



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/10674/2018

THE IMMIGRATION ACTS

Heard at Bradford
on 16 July 2019

Decision & Reasons Promulgated
on 2 August 2019

Before

UPPER TRIBUNAL JUDGE HANSON

Between

DANIEL HABTOM
(anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Sills instructed by J D Spicer Zeb Solicitors (Kilburn)

For the Respondent: Mrs Pettersen Senior Home Office Presenting Officer

DECISION AND REASONS

1. On 11 April 2019 the Upper Tribunal handed down its reasons for finding a judge of the First-tier Tribunal had erred in law in a manner material to the decision to dismiss the appeal. Directions were issued for the parties to provide further evidence upon which they were intending to rely, to enable the Upper Tribunal to substitute a decision to either allow or dismiss the appeal, no later than 4 PM 27 May 2019.

2. Neither party complied with the direction although as a result of the nature of the evidence they were seeking to rely upon, ability to exchange the same at the commencement of the hearing and to enable further time for all parties to read and consider the evidence, it was possible for the appeal to proceed on the day.

Background

3. The appellant is a citizen of Ethiopia born in 1994.
4. A number of preserved findings arise from the decision of the First-tier Tribunal which are the appellant's membership of a movement called Patriotic Ginbot 7 (PG7), the issue of an arrest warrant against the appellant in Ethiopia and his arrest as a result, his previous detention, the appellant's release following the payment of a bribe, and finding of real risk at the date the appellant left Ethiopia.
5. The context of these findings is established by the appellant in his witness statement dated 19 September 2018 at [14 - 20] in the following terms:
 14. As a supporter in Ethiopia I attended meetings, made financial contributions and distributed leaflets. I was a member of a cell which consisted of five people: one member and four supporters. Endalew was the member and the cell leader. I would attend secret meetings with my cell members once a month. The meetings were held in different houses in order to avoid the adverse attention of the Ethiopian authorities. We would keep our numbers to the minimum of five people. Endalew decides the location and time of each meeting. During the meeting we would discuss the current situation and policies of the movement, how to distribute pamphlets, how to recruit supporters and how to challenge the Ethiopian government's propaganda against our movement. We would also raise funds to cover the printing costs of leaflets. I would contribute 100 Bir per month.
 15. I distributed leaflets on two separate occasions. The first was on 20 May 2016 around the coach station in Addis Ababa. It was at night time. I distributed around 70 - 80. The leaflets explain the aims and objectives of PG 7. They explained that the Ethiopian people should not vote in the general elections as the government always rigs elections. They also explain that the Ethnic-based federal system would destabilise Ethiopia, and that the ruling regime is unable and unwilling to bring about democracy and justice in Ethiopia. The second time was on 17 September 2016 near a huge marketplace called Markato. I distributed around 90 - 100 leaflets.
 16. On 23 April 2014 I participated in a demonstration held at Mesqel Square, Addis Ababa. The protest was called by the government to show solidarity with the Ethiopians who had been slaughtered by ISIS in Libya. Around 10,000 people took part in the protest. Although the protest was called by the Ethiopian government a number of opposition parties seized the opportunity to oppose the government. The protest was organised into groups where a single group consists of about a thousand people. While I was at the front of one of the groups. I agitated the protesters by shouting antiregime slogans. I accused the government of being responsible for the death of innocent Ethiopians in Libya. The federal police used brute force to disperse the protest. A number of protesters were injured. About 200 of us, including myself, were arrested. We were initially taken to Addis Ababa football stadium where we stayed for a couple of hours.

