



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

AAR (OLF - MB confirmed) Ethiopia CG [2022] UKUT 00001 (IAC)

**THE IMMIGRATION ACTS**

**Heard at Field House** *by Skype for Business*

**On 24 February 2021**

**Decision & Reasons  
Promulgated**

.....

**Before**

**Mr. C M G OCKELTON, VICE PRESIDENT  
UPPER TRIBUNAL JUDGE BRUCE  
UPPER TRIBUNAL JUDGE O'CALLAGHAN**

**Between**

**AAR (ETHIOPIA)**

**and**

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

Appellant

Respondent

**Representation:**

For the Appellant: Mr. A Burrett, Counsel, instructed by JD Spicer Zeb Solicitors

For the Respondent: Ms. M Bayoumi, Counsel, instructed by the Government Legal Department

**Unless the Upper Tribunal or a court directs otherwise no report of these proceedings, or any form of publication thereof, shall directly or indirectly identify the appellant. This direction applies to, amongst others, the appellant and the respondent. Any failure to comply with this direction could give rise to contempt of court proceedings.**

## **Country guidance: OLF members and sympathisers (supporters)**

- (1) *MB (OLF and MTA - risk) Ethiopia CG [2007] UKAIT 00030 still accurately reflects the situation facing members and supporters of the OLF if returned to Ethiopia. However, in material respects, it is appropriate to clarify the existing guidance.*
- (2) *OLF members and supporters and those specifically perceived by the authorities to be such members or supporters will in general be at real risk if they have been previously arrested or detained on suspicion of OLF involvement.*
- (3) *Those who have a significant history, known to the authorities, of OLF membership or support, or are perceived by the authorities to have such significant history will in general be at real risk of persecution by the authorities.*
- (4) *'Significant' should not be read as denoting a very high level of involvement or support. Rather, it relates to suspicion being established that a person is perceived by the authorities as possessing an anti-government agenda. This is a fact sensitive assessment.*
- (5) *Whether 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.*

### **1. General application of country guidance**

- (1) *The treatment of country guidance as a presumption of fact means that it will be for the parties seeking to persuade the Tribunal to depart from it to adduce the evidence justifying that departure.*
- (2) *An assessment as to whether to depart from a CG decision is to be undertaken as to: (i) whether material circumstances have changed; and (ii) whether such changes are well established evidentially and durable.*
- (3) *The law, and the principle, are not affected by the age of the CG decision. It may be that as time goes on, evidence will become available that makes it more likely that departure from the decision will be justified. But the process remains the same, and unless in the individual case the departure is shown to be justified, the guidance contained in the CG decision must, as a matter of law, be adopted.*
- (4) *If the parties fail to abide by their general duty in respect of identifying extant country guidance, it remains for the Tribunal to consider such guidance and to follow it.*
- (5) *Any failure by the Tribunal to apply a CG decision unless there is good reason, explicitly stated, for not doing so might constitute an error of law*

*in that a material consideration has been ignored or legally inadequate reasons for the decision have been given.*

- (6) *A party that before the First-tier Tribunal has failed to address extant country guidance or has failed to demonstrate proper grounds for departure from it is unlikely to have a good ground of appeal against a decision founded on the guidance.*

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## **DECISION AND REASONS**

### **A. Introduction**

1. This matter was identified as suitable to consider the continued appropriateness of MB (OLF and MTA - risk) Ethiopia CG [2007] UKAIT 00030 remaining as country guidance in respect of persons who are members and sympathisers, or supporters, of the Oromo Liberation Front (OLF) and those specifically perceived by the Ethiopian authorities to be such members or sympathisers.
2. At the hearing, the respondent conceded at the conclusion of her case that she was unable to produce cogent evidence capable of justifying departure from MB (OLF and MTA - risk).
3. We are satisfied that the parties drew relevant objective documentary evidence to our attention and presented detailed submissions, whether orally or in writing, to ensure that this decision is based on as full and informed an analysis as possible.

### **B. The Existing Country Guidance**

4. The position of OLF members and sympathisers, or supporters, was considered in the reported, but non-country guidance, decision of HA (OLF Members and sympathisers – risk) Ethiopia [2005] UKAIT 00136 where the Tribunal concluded, at para. 17:

‘17. ... In our view there is a current risk to OLF members and sympathisers who have been previously arrested and detained on suspicion of OLF involvement or who have a significant history, known to the authorities, of OLF membership or sympathy. We have not considered that it is suitable for designation as a Country Guideline case because we did not have sufficiently full evidence or submissions. But equally it is right that we should make known, by reporting, the views we have reached on the basis of the latest available evidence as presented in this case. ...’

