



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

**Appeal Number: PA/53393/2021
UI-2022-001638
IA/08853/2021**

THE IMMIGRATION ACTS

**Heard at Bradford IAC
On 9 January 2023**

**Decision & Reasons Promulgated
On the 25 January 2023**

Before

**Upper Tribunal Judge Reeds and
Deputy Upper Tribunal Judge Saffer**

Between

**HAB
(Anonymity direction made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Patel of Counsel

For the Respondent: Ms Young, Senior Presenting Officer

DECISION AND REASONS

Background

1. The Appellant claims to be HAB, an Eritrean citizen born on 2 September 1997. She had claimed in a visa application on 18 June 2014 to be an Ethiopian national born on 27 April 1981 with the initials SLB. She entered the United Kingdom on 17 September 2019 and applied for asylum. Her application was refused on 25 June 2021. Her appeal against that refusal was dismissed by a panel comprising Judge Moxon and Judge Smith (“the Judges”) following a hearing on 28 February 2022.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

2. 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.

Permission to appeal

3. Permission to appeal was granted by Judge Komorowski on 13 April 2022 who stated,

“2. A witness, an Eritrean national granted refugee status in the United Kingdom, gave evidence in support of the appellant’s claim of being an Eritrean national. The witness claimed to have known the appellant and her mother both before and after they all left Eritrea. The judges said they “give weight” to his evidence but noted that the appellant and the witness were “clearly friends” and thus he was not “independent” (judges’ decision, para. 16).

3. Arguably, the judges’ assessment of the evidence of the witness is inadequate. They appear not to reject his evidence as incredible, because they “give weight” and “assign weight” to his evidence, and discount it “regardless of the veracity of his account” (judges’ decision, para. 16). The implication, therefore, seems to be that in light of the other evidence pointing to Ethiopian nationality, if the witness spoke honestly, he had been fooled by the appellant into thinking she was the girl he knew from Ethiopia and Eritrea. If that is the judges’ approach, it was arguably incumbent upon them to state so explicitly and explain how plausibly he could have been fooled in that manner. It is not clear to me what other basis there might be for, effectively, rejecting his contention that he knew the appellant from their time in Eritrea.

4. As for the other complaints in the grounds, it is not so clear to me whether any or all of them truly articulate arguable errors of law. But they will be relevant in any event in assessing the materiality of any error in the consideration of the evidence of the witness. Though, of course, it must be recalled that an appeal might be allowed based on the evidence of a witness who is credible and reliable even where the appellant herself is not a witness of any credit (TF [2018] CSIH 58, 2019 SC 81 (paras 38, 39)).”

The Appellant’s position

4. In the grounds seeking permission to appeal the Appellant stated,

"The Appellant's knowledge of Eritrea

4. At paragraph 14 the FTTJ states that the narrative of an Eritrean living most of their life in Ethiopia is plausible. The FTTJ goes on to state that in interview the Appellant demonstrated a reasonable understanding of Eritrea including but not limited to its culture and geography. The FTTJ then states that the Appellant has given a broadly consistent account in that she specified in her screening interview and thereafter that she is an Eritrean national who was arrested and detained in 2016 on account of having a false Ethiopian passport and these features enhance the Appellant's credibility.

5. However, at paragraph 15 the FTTJ states that information about Eritrea is readily available and can be researched. It is respectfully submitted that the FTTJ fails to give any or any proper reasons for his conclusion. It is further respectfully submitted (sic) that the FTTJ failed to consider the answers given by the Appellant in interview regarding the area of Campo Sudan where she lived in Assab, Eritrea is not readily available online.-see question 48 of her asylum interview

48. Can you describe your area where you had been living?

In Cambosudan there is Erigib Adebay (Dove Square), Mulu Wongel Church (Full Gospel), St Micheal's Church and then Assab Hotel.

The Appellant's lack of ability to speak Tigrinya

6. At paragraph 15 the FTTJ states that the Appellant's lack of ability to speak Tigrinya undermines her credibility.

It is respectfully submitted that the FTTJ failed to consider that A left Eritrea illegally when she was 6 years old and was raised in Ethiopia by family her mother left her with and they spoke Amharic only because they were Ethiopians- see questions 46 and question 66 of the Appellant's asylum interview.

46. You stated that you can speak Tigrinyan a little bit, if you are Tigrinyan by ethnicity, can you tell me why you cannot speak Tigrinyan fluently?