17. I was taken then to Mehakelawi police station. I was detained there for about 3 months and 20 days. The first two weeks I was kept on my own. I was interrogated on daily basis during those two weeks. I was asked to admit that I worked with PG 7. I was not involved with PG 7 by then. The police claimed that PG 7 leaflets were found amongst the demonstrators. They accused me of distributing those leaflets. I was then transferred into another cell where I was locked with another 50 detainees. I was released as they couldn't find any evidence against. I was made to sign a declaration that confirms that I will be killed should I attend any anti-government demonstration. The interrogator put his hands around my neck and told me that he would strangle me to death.
 18. On 30 December 2016 I was supposed to attend a prescheduled cell meeting at 4:00pm at a cell members house. The day before the meeting I informed my cell leader that I would not attend that meeting as my wife was very ill and had to take her to the hospital. On 30 December 2016 at around 7:00 p.m. several federal police came to my house. I had just come back from the hospital with my wife. I was served with arrest warrant. I was told that the government wants me for enquiries. The warrant clearly states that I was suspected of working with anti-peace elements. I was taken to the nearby police station. I was kept in a cell for about 2 hours. I was then transferred to Mehakelawi detention centre. I was kept detained there for about 3 months and 15 days. The first week I was kept on my own in a dark cell. During those days I was interrogated on daily basis. I was told that four members of my cell had been caught whilst holding an illegal meeting on the day I was arrested. I was asked to disclose the names of other PG 7 members/supporters and who introduced me to the movement. I was also asked to reveal names of the people who helped us financially. During the interrogation I was tortured. I was hit with a metal bar repeatedly on my legs. I sustained a number of injuries due to that. I still have scars on my legs. I was also submerged into a container of cold dirt water.
 19. I was then transferred to another cell and kept locked with another 30 detainees. The detention condition was very harsh. The cell was overcrowded and poorly ventilated. I was allowed to leave the cell only once a day to relieve myself, and at any other time I had to relieve myself inside the cell in a barrel. I was only fed once a day with a poor lentil soup and a piece of bread.
 20. On 12 April 2017 a police officer called out my name and told me to follow him. He covered my head with a cloth. He put me into a car and drove me out of the detention premises. We travelled for about half an hour, and then I was put into another car. My maternal uncle was in this car. My uncle told me that he managed to secure my release by bribing a police officer. I don't know how much he paid. My uncle drove me to Tsion Hotel where I met my brother in law. My brother-in-law took me by car to his house in the town of Bahir Dar. I stayed indoors at all times. Whilst I was hiding the authorities visited my house repeatedly. They threatened my wife to disclose my whereabouts. My brother-in-law arranged an agent for me who would take me to a safe country.
6. The appellant travelled to the United Kingdom via Sudan, Turkey, Greece and Belgium with the assistance of agents. On 28 March 2018 the appellant entered the UK in the back of a lorry. The appellant became a member of PG 7 in the United Kingdom.
 7. The respondent's position set out in the Country Policy and Information Note Eritrea: Opposition to Government October 2017, is that the onus was on a person to show that their position within an opposition group and/or their

activities are such that the authorities are likely to view them adversely and subject them to treatment amounting to persecution or serious harm.

8. The appellant asserts the relevant country guidance case is *MB (OLF and MTA – risk) Ethiopia CG [2007] UKAIT 00030* in light of the respondent's position that members of PG 7 are in a position similar to members of the OLF. In this case the Tribunal held:
 - (i) as at February 2007, the situation in Ethiopia was such that, in general:-(a) Oromo Liberation Front members and sympathisers; (b) persons perceived to be OLF members or sympathisers; and (c) members of the Maccaa Tulema Association; will, on return, be at real risk if they fall within the scope of paragraph (ii) or (iii) below.
 - (ii) 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.
 - (iii) Given the proscription of the MTA and the current state of tension on the part of the Ethiopian authorities, the Tribunal considered that MTA members will also be at real risk on return if they have previously been arrested or detained on suspicion of MTA membership and/or of OLF membership or are known or suspected of membership of the MTA. Despite the banning of the MTA, the Tribunal did not consider that the evidence was such as to show a real risk where the extent of the authorities' knowledge or suspicion about an individual relates to something less than membership of the MTA.
9. It is of note that *MB* was decided in 2007 and it is accepted by all parties that there have been significant changes in Ethiopia. These form the key elements of the submissions by the advocates, Mr Sills submitting that although there have been changes it is too soon to ascertain whether those changes will make it safe for a person such as the appellant to return to Ethiopia, the respondent's position being that the changes are fundamental and do not support the appellant's contention he is entitled to be recognised as a refugee or any other form of international protection.

Current country conditions

10. This is not a country guidance case, as it was never set up to be, but country conditions are at the heart of this appeal.
11. Ethiopia's ancient system of feudal government experienced significant changes under Haile Selassie I who reigned from 1930–74. The Derg took power in 1974 and instituted a Soviet-style government with a state president and a house of

deputies that were answerable to a revolutionary council with a politburo at the top. In May 1991 the Ethiopian People's Revolutionary Democratic Front (EPRDF) entered the capital. The EPRDF introduced a temporary constitution called the National Charter, created an 87-member assembly known as the State Council, and proceeded to form a cabinet for the Transitional Government of Ethiopia (TGE). The TGE endorsed the secession of Eritrea, realigned provincial boundaries in an attempt to create ethnic homogenates, demobilized the national armed forces, and suspended the courts and enforcing agencies. The TGE was replaced by the Federal Democratic Republic of Ethiopia, which was established by a constitution adopted in 1994. Under the constitution the government is a republic with a powerful prime minister as head of government and a titular president as head of state.