5. The sole extant country guidance concerned with the OLF is MB (OLF and MTA – risk). At para. 66 of its decision, the Tribunal approved the conclusions reached in HA (OLF Members and sympathisers – risk). In respect of the OLF, the headnote confirms:

(1) As at February 2007, the situation in Ethiopia is such that, in general:-

- (a) Oromo Liberation Front members and sympathisers;
- (b) persons perceived to be OLF members or sympathisers; ...
- (c) ...

will, on return, be at real risk if they fall within the scope of paragraph (2) ... below.

(2) OLF members and sympathisers and those specifically perceived by the authorities to be such members or sympathisers will in general be at real risk if they have been previously arrested or detained on suspicion of OLF involvement. So too will those who have a significant history, known to the authorities, of OLF membership or sympathy. Whether any such persons are to be excluded from recognition as refugees or from the grant of humanitarian protection by reason of armed activities may need to be addressed in particular cases.’

6. The present position of members or supporters of the Macca Tulema Association (MTA), also subject to country guidance in MB (OLF and MTA – risk), is not a consideration in this appeal as the appellant has no connection with this organisation, which has been proscribed in Ethiopia since 2004. MB (OLF and MTA – risk) remains country guidance in respect of international protection appeals concerned with the MTA.

### **C. The Legal Framework**

7. The applicable law was not a matter of contention between the parties. The Tribunal is required to consider the following question: does the appellant have a well-founded fear of being persecuted if returned to Ethiopia for a reason specified in Article 1A(2) of the Refugee Convention? The appellant relies upon political opinion.
8. The burden of establishing a well-founded fear of persecution falls upon the appellant. A fear of persecution will be well-founded if the decision-maker is satisfied that there is a reasonable degree of likelihood (or real risk) that the individual would be persecuted for a Convention reason if returned to his own country: R v. Secretary of State for the Home Department, ex parte Sivakumaran [1988] AC 958.
9. Paragraph 339K of the Immigration Rules establishes an alleviating evidentiary rule for cases where an appellant has established to the requisite standard that they have already been subject to persecution or serious harm, or to direct threats of such persecution or such harm. Such fact will be regarded as indicative of future risk, unless there are good reasons to consider that such persecution or serious harm will not be repeated.
10. The appellant's article 3 ECHR appeal stands and falls with his asylum appeal.

#### *Country guidance*

11. Findings of fact in one case will not, in general, bind any subsequent Tribunal. However, this principle is modified in one important respect. The First-tier Tribunal and the Upper Tribunal must treat as authoritative any country guidance authority relevant to the issues in dispute unless there is good reason for not doing so, such as fresh evidence which casts doubt upon its conclusions, and a failure to follow country guidance without good reason might involve an error of law.
12. The First-tier Tribunal concluded in July 2019 that the "significant and startling changes to the country" since the appellant left in 2016 meant that there was "a willingness on the part of his country to offer him protection" and so he could not succeed in his appeal. Reliance was primarily placed by the First-tier Tribunal upon a Danish Immigration Service report, '*Ethiopia: Political situation and treatment of opposition*' (September 2018), which in turn relied upon interviews undertaken with sources in Addis Ababa in May 2018, some 14 months before the First-tier Tribunal's decision. The decision of the First-tier Tribunal was set aside due to the failure to consider the guidance provided in MB (OLF and MTA – risk); country guidance not having been referred to by either party or placed before the Tribunal.
13. Section 107(3) of the Nationality, Immigration and Asylum Act 2002 ('the 2002 Act') states:

107(3) In the case of proceedings under section 82 ... or by virtue of section 109, or proceedings in the Upper Tribunal arising out of such proceedings, practice directions under section 23 of the Tribunals, Courts and Enforcement Act 2007—

- (a) may require the Tribunal to treat a specified decision of the Tribunal or Upper Tribunal as authoritative in respect of a particular matter; and
- (b) may require the Upper Tribunal to treat a specified decision of the Tribunal or Upper Tribunal as authoritative in respect of a particular matter.'

14. PD 12.2 of the Practice Directions of the Immigration and Asylum Chambers of the First-tier Tribunal and the Upper Tribunal (last amended 18 December 2018) ('the Practice Directions') establishes:

'12.2 A reported determination of the Tribunal, the AIT or the IAT bearing the letters "CG" shall be treated as an authoritative finding on the country guidance issue identified in the determination, based upon the evidence before the members of the Tribunal, the AIT or the IAT that determine the appeal. As a result, unless it has been expressly superseded or replaced by any later "CG" determination, or is inconsistent with other authority that is binding on the Tribunal, such a country guidance case is authoritative in any subsequent appeal, so far as that appeal:

- (a) relates to the country guidance issue in question; and
- (b) depends upon the same or similar evidence.'