When I grew up, all the people were speaking Amharic in Ethiopia because they were Ethiopians

66. You stated earlier that you know a little bit Tigrinyan however you are unable to describe the majority basic things in Tigrinya, is there any reason why you don't know the basic Tigrinyan language if you are Tigrinyan?

My mother gave me up to an Ethiopian family, I grew up with them, they were speaking Amharic.

7. It is further respectfully submitted that since Amharic is widely spoken in Assab, where the Appellant was born and resided in for 6 years as a child

prior to leaving Eritrea it was not implausible that the Appellant could only speak Amharic. The Respondent at paragraph 32 of her refusal letter stated this:

External information verifies the area Campo Sudan as being in Assab, Eritrea (<http://www.eritrea.be/old/eritrea-assab.htm> - accessed 29 March 2021). It is plausible that your parents are fluent in both Tigrinya and Amharic as external information above shows that Assab used to be the 'main port serving Addis Ababa' (Ethiopia

The evidence of the witness "Mr F"

"8. At paragraph 16 the FTTJ states that he gives weight to the evidence of "Mr F" but notes he is not an independent witness and that his evidence needs to be considered in the round with all of the evidence in the case.

It is respectfully submitted that the FTTJ fails to properly reconcile the evidence of the witness "Mr F" as against the other evidence and fails to give reasons as to why evidence from a witness of truth stands to be rejected merely because they knew the Appellant.

9. The FTTJ fails to make any specific findings in relation to the contents of the witness' evidence about how he knew the Appellant and her circumstances in Eritrea and then Ethiopia.

The witness gave evidence consistent with the Appellant's evidence.

10. The FTTJ fails to give any or any proper reasons why the witness "Mr F", a recognised refugee would jeopardise his immigration status to come to court to give supporting evidence on behalf of the Appellant.

It is further respectfully submitted that the FTTJ failed to consider that the witness' evidence was not challenged by the Respondent's representative in his closing submissions.

11. The FTTJ failed to consider that the witness who spoke in Amharic was recognised by the Respondent as a refugee from Assab, Eritrea even though he had lived in Ethiopia for a number of years prior to coming to the U.K.

The Ethiopian passport and the visa application in 2014

12. At paragraphs 17 to 19 the FTTJ fails to consider that the agent had obtained a genuine Ethiopian passport through fraudulent means for the Appellant.

The FTTJ failed to consider that there is a significant amount of corruption in Ethiopia particularly in relation to obtaining documents.

13. The FTTJ failed to consider that the Appellant was arrested and detained for using the fake passport by the Ethiopian authorities in or about March 2016.

14. At paragraphs 20 and 21 the FTTJ considers the contents of the Appellant's visa application in 2014 and her evidence on that issue and fails

to consider that the Appellant did not succeed in obtaining the visa and that her application was made to help her get a visa to leave the country.

Other credibility issues

15. At paragraph 22a. the FTTJ states that the Appellant's assertion of having to escape out of the house to evade the soldiers had not previously been given. The FTTJ fails to consider that the Appellant was not asked previously how her father had been arrested by the authorities.

16. At paragraph 22b. the FTTJ failed to consider that the Appellant was confused with the dates in the Ethiopian and Gregorian calendar such that she should have been given the benefit of doubt.

17. At paragraph 22c. the FTTJ failed to give any or any proper reasons as to why the Appellant's explanation was inadequate.

18. At paragraph 22d. the FTTJ failed to consider that the Appellant did not (sic) a copy of her visa application to take to the Embassy.

The FTTJ also failed to consider the risk to the Appellant in submitting a previous visa application associated with a false passport to the Ethiopian Embassy.

19. At paragraph 22e. the FTTJ failed to consider that the Appellant was not granted a visa and that the Appellant's application was a method of leaving the country to seek asylum.

20. At paragraph 23 of the determination the FTTJ does not deal adequately with the contradiction in the Respondent's refusal letter at paragraphs 57 and 58 which accepts the Appellant is Pentecostal Christian because she has given a consistent and detailed account of attending church in Assab with her mother before the Pentecostal religion was banned in Eritrea and provided a detailed account of why she practiced her faith in secret after the ban in 2002 but then goes onto reject her Eritrean nationality.