12. Following four years of street protests the EPRDF elected Dr Abiy Ahmed Ali Prime Minister on 2 April 2018. This is accepted as the relevant event and date from which the changes in Ethiopian should be assessed.
13. The need for elections arose out of the problems within Ethiopia. Protests that commenced in 2014 were over discrimination against the Oromo, the largest ethnic group within Ethiopia, but also spread to other groups. Commentators following developments in Ethiopia throughout this period attribute this reaction to discontent with the difficult socio-economic conditions, the ruling party having been in power for 27 years, and its domination by a small mostly Tigrayan elite. It is also stated the party itself was weakened by in fighting after the death of Prime Minister Meles Zenawi in August 2012 and failure by his successor as Prime Minister, Hailemariam Desalegn, who in October 2016 declared a state of emergency. That brought temporary calm but demands for political reform and socio-economic improvements were not met leading to the Prime Minister resigning on 15 February 2018. It was as a result of the Oromo People's Democratic Organisation, a member of the EPRDF coalition, with the support by the Amhara National Democratic Movement, another EPRDF party, that Prime Minister Abiy was elected to power.
14. It is not disputed that Prime Minister Abiy has made a number of significant changes and reforms within Ethiopian.
15. Of particular relevance to the issues in this appeal is the decision of the Ethiopian Cabinet in Parliament to lift the country's state of emergency in June 2018 which, along with other matters, is said to have been part of the steps being taken towards reconciliation within the country.
16. In December 2018 a draft proclamation to establish a Reconciliation Commission was published by the Office of the President of Ethiopia as part of the reconciliation process. The recital to the draft is in the following terms:

WHEREAS, it is necessary to reconcile based on truth and justice disagreement that developed among peoples of Ethiopia for years because of different societal and political conflict;

WHEREAS, it is necessary to identify and ascertain the nature, causing dimension of the repeated gross violation of human rights so as to fully respect and Implement basic human rights recognised under the Constitution of the Virtual Democratic Republic of

Ethiopia and international and continental agreements which Ethiopia ratified and since it is important for the reconciliation;

WHEREAS, it is believed that providing victims of gross human rights abuses in different time and historical event with a forum to be heard and perpetrators to disclose and confess their actions as a way of reconciliation and to achieve lasting peace;

WHEREAS, it is necessary to establish free and independent institution that enquire and disclose the truth of the sources, causes and extent of conflicts and that takes appropriate measures and initiate recommendation that enable for the lasting peace and to prevent the future occurrence of such conflict.

17. One of the criticisms in the Human Rights Watch reports has been the failure of the ruling party to comment upon or criticise those responsible for previous abuses but it appears there is a genuine intention for such matters to be investigated through a Reconciliation Commission. However, words in isolation will not resolve the issues so far as the appellant is concerned.
18. It is not disputed that based on previous experiences the appellant has a subjective fear of returning to Ethiopia. The question is whether such a fear is objectively well-founded.
19. In relation to issues concerning political/opposition parties; the leader of PG 7, a British citizen by the name of Andargachew Tsege who had been arrested and detained on death row in Ethiopia for four years, was pardoned and released from detention by the government in 2018. A communiqué released by the then Foreign Secretary Boris Johnson MP on 29th May 2018 stated: “Recent moves by the Ethiopian government send a positive signal that they remain serious about following through with promised reforms to increase political space”.
20. In addition to releasing Mr Tsege he was also invited to and held a number of meetings with Prime Minister Abiy, post release, to discuss relevant issues.
21. Further specific developments relating to PG 7 include a vote by the Ethiopian Parliament to lift the classification of this group as a terrorist organisation in July 2018 as for others such as the Oromo Liberation Front (OLF) and Ogaden National Liberation Front (ONLF). Earlier the PG 7 had announced a unilateral ceasefire suspending all armed operations with a view to engaging in the political process.
22. In September 2018 the Ethiopian government welcomed the leadership of PG 7 back from their base in Eritrea to Ethiopia, with no evidence of adverse action being taken against them since. Agreement has been reached with key opposition parties regarding disarmament and demobilisation of former rebel forces.
23. As time draws nearer to the proposed parliamentary elections in 2020 PG 7 has declared an intention to join forces with three other parties, the Semayawi (Blue), Ethiopian Democratic Party (EDP) and the former United Party to form a new political party to advocate for what it calls ‘citizens based politics within Ethiopia’. Such merging of political parties is not new, for Prime Minister Abiy’s Oromo Democratic Party (ODP) has merged with the Oromo Democratic Front (ODF) and agreed in principle to work closely and solve differences with the Oromo Liberation Front (OLF).

