested that her mental health was at such a level that she was not able to give a coherent or consistent account of events or recall of events.
102. Whilst Ms Khan points out the FtJ was wrong at paragraph [41] to state that the appellant had not mentioned her miscarriage whereas it

was referred to in the interview, we find that that has no bearing on the rest of paragraph [41] where the FtTJ correctly stated, “there was no reference to it in the psychiatrist report or in respect of the effect such an event would have on the appellant’s health, both physically and mentally in any of the medical report before me”.

103. Consequently we are satisfied that there is no error of law in the FtTJ’s assessment of the medical evidence.
104. It is further submitted that the FtTJ failed to take into account that the appellant was able to show some knowledge of the OLF and that she was able to identify when the party was formed and who the leader of the party was (we refer to the interview questions on this issue). Whilst the FtTJ did not expressly consider those answers, they were, as **the** respondent sets out in the decision letter, basic details of the OLF and the other answers given when pressed on more significant detail were properly described as “vague” and not consistent with her factual account that she had been “motivated” to be a supporter since May 2010, having supported the OLF for 8 years and having raised funds and recruited new supporters (see 5.5 of the SEF). Even if the appellant was able to provide basic details of the OLF, in our judgement it does not demonstrate that the FtTJ’s factual findings and viewed together were not open to her to make.
105. In any event, the FtTJ considered the evidence as to her involvement with the OLF in the UK between paragraphs [52 and 53]. Those findings are not challenged in the grounds or written submissions. Whilst the letter from the OLF UK stated that they were able to verify the appellant’s claim in relation to events in Ethiopia, there had been no information on how the organisation was able to verify such a claim and the reference to events did not specifically relate to the appellant or give any details as to when the events took place. The letter was also inconsistent with the claimed activity.
106. The last point we consider relates to paragraph [44] of the FtTJ’s decision. It is submitted that the finding made that the appellant “is an economic migrant who was taking the opportunistic act of leaving her employers and claim asylum in the UK” is an improper finding and one that was not in accordance with the respondent’s acceptance that the appellant was a victim of modern slavery.
107. Ms Khan relied upon the grant of permission in which it was stated that the FtTJ was not arguably entitled to make the finding that she was an economic migrant when it had been accepted that she was a victim of modern slavery and therefore it was an “improper finding.” However as she accepted, the grant of permission stated that whether or not there was such an error or whether the error was material was a matter for argument.



108. In her oral submissions Ms Khan submitted that the finding was material as the perception that she was an economic migrant tainted the FtTJ's assessment of the evidence.
109. Ms Khan further submitted that the FtTJ had found that the appellant had wanted to leave her employer for "economic reasons" and that it was a material part of the decision at [44] which underpinned her reasons for rejecting the appellant's account and that the credibility findings were tainted by that.
110. We have carefully considered the submissions made on behalf of the appellant and those in response by Mr McVeety.
111. There is no dispute that a referral was made to the National Referral mechanism ("NRM") in order for the Competent Authority to make a decision as to whether the appellant fell within the definition of a victim of trafficking. The decision was assessed in a separate decision under the NRM process whereas the respondent considered (in the decision letter) the protection issues relating to Ethiopia. There is no dispute that the NRM process concluded in June 2019 that she had been a victim of modern slavery.
112. There is also no dispute that the decision of the competent authority was not provided and therefore the reasons for reaching that decision were not in evidence before the FtTJ, but the FtTJ was aware of the positive decision made as set out at paragraph [15] of her decision.
113. It was not argued on behalf of the appellant that the events relating to her trafficking into the UK at the hands of the Saudi family with whom she worked would result in any risk of re-trafficking or that there was any risk based on that on return to Ethiopia.
114. On our analysis of the FtTJ's decision, we do not consider that paragraph [44] can properly be described as underpinning the FtTJ's reasons for rejecting her account as to the events in Ethiopia. The reference to the appellant as an "economic migrant" at paragraph [44] and also at paragraph [51] are not made in the context of the factual analysis relating to the events in Ethiopia. The factual findings made by the FtTJ set out at paragraphs [30 - 43] are plainly made in the context of the evidence relating to events in Ethiopia and thus risk on return to that country. We have found that the FtTJ had given adequate and sustainable evidence-based reasons for reaching the conclusion that the appellant had not given a credible or consistent account of being detained in Ethiopia in 2010, or that the members of her family were detained thereafter in 2018 or that she was wanted by the Ethiopian authorities on account of suspected support for the OLF. The FtTJ overall concluded that she would not face a real risk of serious harm if returned to Ethiopia.

115. Having stood back and considered the references made at paragraph [44], and [51], we consider that the references made were infelicitous, but we do not find that they had any material bearing on the factual findings relevant to her account which were made prior to that. In light of our assessment that the other factual findings made prior to paragraph [44] that were relevant to her claim to be at risk in Ethiopia were soundly made, we conclude the findings as challenged were not material to the outcome.

116. For those reasons, we have reached the conclusion that there is no merit in the submissions made that the FtT's assessment of risk on return was either inadequate or incompatible with the country guidance or contrary to the background evidence but that the judge had given adequate and sustainable reasons and was properly entitled to reject the appellant's claim to be at risk on return to Ethiopia.

**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 stand.

**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 1 September 2022