The Respondent's refusal letter at paragraphs 57 and 58 stated:

"57. You stated that, you used to attend Mulu Wongel church in Assab with your mother before the Eritrean government banned the Pentecostal religion in May 2002. After the ban, you continued practicing your faith in secret (WS 11, AIR Q.133). Furthermore, your father was arrested and detained by the Eritrean authorities because of following the Pentecostal religion (WS 11, AIR Q. 140). External information also shows the Eritrean governments continues to repress religious freedom in Eritrea. (https://www.uscirf.gov/sites/default/files/Tier1_ERITREA.pdf - accessed 18 March 2021). It is considered that you have provided a detailed, internally and externally account of why you practised your faith in secret after the ban in 2002.

58. For the reasons given above, it is considered that you have given a consistent and detailed account in relation to your religion and it is therefore accepted that you are a Pentecostal Christian."

21. It is respectfully submitted there is no ambiguity here- the Respondent has accepted the Appellant is Pentecostal Christian based on her account of following the faith in Eritrea and yet goes onto reject her nationality; the FTTJ fails to consider that the Respondent's position is contradictory in terms."

5. Miss Patel additionally submitted orally that Mr F had a similar issue regarding his linguistic ability. He had given oral evidence that he knew the Appellant previously, and was aware of her having been detained for having the false passport. He had arrived in the United Kingdom after the Appellant, and was granted refugee status after his interview. He attended the Embassy with the Appellant where she said she wanted to apply for an Ethiopian passport but did not have the relevant documents. She was told there that she was Eritrean. She answered truthfully. Mr F's evidence was not considered. Their evidence was consistent with each other. His evidence was not just a question of what weight was to be applied, but what he actually said. It is not clear why his evidence was rejected. If it was found that there was a material error of law, the Judges' decision should be set aside and the appeal remitted.

The Respondent's position

6. In the Rule 24 response the Respondent stated

"2. ... In summary, the respondent will submit inter alia that the judge of the First-tier Tribunal directed himself appropriately.

3. The First-tier Tribunal applied the guidance set out in Hussain and Another (Status of passports: foreign law) [2020] UKUT 250 (IAC) and implicitly found that the appellant had (sic) no discharged the burden of proof on her to show that she was not an Ethiopian national who held a genuinely issued Ethiopian passport, which she used to apply for a UK visit visa in 2014.

4. The refusal of that application does not disprove the contention that the appellant is an Ethiopian national.

5. The judge gave some weight to the appellant's friend's evidence. The Respondent accepted he was an Eritrean national. His friendship with the appellant developed whilst they both lived in Ethiopia. He was not put forward as an expert on Eritrean or Ethiopian nationality, so his evidence, without more could not be determinative of the question of the appellant's nationality.

6. The appellant's complaints about the other adverse credibility findings based on embellishments and implausibility in her account amount to no more than disagreements with the First-tier Tribunal's findings."

7. Ms Young additionally submitted in her oral submissions that the grounds amounted to a mere disagreement with the decision. On a fair and

balanced reading, it is clear that the Judges gave adequate reasons. The Judges' decision at [14 and 15] had to be read together and there is no error of law in stating that information about Eritrea is readily available and can be researched. The interview record has to be read in full and a number of questions were asked from questions 48 onwards. The Judges' findings on the Appellant's linguistic ability were open to them. The Judges were clearly aware that she claimed to have spent the first 6 years of her life in Eritrea raised by Eritrean parents as they refer to that in [15]. The grounds amount to nothing more than a disagreement with the findings regarding the purchase of and arrest over the false passport, her father's disappearance, confusion over date conversion from the Ethiopian to Gregorian calendar, her attendance at the Embassy with Mr F, and her 2014 visit visa application.

The Appellant's response

8. Miss Patel responded orally that even though [16] of the Judges' decision indicates that weight was given to Mr F's evidence, their treatment of it indicates that no weight was in fact given.

The Judges' decision

9. The Judges made the following findings,

“14. It is not uncommon for an Eritrean national to spend significant periods in Ethiopia, during which they develop their Amharic language at the expense of their Tigrayan fluency. The narrative of an Eritrean living most of their life in Ethiopia is plausible. Further, in interview the Appellant demonstrated a reasonable understanding of Eritrea, including, but not limited to, its culture and geography. She has given a broadly consistent account in that she specified in her screening interview and thereafter that she is an Eritrean national who was arrested and detained in 2016 on account of having obtained a false Ethiopian passport. These features enhance the Appellant's credibility.