24. PG 7, ODF and OLF are all parties that previously operated in exile and only re-entered Ethiopia, became engaged in the political process, and agreed to disarm and end their armed struggle, in response to ongoing democratic reforms championed by the current prime minister.
25. The government has also issued pardons. The Human Rights Watch report dated 5 April 2019 records under Prime Minister Abiy:

“Tens of thousands of political prisoners, including very high for profile prisoners, have been released from detention and many were pardoned. While there have been few reports of arbitrary arrests, there have been a number of arrests in areas of Omaria where there have been conflicts between suspected OLF members and the military. In September, 3,000 youths were detained around Addis Ababa. Some of them ending up in “rehabilitation camps” although conditions in the camps were reportedly not as harsh as detainees have previously endured. There have been some reports of politically motivated arrests in other parts of Ethiopia, but far fewer than in the past. While Human Rights Watch continues to receive some reports of beatings and mistreatment of detainees arrested in the past year, the volume has dropped dramatically.

As some steps have been taken towards increasing the independence of the judiciary, Human Rights Watch has begun receiving reports of detainees being asked by judges about how they are treated in detention - which generally did not happen in the past”.

26. It is also the case that previous detention centres where those arrested on account of perceived opposition to the ruling party were detained and ill-treated have been closed. In relation to a notorious detention centre known as Jail Ogden in the Southern Somali Region of Ethiopia, human rights representatives and journalists have been given access to the jail which is now closed and empty. This development is significant as this facility had thousands of prisoners many of whom had been arrested for criticising the government and included opposition figures who had been detained for years, tortured and ill-treated including rape and death. An example of the intent of the current Prime Minister to reform the security services is demonstrated by the fact in August 2018 the Somali Regions President at the time, Abdil Illey, was arrested. He had ultimate responsibility for regional security forces in the region and was replaced by Mustapha Omer a known long-time activist and UN worker which is said to have heralded a new era of human rights reform and hope in the Somali Region. It was Mr Omar who shut down Jail Ogden. Prime Minister Abiy also replaced a number of senior officials held responsible for past human rights breaches and acts of suppression and oppression under the previous administration.
27. A further development relates to the treatment of the press. The Human Rights Watch report of 3 April 2019 under the heading ‘Freedom of Expression’ records the following:

“Significant progress has been made on media freedom in Ethiopian. In one year, Ethiopia has gone from being one of the leading jailers of journalists in Africa to having no journalists in jail for the first time since 2004. Diaspora media outlets previously banned in Ethiopia operate freely and journalists report few threats from the government’s security services. Despite the progress, there’s still a reluctance in the media to critique the government or ask difficult questions. Hate speech on social media,

especially Facebook, is a serious and growing problem, although the government's proposed hate speech law raises concerns it may be used to stifle legitimate expressions of dissent.

Under the heading 'Under Abiy' it is written:

In June 2018 the Abiy government unblocked access to 264 websites, including blogs and news outlets, to allow for "a free flow of information." OMN and ESAT were allowed back into the country, charges were dropped, and they are now operating without restriction. All journalists in detention were released. Presently, there are no reports of journalists in detention in Ethiopia - for the first time since 2004.

However, during a wave of protests in September, the government shut down the Internet and mobile data in parts of the country where there were demonstrations, restricting access to information. The government also announced plans to pass a hate speech law in December. While hate speech is a serious problem amid growing ethnic tensions, especially on social media, the government should be careful not to undermine efforts to reform repressive laws by drafting a new hate speech laws that could be used for the same kinds of abuse.

State-run television, while now reporting regularly on human rights abuses committed prior to the formation of Abiy's government, rarely strays from government perspective. They have broadcast documentaries about alleged corruption and human rights abuses by previous government officials around the same time as these individuals were charged. The use of state television documentaries has been used in the past to undermine defendant's rights to a fair trial by mobilising the public to support a judiciary that was far from independent of state control.

