



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2022-003765

First-tier Tribunal No: PA/50304/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 22 June 2023**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**SSM  
(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Hussain (remote), instructed by Halliday Reeves Solicitors.  
For the Respondent: Mr McVeety, a Senior Home Office Presenting Officer.

**Heard at Phoenix House (Bradford) on 19 May 2023**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

1. The Appellant is a citizen of Somalia born on 14 July 1966.
2. Following a hearing at Bradford on 28 November 2022 the Upper Tribunal set aside the decision of the First-tier Tribunal but preserved the findings that the Appellant had paid extortion money to Al-Shabaab and his previous occupations as a farmer and teacher in Somalia.

3. The Appellant's home area is in the south of the country. In his updated witness statement dated 4 May 2023 the Appellant claims that his fears in Somalia remain the same as when he left, claiming the situation in Somalia is even worse and the fighting more intense.
4. The Appellant claims he will not be able to return to his family farm which he left because Al-Shabaab had threatened him and that they will carry out the threat if he returns. He also claims that the family and neighbouring farms have been taken over by Al- Shabaab and that his family cannot work on the land anymore and not make any money from the farm.
5. The Appellant claims he knows the farm has been taken over because he was present when it initially happened and that he has been told that the situation continues by distant cousins who currently reside in Somalia. He claims one of his cousins confirmed the fact to him as recently as two months ago.
6. The Appellant also claims that his whole family have fled his home area because of Al- Shabaab and so if he went back his family would not be there.
7. The Appellant also claims that if he returns to his family farm he would refuse to pay the extortion money to Al Shabaab which would lead them to killing him, as anybody who does not pay the money is persecuted and killed.
8. In relation to the Secretary of State's position that the Appellant could return to Somalia to work as a teacher, he claims he has not worked as a teacher for around 25 years, since 1998, and lacks any up-to-date skills in relation to such employment, as the curriculum would have completely changed since he was last teaching. The Appellant claims it is unlikely anybody would offer him a job because he has been 'out of the field' for over 20 years.
9. The Appellant claims the only family contact he has is with distant cousins currently living in Merka. Two of his children and two of his brothers are residing in the UK. The Appellant claims not to have contact with his ex-wife and that the rest of his family are not in Somalia and have spread across Europe and Canada, but he claims not have contact with them directly.
10. The Appellant claims he has no connections with anybody in Mogadishu and that although his distant cousins sometimes go there for business they do not live there, and that if returned to Somalia he would have to return to his family farm area where he will be killed.
11. The Appellant claims he will be killed as he has refused to pay the extortion money and because he has already been accused of working for the Somali government as a spy by Al-Shabaab.
12. The Appellant was cross-examined by Mr McVeety about his claim to have been suspected as being a spy for the Somali government. His evidence was that he was suspected because he had approached a government department, albeit only in the hope of securing support to improve the productivity of his farm. The Appellant's claim that just by contacting the government department he put himself at risk was not supported by any country material and the submission that if the farm was more productive as a result of government assistance there will be more money available for the appellant and Al-Shabaab, is plausible.
13. The Appellant was asked about his claim in interview that he had applied to the government for loan which he denied in the course of his oral evidence, yet that was what he claimed.
14. What I find undermines the Appellant's claim is that despite claiming he was suspected of being a spy for the Somali government, and despite Al-Shabaab knowing where he lived, as they receive payments from him from his farm income, he was not harmed.
15. Country material, particularly in the European Union Agency for Asylum (EUAA), Country Guidance Somalia 2022, 2.1.4, refers to civilians perceived as spies by Al- Shabaab. That shows that Al-Shabaab considers spying for the government,

- for AMISOM or Western countries or FMS administrations and forces, as a crime punishable by death.
16. The Appellant's evidence was also that nobody had approached him or threatened him but that he had heard from a third party that Al-Shabaab had accused him of being a spy. The EUAA report refers to Al-Shabaab referring to espionage as the main reason for the executions it undertakes of civilians and that the level of proof required to proceed to an execution is 'quite low', with the accused never allowed access to a lawyer. Executions are public in order to send a clear message of what will happen to anybody not complying with Al-Shabaab's rules, with local residents being compelled to attend and watch the executions being carried out. It also states that where individuals are arrested for rebellion or allegations of spying, intercessions by clan elders have no impact, and that Al-Shabaab have also executed some of their own members for alleged espionage.
  17. Despite such a hard line approach there is no evidence of anything actually happening to the Appellant.
  18. There is no evidence the Appellant actually spied for the Somali government against Al-Shabaab or any credible evidence that it was likely that he has been or will be perceived to be a spy. I find the Appellant's claim he faces a real risk return as a result of such to be an attempt to enhance his asylum claim by adding an additional element that, even to the lower standard applicable to a protection appeal, has not been shown to be credible.
  19. As noted by the preserved findings, it is accepted the Appellant was made to pay money to Al-Shabaab from his farm income. If he returned to his home area of Wajale, a city on the border of Somalia and Ethiopia, and refused to make payments, he stands a real risk of being killed for the reasons set out in the Upper Tribunal error of law decision.
  20. My finding in relation to the lack of credibility in relation to the claim to be at risk on the basis the Appellant has been accused of spying for the Somali government matches that of the First-tier Tribunal where it is written at [65]:

65. Having considered all of the evidence before me in the round, I am not satisfied to the required standard of proof that the Appellant's account of being at risk in the event of return to Somalia because of accusations made against him by Al-Shabaab of working with the Somali government and having been sentenced to death are reasonably likely to be true. I find that the Appellant's account in this respect has been vague and inconsistent and having considered all of the evidence before me believe it is the case that the Appellant's position is, as he initially said at Question 53 of his asylum interview, that a generalised fear of AS who had taken machinery and farm equipment from the family farm, had looted the farm in this respect and that generally, he did not feel safe as a result of the presence of AS and had no reason to stay in Somalia. I accept that the Appellant had been paying extortion money to AS for several years and that he had been living in an area under the control of AS for several years and had no wish to continue to do so but I am not satisfied to the requisite standard of proof that the Appellant had been specifically targeted by AS as claimed by the Appellant.

21. I accept the submission of Mr Hussain that as the Appellant faces a real risk in his home area the issue is whether it is reasonable for him to internally relocate within Somalia.

Internal relocation

22. The leading cases on the issue of return to Somalia, referred to by both advocates are MOJ & Ors (Return to Mogadishu) Somalia CG [2014] UKUT00442 (IAC) and OA (Somalia) CG [2022] UKUT 00033 (IAC).
23. It was held in OA that the guidance set out at paragraph 407 of MOJ, replicated in the headnote at paragraphs (ii) to (x) remains applicable with the additional country guidance provide in OA.
24. Paragraphs (ii) to (vi) of the headnote of MOJ deal with the durable change in Mogadishu following Al-Shabaab withdrawing from the city, there being no risk of forced recruitment by Al-Shabaab, including of recent returnees from the west, and lack of Article 15C risk.
25. The evidence in this case does not establish a credible risk to the Appellant in Mogadishu from any of these sources.
26. Relevant to the issue of internal relocation it is written:
- (i) *A person returning to Mogadishu after a period of absence will look to his nuclear family, if he has one living in the city, for assistance in re-establishing himself and securing a livelihood. Although a returnee may also seek assistance from his clan members who are not close relatives, such help is only likely to be forthcoming for majority clan members, as minority clans may have little to offer.*
  - (ii) *The significance of clan membership in Mogadishu has changed. Clans now provide, potentially, social support mechanisms and assist with access to livelihoods, performing less of a protection function than previously. There are no clan militias in Mogadishu, no clan violence, and no clan based discriminatory treatment, even for minority clan members.*
  - (iii) *If it is accepted that a person facing a return to Mogadishu after a period of absence has no nuclear family or close relatives in the city to assist him in re-establishing himself on return, there will need to be a careful assessment of all of the circumstances. These considerations will include, but are not limited to:*
    - *circumstances in Mogadishu before departure;*
    - *length of absence from Mogadishu;*
    - *family or clan associations to call upon in Mogadishu;*
    - *access to financial resources;*
    - *prospects of securing a livelihood, whether that be employment or self employment;*
    - *availability of remittances from abroad;*
    - *means of support during the time spent in the United Kingdom;*
    - *why his ability to fund the journey to the West no longer enables an appellant to secure financial support on return.*
  - (iv) *Put another way, it will be for the person facing return to explain why he would not be able to access the economic opportunities that have been produced by the economic boom, especially as there is evidence to the effect that returnees are taking jobs at the expense of those who have never been away.*
  - (v) *It will, therefore, only be those with no clan or family support who will not be in receipt of remittances from abroad and who have no real prospect of securing access to a livelihood on return who will face the prospect of living in circumstances falling below that which is acceptable in humanitarian protection terms.*
  - (vi) *The evidence indicates clearly that it is not simply those who originate from Mogadishu that may now generally return to live in the city without being subjected to an Article 15(c) risk or facing a real risk of destitution. On the other hand, relocation in Mogadishu for a person of a minority clan with no former*