15. It is noted, however, that information about Eritrea is readily available and can be researched. Further, whilst the Appellant's proficiency in Amharic is plausible, even if she is an Eritrean national, her lack of ability to speak Tigrinya does undermine her credibility. She claimed that she spent the first six years of her life in Eritrea, raised by Eritrean parents, and that she initially retained contact with her Eritrean mother upon living in Ethiopia. Whilst she was able to speak some small amount of Tigrinya in interview, we find it damaging that she was unable to speak basic Tigrinya words, such as the names of colours and days of the week.

16. We give weight to the evidence of “Mr F”. Upon him producing his United Kingdom residence permit (a copy of which can be found in the bundle), it was accepted by Mr Bhurton that he is an Eritrean national with refugee status in the United Kingdom. He gave evidence of knowing the Appellant and her mother in Eritrea and that he also knew her when they had moved to Ethiopia. He demonstrated knowledge of the Appellant's mother during cross-examination, for example, that she

had been working as a maid in Ethiopia. Whilst assigning weight to his evidence, we noted that he was not an independent witness as, regardless of the veracity of his account, he was clearly friends with the Appellant. Further, his evidence need to be considered in the round with all of the evidence in the case.

17. The Appellant's previous reliance upon an Ethiopian identity and passport is significantly undermining to her assertion to be Eritrean. The Appellant stated that she had wanted to come to the United Kingdom where she would have greater freedom, and asserted that she rarely left her foster parents' house in Ethiopia due to discrimination on account of her Eritrean nationality. Her foster parents had funded the visa application and false passport in 2014. Her intention was to stay with a male called Erik in the United Kingdom. She intended to remain in the United Kingdom, as opposed to returning to Ethiopia upon expiry of the visa.

18. We found that the account was undermined for various reasons. Whilst the visit visa had been refused, it was for reasons other than inadequacy of identification documentation and the Ethiopian passport was not identified as being fake. The Appellant asserts that it was a genuine passport but with her photograph added. We considered there to be considerable weight to the Respondent's argument in this regard, supported by *Hussain and Another (Status of passports: foreign law) [2020] UKUT 250 (IAC)*:

"... all over the world and particularly at international borders, such attention has to be given to the detection of forgeries and alterations in passports. A document detected as deceptive will not have the effect of a genuine passport. But the converse is also true: a document not detected as a forgery does have that effect, both at the diplomatic level and in the way its holder is perceived in a country that is not his country of nationality."

19. Whilst the level of scrutiny given to the passport by officials considering the 2014 visit visa is not known, it is nevertheless undermining to the Appellant's assertion that it was an altered passport that no concerns or issues were raised when it was included within her application for entry to the United Kingdom.

20. Further, we did not consider the Appellant's evidence about the circumstances of the 2014 application to be plausible. She stated that she had intended to stay with a male called 'Erik', who she had met online and had known in that context for approximately 12 months at the time of the application. The account is undermined by the fact that the Appellant was unable to tell us where in the United Kingdom Erik was living. We did not consider it plausible that her foster family would expend considerable funds, and take the risk of purchasing a fake passport, to allow the Appellant, then aged 16 if her account is accepted, to travel alone to the United Kingdom to live with a male that she had only known over the internet.

21. The Appellant's account of what occurred in 2014 have been inconsistent. Within her September 2021 witness statement, the

accuracy of which she confirmed at the outset of the hearing, she stated that she met Erik online in 2014 and that she had only intended to visit the United Kingdom for 19 days. Within her October 2020 witness statement, she made no reference to Erik and said that her foster mother "...tried to send me to another country to work". However, within her oral evidence she stated that she had known Erik for 12 months at the time of the June 2014 application and that she intended to remain in the United Kingdom. Whilst the male is named 'Erik' in the September 2021 witness statement and during the Appellant's oral evidence, we note that within the application for the visit visa, the male was named 'Rick'.