Journalists have also reported being assaulted when covering sensitive issues. In March, 2 journalists working with Mereja TV, one of the websites unblocked in June, were detained by regional police on the outskirts of Addis Ababa while reporting on government's demolition of homes and allegations of forced displacement.

The journalists were allegedly asked to explain why they hadn't told the police they were travelling to the site and was subsequently released after an hour. Upon release, the journalists were attacked by a group of young men, and one was beaten with sticks in plain view of the police. No one was arrested in relation to the assault.

Whilst the Freedom of Mass Media and Information Proclamation was one of the laws Abiy pledged to revise, any draft of the law is not yet available.

In July, Abiy appointed new members to the boards of the Ethiopian Broadcasting Corporation and the Ethiopian Press Agency, including opposition members.

Some journalists have reported to Human Rights Watch that it remains difficult to criticise the Abiy government due to pressure from editors and peers.

When Human Rights Watch visited the country in February, people were speaking very openly about sensitive subjects in public spaces, cafes, and minibuses, which is a marked change from a country once consumed by fears of monitoring and surveillance. A press conference that Human Rights Watch participated in was attended by dozens of journalists, many from state media - something that would not have happened in the past.

28. Despite the positive developments which show PG7 is no longer a proscribed organisation, which supports Mrs Pettersen's submissions that the appellant will not face a real risk of ill-treatment on return as a member/supporter of that organisation, there still remain problems within Ethiopia which form the basis of Mr Sills submissions that it is too early for this Tribunal to find that it is safe for the appellant to be returned.
29. An example of the ongoing difficulties recorded in the country information occurred in September 2018 when 3,000 youths were arrested in Addis Ababa in one weekend. The statement by the Police Commissioner for the city stated 174 were charged and that about 1,200 others will be detained at the Tolay Military Camp for a "rehabilitation education". A statement by the Amnesty International Director for East Africa, the Horn and the Great Lakes stated "*the majority of people were arrested for perceived offences which are not recognised criminal offences under international law, such as smoking shisha or consuming khat. They must be either charged with a recognised criminal offence or released. Those arrested for taking part in protests on the recent ethnic clashes must all be released immediately and unconditionally*".
30. A press conference given by the Police Commissioner for Addis Ababa had stated that the weekend raids by the security forces were in response to rising criminality in the city and targeted robbers and thieves resulting in the arrest of almost 3,000 people. The Commissioner stated that more than half of them, 1,459 people, were arrested in bars and shisha smoking dens. 94 people were arrested for chewing khat and 31 others arrested in gambling houses. Some of those arrested for chewing khat and smoking shisha have been arrested. Another 1,200 youths were arrested for taking part in the 15th September protests and the ethnic violence in Burayu and transported to Tolay Military Camp in south-western Ethiopia.
31. Within the appellant's bundle is a press release from the Association for Human rights in Ethiopia dated 21 October 2018 reporting the release of a young attorney and known human rights defender and friend on 20 October 2018, following their arrest and remand by a criminal court accused of organising and inciting instability, and on the day of their court appearance over 1,000 youths from Addis Abba who were amongst the 3,000 people detained above being released.
32. Reference was also made by Mr Sills to additional country information provided by the appellant from Human Rights Watch highlighting progress that had been made and what more could be done. In an article by Human Rights Watch dated 2 April 2019 marking Prime Minister Abiy's first year in power it is written:

"But for many others, Ethiopia has become a more dangerous place. As political space opened, Ethiopians were finally able to voice historic grievances that they bottled up for decades under an authoritarian government. Many of these grievances are related to access to land and complex questions of identity and governance. Many Ethiopians have settled these scores, often among ethnic lines, including by forcibly displacing people from land or engaging in violent conflict with rival groups. This has occurred across many parts of the country amidst a serious security breakdown and a vacuum in local governance. Social media became awash with hate speech and insecurity has forced over

2 million people to flee their homes, and it looks like the number of internally displaced people is only likely to rise as tensions escalate.

At least 10 ethnic groups in the Southern Nations, Nationalities and People's Region (SNNPR) have petitioned to form their own states, leading to the possible breakup of SNNPR and increasing tensions in some areas there. Other parts of the country have initiated similar processes. In areas along the Amhara and Tigray regional borders, a proliferation of firearms and entrenched positions from regional government officials over contested borders have exasperated rising tension. Long-standing debates over who gets to govern and manage the rapid growth of the capital, Addis Ababa, have not been resolved, fuelling growing frustration in the capital region.