*links to the city, no access to funds and no other form of clan, family or social support is unlikely to be realistic as, in the absence of means to establish a home and some form of ongoing financial support there will be a real risk of having no alternative but to live in makeshift accommodation within an IDP camp where there is a real possibility of having to live in conditions that will fall below acceptable humanitarian standards.*

27. The additional guidance provided in OA reads:

1. *In an Article 3 "living conditions" case, there must be a causal link between the Secretary of State's removal decision and any "intense suffering" feared by the returnee. This includes a requirement for temporal proximity between the removal decision and any "intense suffering" of which the returnee claims to be at real risk. This reflects the requirement in Paposhvili [2017] Imm AR 867 for intense suffering to be "serious, rapid and irreversible" in order to engage the returning State's obligations under Article 3 ECHR. A returnee fearing "intense suffering" on account of their prospective living conditions at some unknown point in the future is unlikely to be able to attribute responsibility for those living conditions to the Secretary of State, for to do so would be speculative.*

#### Country Guidance

2. *The country guidance given in paragraph 407 of MOJ (replicated at paragraphs (ii) to (x) of the headnote to MOJ) remains applicable.*
3. *We give the following additional country guidance which goes to the assessment of all the circumstances of a returnee's case, as required by MOJ at paragraph 407(h).*
4. *The Reer Hamar are a senior minority clan whose ancient heritage in Mogadishu has placed it in a comparatively advantageous position compared to other minority clans. Strategic marriage alliances into dominant clans has strengthened the overall standing and influence of the Reer Hamar. There are no reports of the Reer Hamar living in IDP camps and it would be unusual for a member of the clan to do so.*
5. *Somali culture is such that family and social links are, in general, retained between the diaspora and those living in Somalia. Somali family networks are very extensive and the social ties between different branches of the family are very tight. A returnee with family and diaspora links in this country will be unlikely to be more than a small number of degrees of separation away from establishing contact with a member of their clan, or extended family, in Mogadishu through friends of friends, if not through direct contact.*
6. *In-country assistance from a returnee's clan or network is not necessarily contingent upon the returnee having personally made remittances as a member of the diaspora. Relevant factors include whether a member of the returnee's household made remittances, and the returnee's ability to have sent remittances before their return.*
7. *A guarantor is not required for hotel rooms. Basic but adequate hotel accommodation is available for a nightly fee of around 25USD. The Secretary of State's Facilitated Returns Scheme will be sufficient to fund a returnee's initial reception in Mogadishu for up to several weeks, while the returnee establishes or reconnects with their network or finds a guarantor. Taxis are available to take returnees from the airport to their hotel.*
8. *The economic boom continues with the consequence that casual and day labour positions are available. A guarantor may be required to vouch for some employed positions, although a guarantor is not likely to be required for self-employed positions, given the number of recent arrivals who have secured or crafted roles in the informal economy.*
9. *A guarantor may be required to vouch for prospective tenants in the city. In the accommodation context, the term 'guarantor' is broad, and encompasses*

*vouching for the individual concerned, rather than assuming legal obligations as part of a formal land transaction. Adequate rooms are available to rent in the region of 40USD to 150USD per month in conditions that would not, without more, amount to a breach of Article 3 ECHR.*

10. *There is a spectrum of conditions across the IDP camps; some remain as they were at the time of MOJ, whereas there has been durable positive change in a significant number of others. Many camps now feature material conditions that are adequate by Somali standards. The living conditions in the worst IDP camps will be dire on account of their overcrowding, the prevalence of disease, the destitution of their residents, the unsanitary conditions, the lack of accessible services and the exposure to the risk of crime.*
11. *The extent to which the Secretary of State may properly be held to be responsible for exposing a returnee to intense suffering which may in time arise as a result of such conditions turns on factors that include whether, upon arrival in Mogadishu, the returnee would be without any prospect of initial accommodation, support or another base from which to begin to establish themselves in the city.*
12. *There will need to be a careful assessment of all the circumstances of the particular individual in order to ascertain the Article 3, humanitarian protection or internal relocation implications of an individual's return.*
13. *If there are particular features of an individual returnee's circumstances or characteristics that mean that there are substantial grounds to conclude that there will be a real risk that, notwithstanding the availability of the Facilitated Returns Scheme and the other means available to a returnee of establishing themselves in Mogadishu, residence in an IDP camp or informal settlement will be reasonably likely, a careful consideration of all the circumstances will be required in order to determine whether their return will entail a real risk of Article 3 being breached. Such cases are likely to be rare, in light of the evidence that very few, if any, returning members of the diaspora are forced to resort to IDP camps.*
14. *It will only be those with no clan or family support who will not be in receipt of remittances from abroad and who have no real prospect of securing access to a livelihood on return who will face the prospect of living in circumstances falling below that which would be reasonable for internal relocation purposes.*
15. *There is some mental health provision in Mogadishu. Means-tested anti-psychotic medication is available.*
16. *Hard drugs are not readily available in Mogadishu, and the focus of substance abuse is khat, cannabis, alcohol and tobacco. It is not reasonably likely that an ordinary returnee, without significant means or pre-existing connections to criminal elements in Mogadishu, would be able to procure hard drugs, such as heroin and cocaine, upon their return.*