22. There are various other features of the evidence that undermine the Appellant's credibility:

a. She asserts that her father disappeared in Eritrea when she was six years of age. Her account has developed considerably over time. During her oral evidence, she outlined that he was arrested by soldiers from the family home and that she was present. The family had been praying. The Appellant had not seen the soldiers but was told of their presence by her mother and they escaped the home out of a different door. Her assertion of having to escape out of the house to evade the soldiers had not previously been given;

b. Within her October 2020 witness statement, the Appellant detailed that she was released from detention in Ethiopia in January 2017, however within the asylum interview she stated that she was released at the end of 2017 and travelled to Sudan at the end of 2017. She met her husband in Sudan in 2017 and they married in 2018. Within her oral evidence, however, she stated that it was 2016 or the beginning of 2017 when she was released from detention. She stated that she may have been confused due to the difference between the Ethiopian and Gregorian calendar. However, we note that whilst her representatives contacted the Respondent after the asylum interview to make corrections, they did not suggest that the dates given had been incorrect or that there had been any confusion. Further, we do not accept that there were any problems with the interpreter in the asylum interview given that the Appellant confirmed that they spoke the same language and she confirmed that she had understood all the questions, and given that the subsequent correspondence from her representatives did not identify any interpretation issues in interview;

c. The Appellant asserts that she was arrested in 2016 upon her name being disclosed to police by the man who had provided the 2014 passport. After a year in detention, she was released upon her foster father paying a bribe. She states that there is now a warrant for her arrest in Ethiopia, and that she had been told this in February 2021. However, despite stating that her foster parents have that document and that she retains contact with them, she has not adduced it as evidence. When asked why she had not provided the warrant as evidence she stated that she had

not asked for it. We do not accept that as an adequate explanation, particularly given that she has the benefit of legal representation. We find her failure, without adequate explanation, to adduce evidence that she asserts is readily available, to be undermining to her credibility;

d. The Appellant asserts that she has attended the Ethiopian Embassy with "Mr F" in 14th September 2021 and been refused documentation. That is of little surprise given that she asserts that she told officials at the Embassy that she is Eritrean. What she failed to do, which undermines her credibility, is provide the Embassy with relevant documentation, such as a copy of the 2014 visit visa application or the asylum Reason for Refusal Letter. I note from the Respondent Review that the Respondent's bundle was uploaded to CCD on 3rd September 2021 and so would have been available to the Appellant, via her representatives, to obtain and take with her to the Embassy. Even if not, the Appellant could have returned to the Embassy when she was provided with those documents. The Appellant has not done all that could be reasonably expected to facilitate a return to Ethiopia; and

e. The Appellant accepts previously trying to deceive the authorities in the United Kingdom, specifically that when applying for a visit visa to the United Kingdom, she in fact intended to remain in the United Kingdom rather than return to Ethiopia. That is damaging to her credibility.

23. The Appellant argues that the Respondent had been inconsistent in its decision-making, as she had accepted that the Appellant had practised her Pentecostal Christianity in Eritrea, despite finding that she was Ethiopian. We are satisfied that the Refusal, when read as a whole, clearly concludes that the Appellant's account, particularly in relation to nationality, is not accepted. Further, whilst the Appellant's account of practising religion in Eritrea is assessed by the Respondent as being detailed and consistent, and whilst there is an express acceptance that the Appellant is a Pentecostal Christian, there is no express positive finding by the Respondent that the Appellant had lived and worshiped in Eritrea.

24. We have stood back and considered all of the evidence in the round and given as much weight as we feel able to the evidence that is supportive of the Appellant's claim. We note that there are features of the evidence that do support the Appellant's case, particularly the evidence of "Mr F", together with her knowledge of Eritrea. We have reminded ourselves of the low standard of proof to be adopted. However, even upon that low standard of proof we are not satisfied that the Appellant is Eritrean. We find that she has fabricated an account to pursue an unmeritorious claim for asylum, including her purported Eritrean nationality, her assertion of having previously obtained a false Ethiopia passport and her assertion of arrest and detention in Ethiopia. We do not accept, to the lower standard of proof, that the Appellant is stateless. In light of the 2014 visa application, we are satisfied that it is more likely than not that she is Ethiopian and has access to Ethiopian identity documentation and citizenship."