15. The giving of country guidance is an important part of this Tribunal's function, intended to promote the administration of justice through the achievement of consistent decision-making throughout the asylum process and to enable the parties to know where they stand: see PD 12.4 of the Practice Directions and BD (Application of SK and DK: Croatia) [2004] UKIAT 32\*, [2004] Imm. A.R. 226, at [58]. Such guidance operates as an exception to the principle that findings of fact in one case will not in general bind any subsequent Tribunal.

16. As noted by Stanley Burnton LJ in SG (Iraq) v. Secretary of State for the Home Department [2012] EWCA Civ 940, [2013] 1 W.L.R. 41, at [45], there are simply not the resources for a detailed and reliable determination of conditions in foreign countries to be made on an individual basis in each decision arising on the application or appeal of persons seeking protection. Even if the resources were available, it would be wasteful to have such an investigation, involving much the same evidence, in every case. There would also be a risk of inconsistent decisions, a consideration that is particularly important as it follows from a decision that if one person requires protection, if correct, that a person in the same situation who has

been returned may have risked or suffered ill treatment or worse. Stanley Burnton LJ observed, at [46]:

46. The system of Country Guidance determinations enables appropriate resources, in terms of the representations of the parties to the Country Guidance appeal, expert and factual evidence and the personnel and time of the Tribunal, to be applied to the determination of conditions in, and therefore the risks of return for persons such as the appellants in the Country Guidance appeal to, the country in question. The procedure is aimed at arriving at a reliable (in the sense of accurate) determination.'
17. In HM (Iraq) v. Secretary of State for the Home Department [2011] EWCA Civ 1536, at [39], Richards LJ confirmed that country guidance decisions possess "a status and significance comparable to that which declarations can have in public law cases."
18. In R (Iran) v. Secretary of State for the Home Department [2005] EWCA Civ 982, [2005] Imm AR 535, at [90.4], the Court of Appeal held that a failure to identify and apply a relevant country guidance decision without good reason might amount to an error of law in that a relevant consideration had been ignored, and legally inadequate reasons had been given for the decision.
19. PD12.4 of the Practice Directions confirms that because of the principle that like cases should be treated in like manner, any failure to follow a clear, apparently applicable country guidance case or to show why it does not apply to the case in question is likely to be regarded as grounds for appeal on a point of law.
20. The provisions to which we have referred, coupled with the identification of a decision as 'CG' constitute a legal rule imposing a presumption of fact. Unless there is cogent evidence (SG (Iraq) at [47]) to justify departure from the country guidance decision, the law is that the facts must be found in accordance with that decision.
21. The law, and the principle, are not affected by the age of the decision. It may be that as time goes on, evidence will become available that makes it more likely that departure from the decision will be justified. But the process remains the same, and unless in the individual case the departure is shown to be justified, the guidance contained in the CG case must, as a matter of law, be adopted.
22. The Tribunal considered the correct approach as to departure from extant country guidance in SMO, KSP & IM (Article 15 (c); identity documents) Iraq CG [2019] UKUT 00400 (IAC), at [209]-[211]. An assessment is to be undertaken as to: (i) whether material circumstances have changed; and (ii) whether such changes are well established evidentially and durable.