*Other country guidance given by MOJ*

17. *The country guidance given at paragraph 408 of MOJ ((xi) of the headnote) is replaced with the country guidance at paragraph (14), above. Paragraph 425 of MOJ ((xii) of the headnote) should be read as though the reference to "having to live in conditions that will fall below acceptable humanitarian standards" were a reference to "living in circumstances falling below that which would be reasonable for internal relocation purposes".*

28. It is not disputed the Appellant is a member of the Dir clan. It is not made out the Appellant has experienced any problems in Somalia as a result of his membership of the Dir clan. He specifically confirms in his evidence that he has not.

29. The Appellant was asked by Mr McVeety about his claim to have had to flee yet leave his wife and children behind in Somalia, purportedly in his home area. The Appellant's reply to the question was vague, a trait noted previously, but when pushed to explain why he had left his wife and family, yet he had come to the

safety of the UK, he replied that he had not left them and that they were now in Mogadishu which is safe. When it was put to the Appellant that as he was saying Mogadishu was safe for his wife and children, why was it not for him, he claimed that the difference was that 'they' were looking for him not her and that if he was there it will still not be safe. I find this aspect of the claim not made out, as there is no credible evidence the Appellant will face a real risk of harm from anyone in Mogadishu.

30. The Appellant reply also indicates his wife and children are able to live in Mogadishu with insufficient evidence of harm or humanitarian concerns arising for them, indicating they must have adequate support/resources available to them there.
31. The appellant is of the Dir clan. The Somali people are composed of four major clans, the Dir, Hawiye, Darod, and Rahanweyn who make up the majority of Somalis. The appellant has cousins within Somalia, presumably of the same clan, with whom he is in contact. It is not made out that by using such contact he would not be able to establish contact with fellow clan members for whom we could seek support or assistance, if required, as envisaged in the country guidance cases.
32. On behalf of the Appellant, and contrary to what emerged in his oral evidence, it was argued he has no family in Mogadishu and that the Secretary of State's case did not give proper weight to the fact he has no family there and that his only evidence was that family members come to Mogadishu for work. It was submitted they are remote relatives. It was further submitted that the Appellant had last worked as a teacher 25 years ago and that if returned he will become destitute as he will not be able to find work or benefit from the economic opportunities available to him.
33. It was submitted the Appellant could not return to his farm and earn a living from the land and that the Appellant had been away from his home area and Mogadishu for 5 years now, that a lot of change have occurred since then, and that the appeal should be allowed.
34. The Appellant claims in his first witness statement that after he left his farm, in June 2019, he went to Mogadishu. In his asylum interview, however, the Appellant provided details of his family history.
35. The Appellant confirmed he was born in Ethiopia but never had the right to live there and that when the family fled as a result of or between Somalia and Ethiopia, in 1977, they went to South Lower Shabala in Somalia. He claims the family settled in a small village in the south of Somalia where his father bought land to farm and where the Appellant attended school.
36. The Appellant stated they lived in that area for the academic year 1977 - 98 and 1980 - 81 after which the family moved to Mogadishu. When asked which places he spent most of his time in Somalia in, at question 19, the Appellant claimed it was Mogadishu which he believed he left in 1994-95, although in another reply to question 20, he claims he left Mogadishu a number of times and that was one of the times.
37. The Appellant claimed he was last in Somalia in 2018 but his immigration history recorded in the refusal letter shows he left Somalia in July 2019, using his own passport to fly to Saudi Arabia with a Omra Visa. The Appellant remained in Saudi Arabia for one month before flying to Egypt using his own passport and a tourist visa where he remained for three weeks. The Appellant then flew to Finland using a transit visa which allowed him to stay for one night, but stayed for four days, before travelling by boat to Sweden. It is said the Appellant remained in Sweden from December 2019 to April 2020, left Sweden 6 April 2020 using somebody else's Swedish passport, and flew directly to the UK, claiming asylum on arrival.