Discussion

The evidence of Mr F

10. The Respondent accepted he was an Eritrean national. It was correct to note that he was not put forward as an expert on Eritrean or Ethiopian nationality, and that his evidence, without more could not be determinative of the question of the Appellant's nationality. However, there was more.
11. In his statement Mr F said,
 - “3. The Appellant's mother and my mother were good friends, and we knew each other in Assab. In 2002 I fled Eritrea with my parents to Ethiopia. In 2003 the Appellant fled Eritrea with her mother to Ethiopia. The Appellant was living with her mother's friends in Ethiopia and so I would see the Appellant in Addis Ababa. The church I attended in Ethiopia was not far from where the Appellant was living and so I would visit her when I would go to church. In April 2016 I went to the Appellants house and learnt she had been detained as she had a false passport. We reunited in the UK in 2020 at the " X" church in Leeds. I know the Appellant is Eritrean and her name is "HAB". I do not know her exact date of birth, but I am around 1 and half or two years older than her.
 4. On the 14th September 2021 I attended the Ethiopian Embassy with the Appellant. We approached the front desk and spoke to a man. The Appellant told him that she wanted to apply for an Ethiopian passport. He asked her if she had anything to prove that she was Ethiopian. The Appellant explained that she had nothing. He asked her what ID her parents had. She told him they had Eritrean ID. He asked her where she was born. She told him that she was born in Assab, Eritrea. He said as she was born in Eritrea from Eritrean parents and so she was Eritrean, not Ethiopian. She told him that she lived in Ethiopia from 2003 to 2017 and studied there but he said this did not matter. She asked him if he could put this in writing, but he said the embassy doesn't do this.”
12. When undertaking their analysis of the evidence in reaching their decision the Judges did not attempt to reconcile his evidence as against the other evidence on this issue.
13. We are further satisfied that the Judges did not give reasons as to why his evidence stood to be rejected merely because he knew the Appellant. We note that in *R (app SS) v Secretary of State for the Home Department ("self-serving statements") [2017] UKUT 00164 (IAC)* a letter was considered where the author was not cross-examined. In this appeal Mr F provided a statement and was cross-examined. He had already been found by the Respondent to be reasonably likely to be telling the truth about his

own claim as he was granted refugee status after interview. In *R (app SS)* it stated that

“The expression “self-serving” is, to a large extent, a protean one. The expression itself tells us little or nothing. What is needed is a reason, however brief, for that designation.”

14. In this case, the Judges gave no reason as to why his friendship with the Appellant diminished the weight to be attached to his evidence. The Judges have not considered that someone who was not a friend may have been less likely to give evidence on her behalf or gone to the Ethiopian Embassy with her, and would have been less able to provide evidence about how they knew the Appellant from Eritrea and Ethiopia. The Judges did not make findings in relation to the contents of his evidence. The Judges did not explain why he would jeopardise his immigration status to come to court to give supporting evidence on behalf of the Appellant. The Judges did not consider that, like the Appellant, he spoke in Amharic and was recognised by the Respondent as a refugee from Assab, Eritrea even though he had lived in Ethiopia for a number of years prior to coming to the United Kingdom.
15. We are therefore satisfied that the Judges materially erred regarding the manner in which they assessed the evidence of Mr F for the reasons set out above.

The Appellant’s knowledge of Eritrea

16. The Judges’ state that in interview she demonstrated a reasonable understanding of Eritrea including but not limited to its culture and geography but that information about Eritrea is readily available and can be researched. We note from the Respondent’s refusal letter at [33] that the Appellant,

“described the area where you were living in Assab, Eritrea as ‘there is Erigib Adebay (Dove Square), Mulu Wongel Church (Full Gospel), St Micheal's Church and then Assab Hotel’ (AIR Q.48). External information verifies the existence of Mulu Wongel Church (Full Gospel) and St Michael’s Church ... However, there is no external information to verify the existence of ‘Erigib Adebay (Dove Square).”

At [39] “described the Eritrean flag as, ‘Green, Red, Blue and the centre is yellow’ (AIR Q.73). ... You also named the ‘camel’ as the national symbol of Eritrea (AIR Q.71). You named the Eritrean TV channels as ‘Eritrea TV1’ (AIR Q.72). You described the Eritrean national holidays as ‘24th May Independence Day, 1st May workers day, 8th March Women's day, 20th June Martyrs day’ (AIR Q.57). You named the national currency as ‘Nakfa’ and the notes denominations as ‘1,5,10,20,50 and 100’ (AIR Q.54-55). Your responses are considered consistent with external information...”

And at [40] “were asked to describe the 50 Nakfa note, the name of your local hospital and airport (AIR Q.56, 58-59). You said that you cannot remember. Your response is considered reasonable, given the age (6 years old) you left Eritrea. It is also noted that you named Fikregnoch Mengid (love street) as a nearby town or city to where you lived in Campo Sudan (Assab), Eritrea (AIR Q.60). However, there is no external information to verify its existence.”