23. Individual cases will turn on an assessment of their facts and appellants are not to be pigeonholed in some pre-determined classification system. Country guidance must be applied with some degree of subtlety. It cannot, and does not purport to, cover definitively every permutation of fact or circumstance which emerges. Rather, it is, by law, the starting point. It will carry considerable weight even in a case where departure from the guidance is justified, or where the question to be answered is somewhat different from that answered by the country guidance decision: SB (Sri Lanka) v. Secretary of State for the Home Department [2019] EWCA Civ 160, at [70], [75].
24. The treatment of country guidance as a presumption of fact means that it will be for the parties seeking to persuade the Tribunal to depart from it to adduce the evidence justifying that departure. If the existing country guidance is such as to favour appellants to a greater or lesser extent, this task will therefore be the respondent's. There are similar burdens on the respondent in relation to other refugee issues, for example where an appellant fled their home country as a genuine refugee from Convention persecution, as established by the House of Lords in R (Hoxha) v. Special Adjudicator [2005] UKHL 19, [2005] 1 W.L.R. 1063, at [66], or where it is said that owing to change in circumstances the appellant no longer has a well-founded fear: PS (cessation principles) Zimbabwe [2021] UKUT 00283 (IAC), at [27].
25. PD 12.3 of the Practice Directions confirms that representatives are expected to be conversant with current country guidance determinations relating to an appellant's country of nationality. A general duty is therefore placed upon parties and their representatives to ensure that the materials they adduce before the Tribunal include relevant country guidance decisions: KK (Unreported decisions - Practice Directions) Sudan [2006] UKAIT 00008, at [8]. Rule 2(4)(b) of the Tribunal Procedure (Upper Tribunal) Rules 2008 ('the 2008 Rules') imposes a duty upon parties to cooperate with this Tribunal generally and so it will be procedurally proper for the Tribunal to ask the parties at the outset of a hearing as to whether there is relevant, extant country guidance and, if so, upon whom the burden of disproof falls. Such requirement is consistent with the observation of the Court of Appeal in Laci v. Secretary of State for the Home Department [2021] EWCA Civ 769, at [85].
26. If the parties fail to abide by their general duty in respect of identifying extant country guidance, it remains for the Tribunal to consider such guidance and to follow it, in accordance with what we have set out above. A party that before the First-tier Tribunal has failed to address extant country guidance or has failed to demonstrate proper grounds for departure from it is unlikely to have a good ground of appeal against a decision founded on the guidance.

27. Both Mr. Burrett and Ms. Bayoumi agreed that in the present case it was for the respondent to justify any departure from the country guidance given in MB (OLF and MTA - risk).

#### **D. Country Background Evidence**

28. In light of the respondent's concession recorded at para. 2 above, we have not found it necessary to set out the country background evidence in the detail that would normally be found in a country guidance decision. While we have read the documents named in Appendices 1 to 4, for the purpose of this appeal we confine our summary to the documents relied upon by the respondent, and two documents submitted by the appellant.
29. The documents relied upon by the respondent included four Country Policy and Information Notes (CPINs), all issued in 2019 and 2020, the '*Report of a Home Office Fact-Finding Mission: Ethiopia: The political situation*' published in February 2020 ('the *Fact-Finding report*') and the '*Response to an Information Request: Ethiopia, Oromos and the Oromo Liberation Front*' ('the *Response*') published shortly before the hearing in February 2021. Reliance was further placed on the Australian Department of Foreign Affairs & Trade '*Country Information Report, Ethiopia*' ('the *DFAT Report*') published on 12 August 2020.
30. As to the documents submitted by the appellant, the first is a letter from Amnesty International, dated 9 November 2020. The author is Tom Southerden, a researcher with the organisation's Refugee and Migrants' Rights Programme. The second is another Amnesty International document, a report published in 2020: '*Beyond law enforcement: Human rights violations by Ethiopian Security Forces in Amhara and Oromia*' ('*Beyond law enforcement*').
31. From this information we draw the following information.

#### *General Country Information*

32. The national census conducted in 2007 established the population of Ethiopia as being close to 78 million. The present population estimate is in the region of 118 million. The country is home to various ethnic groups, though no group is in the majority. Oromo are the largest ethnic group with an estimated 34 per cent of the population. Amhara are the next largest group with 27 per cent. Tigrayans constitute 6 per cent of the population.
33. Ethiopia's 1994 Constitution defines the country's structure as a multicultural federation based on ethno-national representation, establishing a federal system of ten regional states delineated according to settlement patterns, language and identity (ethnicity). Delineation essentially makes Ethiopia an ethnic federation, whereby the largest ethnic groups administer their own regional states and operate with

considerable autonomy from the federal government. In addition, there are two chartered cities, including the country's capital Addis Ababa.

34. The country is administratively divided into, in descending order, (i) regional states, (ii) zones, (iii) districts (woredas) and (iv) wards/neighbourhoods (kebele).