38. The Appellant was asked in his asylum interview whether he had any family in Somalia to which he claimed he had a mother and siblings.
39. The Appellant was asked about the whereabouts of his cousins in Somalia, who he is in contact with, and stated they live in Merka. This is a port city in South Somalia, in the Southern Lower Shebelle province, about 45 miles to the southwest of Mogadishu.
40. Before me it was not made out there is any practical bar to the Appellants returning to Mogadishu, a city he will have some familiarity with having lived there previously.
41. The Appellant will be able to benefit from the Facilitated Return Scheme which will provide him with a sum of money to enable him to pay for accommodation on return and meet his needs whilst he gets established, if required.
42. The Appellant's oral evidence is that his wife and children are in Mogadishu with no evidence of harm or lack of resources, indicating some connection that the family have with the city. I find the appellant's claim to have no contact with family members in Somalia lacks credibility as he was clearly aware that they had relocated to Mogadishu.
43. The Appellant is in contact with his cousins who he claims travel to Mogadishu for business. There is insufficient evidence that they face a risk of harm in making the journey to Mogadishu. There is insufficient evidence to show the Appellant would not be able to contact his cousins in Somalia or, in light of the country guidance referring to the close bond that exists between family and clan in Somalia, would not be able to seek the assistance of his cousins in enabling him to re-establish himself in Mogadishu. This could be by the provision of extra funds or, as the cousins must have business contacts within the city, as otherwise why would they travel there for business, by making introductions to enable the appellant to secure employment. The country guidance caselaw does not make it a specific requirement that family who are able to provide support and assistance have to live in Mogadishu. The only requirement must be that there is a realistic prospect that any support that might be available can be provided on a practical level. There is insufficient evidence to show that the cousins and other family members in Mogadishu would be unable to assist the Appellant, if required.
44. The Appellant refers to family members in the diaspora in various parts of the world. There is insufficient evidence to show that he would not be able to receive support from such family members if required. The claim to have no contact with those family members has to be considered in light of a number of adverse credibility findings in relation to other aspects of the appellant's claims. It is also the case that he has family members in the UK who did not come to court to corroborate his claim that they will be unable or unwilling to provide any assistance if required.
45. I do not find it made out that the Appellant will become destitute of return to Somalia, particularly to Mogadishu. It is not made out he will not be able to seek the assistance of family, or fellow clan members, upon return.
46. In relation to the submission the Appellant will be unable to work find employment I do not find this made out, even to the lower standard. The Appellant claims he has not worked as a teacher for a number of years, but insufficient evidence was provided to show that with the skill sets he has obtained, and with his own degree of ability and knowledge, there would not be job opportunities available to him. The Appellant has worked in agriculture and must have relevant knowledge in relation to the farming industry and food production that may be relevant to job opportunities that arise. The Appellant has language skills including good command of English. Again it was not made out that the combination of skills and experience that the Appellant has would



make it difficult or impossible for him to seek employment on return to Somalia. I do not find it made out that the appellant would not be able to access the economic opportunities available in Mogadishu, recognised in the country guidance cases.

47. The Secretary of State has identified the place to which the Appellant will be returned, namely Mogadishu, Somalia. The Appellant claims it will be unreasonable for him to relocate as to do so will result in his facing unduly harsh consequences. I do not find, when considering the relevant country guidance cases and country material, that the Appellant's claim is made out. Even if difficult or problematic for him to internally relocate that is not the required test. It has not been made out that any issues the Appellant will face are such as to make internal relocation to Mogadishu unreasonable.
48. As the Appellant has an internal flight alternative it is not made out he faces a real risk of harm or persecution sufficient to entitle him to a grant of international protection, leave to remain on human rights grounds, or otherwise, in all of Somalia. Accordingly, I dismiss the appeal.
49. For the sake of completeness, I confirm I have taken into account the news reports and country information relating to the drought in Somalia when coming to the conclusion that the Appellant had not established that his ability to internally relocate to Mogadishu would be unreasonable.

### **Notice of Decision**

50. I dismiss the appeal.

**C J Hanson**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**31 May 2023**