17. Much of what the Appellant said has been externally verified. Nothing she said was found to be incorrect. She had no idea what questions she was going to be asked. We are satisfied that this level of knowledge as accepted by the Respondent demonstrates more than just “a reasonable understanding of Eritrea” and this was not taken into account in the Judges’ analysis of the evidence. She has been given inadequate credit for her knowledge of Eritrea when assessing the issue of nationality.
18. The fact that “that information about Eritrea is readily available and can be researched” does not mean that it is necessarily how she acquired that knowledge. The Judges make no mention of her claim in her screening interview to be “uneducated” and her initial statement (27 October 2020) to have “home studied in Ethiopia” and “had no legal right in Ethiopia to... study” and in her substantive interview at Q53 “I did not go to school when in Eritrea”. All of these indicate she had no formal education and the Judges have not explained how that may have impacted on her ability to undertake the research they suggest may have been undertaken.
19. We are therefore satisfied that the Judges materially erred regarding the manner in which they assessed the Appellant’s knowledge of Eritrea.

The Appellant’s lack of ability to speak Tigrinya

20. The Judges stated that “we find it damaging that she was unable to speak basic Tigrinya words, such as the names of colours and days of the week.” However they do not adequately explain why her explanation for her limited linguistic ability of having left Eritrea when she was 6, was raised in an Amharic speaking area where she spoke Amharic with her mother who used to live in Ethiopia before she returned to Eritrea in 1996, and she was given to an Amharic speaking Ethiopian family and grew up with them (see interview Q66-68) does not account for this. In addition, the Judges give no credit for the limited Eritrean she does speak. In addition, the Judges do not explain how the Respondent’s concession at [32] of her refusal letter that:

“External information verifies the area Campo Sudan as being in Assab, Eritrea (<http://www.eritrea.be/old/eritrea-assab.htm> - accessed 29 March 2021). It is plausible that your parents are fluent in both Tigrinya and Amharic as external information above shows that Assab used to be the ‘main port serving Addis Ababa’”

may have impacted on the evidence given of the language spoken at home.

21. We are therefore satisfied that the Judges materially erred regarding the manner in which they assessed the Appellant's linguistic ability.

The Ethiopian passport and the visa application in 2014

22. The Judges make no finding on the evidence given by the Appellant that an agent had obtained a genuine Ethiopian passport through fraudulent means for the Appellant, she failed to obtain a visa using that passport, and the unchallenged evidence of Mr F that "In April 2016 I went to the Appellants house and learnt she had been detained as she had a false passport." Ms Young relies upon the decision in *Hussain*. However the reliance placed on that decision is misplaced as the factual matrix is wholly different to that in *Hussain* where the Appellant had used the passport on multiple occasions, whereas this Appellant not only did not travel on it but was refused a visa and arrested. This failure to assess the relevant evidence on this issue and misapplication of *Hussain* amounts to a material error of law.
23. We note the submission that the Judges failed to consider that there is a significant amount of corruption in Ethiopia particularly in relation to obtaining documents. We cannot however locate any evidence to that effect in the documents before the Judges.

Other credibility issues

24. We accept that, absent the other material errors of law, the rest of the adverse credibility findings would not have amounted to material errors of law, as the Judges gave adequate reason reasons for rejecting the account. However, when considered in the context of the material errors of law we have found, none of those matters identified in [22] of the Judges' decision can stand.
25. For those reasons we are satisfied that the Judges erred in law in their overall assessment of the evidence. As the errors relate to the analysis of the evidence of a witness alongside the evidence given by the Appellant, and the country evidence, the overall assessment of the credibility of the Appellant's protection claim is flawed and will be required to be reheard afresh.
26. As to the remaking of the decision and having heard from the advocates we are further satisfied that in light of the fact findings which will be necessary, the appeal falls within paragraph 7.2 (b) of the practice statement. We therefore remit the appeal to the First-tier Tribunal for that hearing to take place as both advocates have submitted. We do not preserve any findings of fact made and it will be for the tribunal to undertake a holistic assessment of credibility in the light of the evidence as a whole.

Decision

The decision of the First-tier Tribunal involved the making of an error on a point of law; the decision is set aside.

The appeal is remitted to the First-tier Tribunal for a hearing.

Laurence Saffer

Deputy Upper Tribunal Judge Saffer
10 January 2023