*EPRDF rule (1991 to 2019)*

35. At the time of the decision in MB (OLF and MTA - risk) the ruling party in Ethiopia was the Ethiopian People's Revolutionary Democratic Front (EPRDF), an ethnic federalist political coalition of four ethnically based political parties, including the Oromo Peoples' Democratic Organization (OPDO), in which the leading party was the Tigray People's Liberation Front (TPLF). The coalition came to power at the conclusion of the 1974 to 1991 civil war and dominated Ethiopian politics until 2019 when it dissolved. The present Prime Minister, Abiy Ahmed, acknowledged to Parliamentarians in June 2018 that the EPRDF engaged in the systematic use of torture against members and perceived members of the opposition prior to his accession in April 2018: "Our constitution doesn't allow it, but we have been torturing, causing bodily damages and even putting inmates in dark prison cells ... These were terrorist acts committed by us and using force just to stay in power is a terrorist act too."
36. From November 2015 onwards months of anti-government demonstrations against perceived political marginalisation, human rights abuses by the federal military and police, and federal encroachment into regional affairs resulted in more than 1,200 deaths. Civil unrest originated in Oromia Region before spreading across Ethiopia. The response was heavy-handed. In October 2016 the then Prime Minister, Hailemariam Desalegn, declared a nationwide state of emergency and by February 2017 the government acknowledged that 20,000 people had been arrested under emergency powers in Oromia Region. Opposition groups claimed that there had been 70,000 arrests.

*Prosperity Party rule (2019 onwards)*

37. Prime Minister Hailemariam proved incapable of ameliorating the protracted anti-government protests and resigned on 15 February 2018. With the TPLF having descended into factionalism, for the first time since its creation the leadership of the EPRLF was handed to a non-Tigrayan, Abiy Ahmed, the then 42-year-old Oromo leader of the OPDO. Following his accession as Prime Minister in April 2018, Prime Minister Abiy tightened his grip on the party with the removal of several central committee members. The ODPO was renamed the Oromo Democratic Party (ODP) in September 2018. The EPRDF coalition was subsequently annulled, and its successor the pan-ethnic Prosperity Party was established on 1 December 2019. The new party was formed through the merger of three of the four governing

coalition parties, including the ODP, with five regional allies also agreeing to be merged. Only the TPLF stood apart.

38. Upon assuming office in 2018, Prime Minister Abiy committed to opening the country politically and economically. In its first 100 days the government released thousands of political prisoners, lifted the state of emergency, removed terrorist designations on opposition groups including the OLF, closed a notorious detention facility, and granted amnesty to jailed dissidents. The Prime Minister replaced senior security chiefs, sacked prison officials and loosened press restrictions. He sought peace with domestic insurgent groups, initiated a rapprochement with Eritrea that brought a formal end to a decades-long border dispute, and pursued a peacemaker role in the region. His foreign affairs efforts secured him the Nobel Peace Prize in 2019. These events led to the respondent considering that there were very strong grounds supported by cogent evidence to depart from the Tribunal's country guidance in MB (OLF and MTA - risk).
39. The liberalisation process slowed down with reform making limited tangible impact in the political sphere after the initial efforts to bring formerly proscribed political actors back onto the political stage. The respondent's *Fact-Finding Report* acknowledges several sources as observing that after initial positive changes the situation was now "one of regression or backsliding": para. 1.5.1.
40. Several factors were influential in the downturn in the political sphere, with two of particular note. The first was the attempted coup on 22 June 2019 in Amhara Region during which the President of Amhara Region and the Chief of the General Staff of the Ethiopian National Defence Force were assassinated in coordinated attacks. Though the coup attempt took place in Amhara Region, the political ramifications spread across Ethiopia with the political space that had been opened between the government and opposition beginning at this time to close, as the government openly took steps to repress the opposition, media, and dissent.
41. The second important event was the death of an Oromo cultural icon in 2020 which led to wide-spread protests in Oromia Region and Addis Ababa. Hachalu Hundessa was a popular Oromo singer who at the age of 17 had been imprisoned for 5 years in 2003 for participating in protests. Following the release of his first album he emerged as a powerful political voice and his songs were the soundtrack to the wave of anti-government protests that led to the downfall of Prime Minister Hailemariam in 2018. Hachalu Hundessa was shot dead on 29 June 2020 in Addis Ababa and over the following days more than 100 people were killed in protests held in the capital and in Oromia Region. In response to the protests the Ethiopian government renewed restrictions on individual rights, and its use of repressive tools in the ensuing crackdown, including arbitrarily arresting its citizens and shutting down the internet, echoed tactics employed by the previous EPRDF government. A later investigation undertaken by the

Ethiopian Human Rights Commission identified over 9,000 arrests arising from the disturbances.