The euphoria over Abiy's initial reforms are fading amidst this backdrop, and frustration is growing with his government's lack of tangible action to deal with these worrying trends. Any transition from authoritarianism to democracy is fraught with many challenges, and the actions, or lack thereof, that Abiy's government takes to deal with these complex issues will go a long way in deciding Ethiopia's long-term commitment to human rights and democracy. With election scheduled for May 2020, the next year will be a critical test of Abiy's commitment to democracy and his ability to unite an increasingly fractured country, restore law and order, calm tensions, and build on his early reforms that showed so much promise.

33. The US State Department report for 2018, published on 13 March 2019, notes it was widely reported that civilian authorities at times did not maintain control over regional security forces with rural local police and militia sometimes acting independently and extrajudicially although a strong trend towards increased respect for the rule of law began under Abiy whose assumption of office was followed by positive changes in the human rights climate.
34. There is reference in a Norwegian Refugee Council article dated 5 June 2019 to intercommunal violence and conflict deepening since 2016 resulting in 2.9 million displacements within Ethiopia. A Voice of American news article of 24 June 2019 records the failed coup attempt in June 2019 in which the leader, a General Asamnew, Amhara States head of security was shot and killed. It is also noted that hours later the Ethiopian army chief of staff was killed by his bodyguard at his home in Addis Ababa, events which are said to be linked. It is said the cause and motive for the attacks was unclear although the coup leader is an Amhara nationalist who had been released from prison in 2018 after receiving an amnesty for his role in a 2009 coup attempt.
35. In addition to the above and other matters raised in the country information, all of which is being considered, the appellant relies upon an expert report prepared by Professor Aguilar, Director for the Centre for the Study of Religion and Politics, University of St Andrews dated 12 June 2019.
36. Having examined the appellant's background and changes in the country situation and Ethiopia, including setting out at length extracts from Human Rights and Amnesty International reports for Ethiopia for 2017/2018, the author's conclusions are recorded at [36] in the following terms:

Conclusion 1: Until we see further changes within the Oromia region and given the mass arrests that have taken place since October 2018 asylum seekers of Oromo ethnicity and members of Ginbot 7 are at risk upon return to Ethiopia.

- Conclusion 2: The data that we have so far since 2016, including after the promises of the state of Ethiopia during 2018 has not shown that the Oromo and Ginbot 7 are not at risk of persecution from the state. This persecution comes from ethnic persecution as well as political persecution. Thus, the appellant is at risk of persecution from the state if returned to Ethiopia. Indeed, the Ethiopian government released political prisoners and lifted the terrorism classification on Ginbot 7 but has continued an ongoing persecution of the opposition parties.
- Conclusion 3: I do not have data that could suggest a departure from the country guidance that stated that members of the Ethiopian opposition were at risk of persecution from the state, and such country guidance would include Ginbot 7.
- Conclusion 4: It is my opinion that the appellant, as somebody who was already detained by the authorities, is at risk of arrest and detention without trial if returned to Ethiopia.
- Conclusion 5: Even though PG7 joined an alliance of other parties in May 2019 this does not mean that the Ethiopian government has accepted the role of a strong opposition that could win the 2020 elections. Indeed, members of the PG 7 remain as part of the opposition and therefore part of what I suspect would be a difficult road to an open democratic campaign. There is no recent evidence as to suggest that the government has actually accepted the demands of free elections by the newly formed Ethiopian Citizens for Social Justice.
- Conclusion 6: The dismantling of the PG 7 has been a move to join other political parties in view of the 2020 general elections; it was not an end to the PG 7 opposition movement against the current Ethiopian government. Thus, it is my opinion that a former supporter and member of the PG 7 such as the appellant who was detained for a period remains at risk of detention on return because of his opposition to the current Ethiopian government. The conditions of political freedom for the Ethiopian opposition have not changed and therefore until there is new evidence to challenge this finding it is my opinion that the appellant remains at risk of detention and torture if returned to Ethiopian as he is known to the authorities.

37. The basis of conclusion 2 is reference to a January 2019 press release from OLF demanding that intimidation and imprisonment of OLF officials and its members by the government stop immediately. The article accuses the ruling party of political manoeuvring and to immediately halt its intimidation threatening detention and imprisonment of OLF members. The exact wording of conclusion number 2 in the body of the report, at [21], is as follows:

Conclusion 2: The evidence outlined within this report has not shown that the Oromo and Ginbot 7 are not at risk of persecution from the state. Thus, the appellant is at risk of persecution from the state of returned to Ethiopian. Indeed, the Ethiopian government released political prisoners and lifted the terrorist classification of Ginbot 7; however, the leadership of all political parties were harassed by the state.