42. Federal and regional elections were held in June 2021. Voting was delayed in 111 of the 547 federal constituencies with the National Election Board of Ethiopia confirming that voting in the majority of the outstanding constituencies, including those situated in four zones in Oromia Region, would take place at a later date. Security concerns underpinned the delay. The partial results of the federal election were announced on 10 July 2021 with the Prime Minister's Prosperity Party winning 410 seats out of the 436 contested. Voter turnout was just over 90% among the more than 37 million people registered to vote. The OLF did not contest either the federal or regional elections, citing the arrests of leaders and members of the party, as well as the closure of 108 of its offices, as having depopulated the party and deprived it of the ability to organise for the elections.

### *Oromia Region*

43. Oromia Region is the largest of the ten regional states by size and population in Ethiopia. In 2007, the most recent census conducted in Ethiopia established that it had a population of 27.1 million and it is presently estimated to have a population in the region of 38 million. Whilst most Oromo reside in Oromia Region, which surrounds the federally administered capital Addis Ababa, there are significant Oromo communities residing in Addis Ababa, Amhara Region and Southern Nations, Nationalities and Peoples' Region.
44. Historically the Oromo never formed a single state but were organised in small societies of clans and villages. During the last quarter of the 19th century, the Amhara-dominated Ethiopian Empire expanded to the south, tripling its territory. During such time much of what is now Oromia Region was conquered and forcibly incorporated into the Empire. Oromo suffered exclusion, with land expropriated and institutions suppressed. There were regular efforts to forcibly assimilate Oromo and the use of the indigenous language, Afaan Oromoo, was banned in Ethiopia, including in political life and schools, from 1941 until 1991, as part of an assimilationist policy that identified the speaking of Amharic as being 'Ethiopian'. Many nationalist Oromo identify a long, difficult and often antagonistic relationship with the Ethiopian State, with their level of political and economic influence being incommensurate to their numerical size.
45. Since the establishment of Oromia Region in 1992, the eight State Presidents have been members of the ODPO or its successor parties the OPD and the Prosperity Party. In the 2021 regional election the Prosperity Party won all the contested seats - 513 - with 26 seats expected to be contested later subject to improvement in the security situation.

### *OLF*

46. The OLF was formed in 1973 and seeks to establish for the Oromo people “the inalienable right to national self-determination and to terminate a century of oppression and exploitation.” Whilst self-determination remains the party’s fundamental objective, there is presently no internal consensus as to whether it should be exercised as an independent Oromia, or as a political union or federation with other nations that presently form Ethiopia.
47. Dawud Ibsa has led the party as chairman since 1999. The party is presently subject to a debilitating power struggle between two factions caused, in part, by Dawud Ibsa’s decision that the OLF would not contest the 2021 federal and regional elections.
48. In the latter years of the 1974 to 1991 civil war, the OLF forged a loose alliance with the TPLF, but they never formally affiliated and regarded each other with suspicion, which was exacerbated upon the TPLF supporting the creation of the OPDO. In 1991, the OLF joined the TPLF-led transitional government, but its leadership became convinced that it would not be allowed to compete fairly against the OPDO in the 1992 elections. Relations with the EPRDF degenerated into open conflict and OLF ministers serving in the transitional government withdrew and left the country. Soon afterwards EPRDF military forces captured thousands of OLF fighters and drove the OLF out of the country. The party’s leadership was subsequently divided between Eritrea, Europe and the United States which led to repeated splintering and the establishment of rival parties.
49. Despite its defeat and exile, leading to a long absence from the domestic political scene, the OLF retained its status as a symbol of Oromo nationalism. From 1992 onwards it waged an armed struggle in Ethiopia, accepting military training and assistance from Eritrea.
50. The OLF declared a unilateral temporary ceasefire on 12 July 2018 and on 7 August 2018 the OLF and the Ethiopian government signed a peace deal following talks in Asmara, Eritrea. They agreed to reconciliation and to form a joint committee overseeing the implementation of the agreement. In September 2018 the OLF leadership returned to Addis Ababa before a crowd of several hundred thousand people and soon afterwards some returnees took up positions offered by the Oromia Region government. In October 2018 the OLF confirmed that it was working on disarming its soldiers, though only 1500 had been disarmed by that date.
51. By the summer of 2019, after a coup attempt in Amhara Region, the democratic space began to be tightened, with federal and regional authorities reverting to repressive methods in order to maintain law and order. Both federal and regional authorities regularly used significant restrictive measures to address bouts of public violence, often political in nature. Such methods included significant efforts to curb political opposition, with the adverse interest of the security forces directed

towards the OLF. During the crackdown after the assassination of Hachalu Hundessa, many members and supporters of the OLF were arrested, accused of orchestrating or enacting the violence and subjected to lengthy detention. The authorities replicated tactics commonly used in the EPRDF era by arresting OLF leaders, members and supporters, detaining many for extended periods without bringing them to court, and re-arresting others who entered the criminal justice system and were released by courts

52. The authorities have, on several occasions, imposed restrictions on the personal movements of the OLF chairman, Dawud Ibsa, amounting to house arrest. The first occasion was from 17 July 2020 following the murder of Hachalu Hundessa. He was released on 31 July 2020. On 12 October 2020, he was giving a media briefing at his home in respect of the party's proposal that a National Transitional Government of Oromia be established. Security forces attended and interrupted the meeting. Journalists who attended the meeting were arrested, as were several other attendees. A significant number of uniformed men surrounded the residence barring entry and exit. On 2 April 2021 Dawud Ibsa was placed under house arrest and the security guards previously assigned by the government to protect him were removed. From 3 May 2021 he was held incommunicado when his house was raided by armed security forces. His computers and telephones were confiscated. On 15 June 2021 Amnesty International wrote a letter addressed to the Minister of Peace calling for his release and observing, "There is therefore serious concern over Dawud Ibsa's wellbeing as the food and other essential items in the house have either run out or are close to doing so." Dawud Ibsa remains under house arrest.
53. Several senior members of the OLF have been detained. Colonel Gemechu Ayana, a member of the OLF's central committee, was arrested on 17 January 2019. In September 2019, he was charged along with seventeen others in relation to terrorism offences. Following his acquittal in May 2021 heavily armed persons wearing the uniform of the federal police attended Kalinto prison where the thirteen defendants were awaiting the processing of their release and took them away to an unknown location. The deputy attorney general informed the BBC that the prisoners were not under the custody of the federal police commission. Colonel Gemechu Ayana had previously accused the authorities of torture and compared his solitary confinement in a dark room as being held in a gulag. He remains in detention, his location unknown.
54. The Oromia Region police are engaged in the cyclical practice of arresting, releasing and rearresting OLF members and supporters, and have done so after courts have ordered their release. Two OLF members were arrested in June 2020 and detained at separate detention centres. They were charged with terrorism and granted bail by the Oromia Supreme Court in November 2020. They were rearrested later that month when they attended court. The Supreme Court dismissed the charges against the men in December 2020, but the Oromia Region police did not comply with the ruling and

kept the men at various police stations over time. The Oromia Supreme Court ordered the commissioner of the Oromia Region police to appear before it in March 2021 and explain why there had been non-compliance with its order of December 2020. The commissioner failed to attend the hearing and sent no representative. The Oromia Supreme Court ordered the release of the men, who were re-arrested as they left the court premises and taken to a detention centre.

55. Thousands of detainees from all over Oromia Region have been transferred to rehabilitation centres located in military camps where they are forced to undergo physical training and compulsory education, the latter advancing government perspectives. Detainees are required to make incriminating statements during group sessions. The respondent's *Fact-Finding Report* notes the absence of due process for those detained in these military camps: persons being held without charge; delay or failure to take those charged to court; and a lack of access to family or lawyers. The political detainees are identified as "OLF supporters, members, committee members, central committee members and even OLF affiliated non-members." The report references the cyclical nature of arrest, release and re-arrest adopted in respect of these camps, accompanied by economic exploitation.
56. The OLF's party machinery has also been targeted. In August 2020 the party's Addis Ababa headquarters was closed by the police, with twenty-four members of the party arrested. The building remains guarded by police. Branch offices elsewhere in the capital and Oromia Region have closed at the order of the authorities.
57. The pressure placed upon the OLF by the authorities has enjoyed some success. First and foremost, the party did not contest the federal and regional elections in 2021, thereby denying the electorate the opportunity to cast votes for the senior Oromo nationalist party. Further, the pressure contributed to the enlarging of existing divisions within the party. The OLF has long been a fractured organisation, not only in respect of its relations with its former armed wing, but also consequent to strong disagreements within the party as to how it should move forward, coupled with significant personality differences. Against the backdrop of an upsurge in arrests and detention of its members, the fractured nature of the OLF's leadership led to a significant dispute arising between Dawud Ibsa and deputy chairman Ararso Biqila resulting in both asserting that they run the party.

## OLA

58. Soon after the establishment of the OLF, it adopted armed Oromo units previously active in the Chercher Mountains as its military wing: the Oromo Liberation Army (OLA). From 1992 onwards the exiled OLF waged an armed struggle in Ethiopia through the OLA by means of guerrilla warfare. To many observers such military actions were largely ineffectual and provided no serious military threat to the Ethiopian government.