38. It is noted there is evidence within the Human Rights Watch report to PG 7 and OLF reporting challenges in holding rallies in some areas due to a lack of security and protection and also to some alleged OLF operatives refusing to disarm claiming this was never part of the agreement with the ruling party and conflict between federal army and alleged OLF fighters causing casualties in some parts of Oromia, areas in which security forces conducted regular arrests of politically active individuals; although human rights watch was not aware of any of them being charged. The same report records that Human Rights Watch's own Ethiopian researcher was granted access to the country for the first time in 8 years to join a workshop on rebuilding civil society.
39. A further reference in the US State Department report in the section headed 'Elections in Political Participation' records the following:

"Political Parties and Political Participation: the government, controlled by the EPRDF, called on all diaspora – based opposition groups, including those in armed struggle, to return and pursue nonviolent struggle. Virtually all major opposition groups, including OLF, Oromo Democratic Front, ONLF, and PG7, welcomed the request and returned to the country.

On February 14, authorities released Mamushet Amare, former leader of the All Ethiopian Unity Party, whom authorities had detained on terrorism -related charges since March 2017.

Constituent parties of the ERPRDF conferred advantages upon their members; the party directly owned many businesses and allegedly awarded jobs and business contracts to loyal supporters. Opposition parties reported they rented offices and meeting halls in the Amhara and Oromia Regions without difficulty. There were reports unemployed youths not affiliated with the ruling coalition sometimes had trouble receiving the "support letters" from their wards necessary to obtain jobs.

Registered political parties must receive permission from regional governments to open and occupy local offices, with at least one major opposition party reporting it was able to open many offices during the year in advance of the 2020 national election. Laws requiring parties to report "public meetings" and obtain permission for public rallies inhibited opposition activities."

Discussion

40. The country information paints a picture of a country that has been ruled by an authoritarian oppressive regime until the appointment of the current prime minister, but which is now some way along the path to reform. It shows Prime Minister Abiy is intent on achieving considerable reform which, in addition to the above, has included a peace agreement resolving the long-running conflict between Ethiopia and Eritrea.
41. It is not disputed that the appellant was the subject of an arrest warrant which was executed, resulting in his arrest and detention. It is also the case that many were detained by the security forces in different regions of Ethiopia, some local, without trial. The appellant was, however, released albeit he claims it was as a result of his uncle paying a bribe.
42. It was not established on the evidence that release on payment of a bribe was uncommon. Whilst the same could not be found to reflect a lack of interest in an

appellant, per se, it is a relevant factor. The appellant claims to have been detained for 3 ½ months and it is reasonable to presume that some record will have been made of his detention which would include a reference to his current status. It is not irrational to find that release on payment of a bribe occurred because the authorities were of the view that there is no good reason to detain the appellant longer, as occurred before. There is insufficient evidence to the contrary in this appeal.

43. It is also the case the appellant was arrested under the arrest warrant and so if any adverse interest was recorded it would be that he was an escapee.
44. In terms of the expert report, the contention that the leadership of PG 7 face a real risk of ill-treatment or ongoing persecution at the hands of the Ethiopian authorities is not supported by the country information made available showing the leadership of the organisation having returned to Ethiopia openly with the support of the government, including the security apparatus in Addis Ababa, and being able to form a political party to oppose the government in 2020, with no evidence of ongoing persecution.
45. It is, of course, not known what will happen if an opposition party wins the election and Mr Sills referred to the history of other African leaders having lost power in elections but refusing to concede. The suggestion this might happen in Ethiopia to a similar extent is, however, pure speculation.
46. The driving force behind the reforms of the current Prime Minister is a recognition of the poor economic state of Ethiopia and the need for reform to enable the country to avoid sinking any further, together with socio-political aspects. It is reflected in the country material that the government accepts that a multi-party approach to government is essential for the future of Ethiopia. It is not just statements by Ethiopian politicians that have recorded this but also by foreign governments and the United Nations. In the Human Rights report of 7 April 2019, relied upon by both parties, it is written:

Prime Minister Abiy has expressed his commitment to electoral reforms. He has consulted regularly with opposition parties, including December, when he held discussions “on highlighting the reforms required to ensure the upcoming election is free and fair, and the shared responsibilities of all.” He stated that the reforms will not interfere with the electoral calendar, with the election currently scheduled for May 2020.....

....

Thousands of opposition members were released from detention or allowed to return from exile when Abiy came to power. He has removed opposition groups from the list of terrorist organisations, and expressed his desire for political plurality, stating that the country had “no option” but multi-party democracy. Exiled opposition leaders were welcomed back into Ethiopia and now operate without restriction, although some opposition parties have reported difficulties in holding rallies in some areas due to a lack of security and protection.

47. It is not disputed there is evidence of difficulties in certain areas, but Ethiopia has the right to enforce its laws and take action against those who may breach the same. The chewing of khat, a narcotic substance, may not be contrary to

international law but may infringe the internal laws of Ethiopia. Individuals refusing to hand in weapons and to prolong the armed conflict are likely to be the subject of a brutal response from the Armed Forces in Ethiopia as they have been the past, as well as suppression of those elements. Notwithstanding, the current Prime Minister has reinforced the importance of the rule of law as part of the reform process including access to the courts and judiciary and closure of prisons and detention centres. Indeed as recorded in the country information judges are asking those brought before them whether they have been ill-treated in detention, a question they would not have asked previously.

48. It has not been shown that the issues highlighted by Mr Sills represent a return to the repression of the past when those in opposition faced a real risk of persecution, forcing many to flee the country.
49. Although Mr Sills refers in his submissions to the written evidence he seeks to rely upon regarding concerns in some areas of Ethiopia, he fails to show that the situation that will be faced by the appellant on return is similar to that which existed when the appellant left or prior to the appointment of Prime Minister Abiy. It has not been made out that membership of an opposition party will entitle an individual to a grant of international protection at the date of the hearing of this appeal, per se.
50. The appellant was a supporter of PG 7 in Ethiopia and joined the UK branch of the party. He is not a leader and not a person of any influence or who holds office within the party and not a person who is likely to be perceived as posing a threat to the state of Ethiopia.
51. PG 7 is no longer a banned party within Ethiopia or a party in relation to which the information relied upon by the appellant establishes a real risk for this reason alone on return to Ethiopia.
52. The fact the leadership of PG 7 have been welcomed back into Ethiopia and are able to take part in the political process, through the formation of a new party with the intention of taking part in the 2020 elections, openly indicates there is no evidence his membership will prevent the appellant from continuing his involvement with this political group and actively campaigning for them, in a legal manner, in the future if he wishes to do so. PG 7 have renounced violence and are no longer an armed group, resorting to persuasion and acceptable of political means. It is not made out the appellant will be detained on return or ill-treated on return for this reason.
53. The appellant is from Addis Ababa the place to where he will be returned. He will not be returned to a rural area where other difficulties may be experienced.
54. I do not find it made out that it is too early to reach a conclusion in relation to this appeal or that is necessary for the matter to be put off until after the 2020 elections as such delay will be contrary to the overriding objectives. The material made available to the Tribunal, including the submissions by the advocates, is greater than that referred to in the expert report. If find the available material, when considered as a whole, does not support the experts view.
55. I find on the evidence that the changes following the appointment of Prime Minister Abiy are real and substantial and that although the appellant's expert

claims there is insufficient data to warrant departing from the country guidance case the evidence considered as a whole suggests the contrary so far as this appellant is concerned. The appellant fails to establish there are in existence forces within Ethiopia with sufficient strength or influence to return the country to the previous situation, which will be contrary to the national interests.

56. As noted above, the burden is upon the appellant, to the lower standard applicable in a protection appeal, to establish a real risk on return sufficient to entitle him to a grant of international protection or leave to remain on any other basis. Having considered the evidence and submissions made I find the appellant has failed to discharge the burden upon him to show that he is entitled to a grant of international protection or on human rights grounds. I find, in addition, that based upon the evidence relied upon by Mrs Pettersen the Secretary of State has discharged the burden upon him, so far as any burden rests upon the respondent to this action, to show the appellant can be returned to Ethiopia without the United Kingdom breaching its international protection obligations and in showing the appellant's return on human rights grounds is proportionate.

Decision

57. **I remake the decision as follows. This appeal is dismissed.**

Anonymity.

58. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make no such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....

Upper Tribunal Judge Hanson

Dated the 17 July 2019