However, the OLA's military actions led to the Ethiopian authorities designating the OLF as a terrorist organisation in June 2011.

59. Armed members of the OLA returned to Ethiopia in September 2018 following the August peace agreement and committed to laying down arms. Integration and disarmament proved in many cases to be unsuccessful. The OLA remained its own security force, with its own leadership and strongholds. Years of unrest weakened regional government control in areas of Oromia Region such as Welega and Guji. Upon the return of the OLF and OLA to Ethiopia in 2018, returnees stepped into the security vacuum in these areas, sometimes working with the police to enforce order. However, there were accusations that the regional government had reneged upon promises to employ OLA fighters as police officers and were singling them out for arrest and beatings. In turn, the regional government accused the OLA of keeping their weapons. By late 2018, members of the OLA had returned to the forests and were killing officials and attacking army convoys. In 2019 the federal government reported that the national air force was bombing OLA training camps.
60. In April 2019 the OLA separated from the OLF, issuing a statement detailing that it no longer had any relationship with the party or its leadership. The OLA stated that despite having previously agreed to a ceasefire in 2018, the government had continued to arrest its members and wage war upon it. It accused the government of failing to abide by the ceasefire agreement and recommenced military activity in Oromia Region. The authorities assert that the OLA is also active in Amhara Region.
61. The extent and nature of separation between the political and military wings continues to be questioned. The Ethiopian and Oromia Region governments regularly refer to the breakaway armed group as 'OLF-Shene' (or OLF-Shane), not as the OLA, seeking for public consumption to identify continuing close links between the OLF and the 'terrorist' OLA. However, in recent times the OLA has been referred to pejoratively by the authorities simply as 'Shene'. The government opted to use 'Shene' alone in the Parliamentary resolution of May 2021 designating the OLA to be a terrorist organisation.
62. The number of fighters and technical support under OLA command is presently unverified. Most observers refer to numbers as being in the low thousands.
63. Consequent to OLA activity, command posts - committees run by military personnel - have been established in various zones of Oromia Region, operating under a declared state of emergency and resulting in administrative rule by the Ethiopian National Defence Force. Their creation is confirmation that the federal government considers regional and local authorities to have failed in guaranteeing the security situation. Such zones include Borena, East Guji and West Guji in the south of the Region and East Welega, Horo Guduru Welega, Kelam Welega and West Welega in

the west. The aim of the command posts is to coordinate the operations of federal and regional security forces against the OLA.

64. In its May 2020 report *Beyond Law Enforcement*, Amnesty International identifies the command posts in East Guji and West Guji as conducting multiple arbitrary arrests and detention of people alleged to be supporting, feeding, and sharing intelligence with the OLA. The report details the extrajudicial killings of thirty-nine people, three of whom were in security force custody.
65. There are reliable reports of the OLA committing grave human rights violations in Oromia Region, including targeting and killing minorities such as Amhara, villages subjected to plunder with cattle stolen accompanied by houses being set on fire, Christian religious sites being attacked and looted, and the targeted murder of bus passengers. The OLA denies its involvement in such attacks. The authorities also accuse the OLA of engaging in assassination, with targeted killings of numerous local administrators. There have also been regular reports of deaths consequent to OLA ambushes. The decision to attack government officials and police officers in small towns and villages forms part of a strategy to make areas of Oromia Region ungovernable for the federal and regional governments. The OLA has claimed responsibility for some deaths on social media, though it has also engaged in correspondence with the Addis Standard magazine addressing allegations made against it and declaring that “our troops face stiff penalties for killing civilians; there is no tolerance for such acts.”

#### **E. The Parties’ Cases**

66. The appellant’s written case was that the decision in MB (OLF and MTA – risk) should not be departed from, there being insufficient durable change in circumstances existing in Ethiopia to displace the risk factors set out in the country guidance.
67. The appellant placed reliance upon the Amnesty International letter, dated 9 November 2020, which details that despite the encouraging signs in the early months of Abiy Ahmed’s Premiership, “which, along with many others, [Amnesty International] praised at the time, we are increasingly concerned at what appears to be a downward spiral for human rights in the country.” The letter observes, “it is increasingly apparent that the security apparatus has used the rise of a relatively small OLA as a pretext for a widespread crackdown on supporters and perceived supporters of Oromo nationalism in general and the OLF in particular, who are viewed as a threat to the territorial integrity of the state and an obstacle to the current government and its agenda.” Regional and federal security forces are identified to have overseen a campaign of mass arbitrary arrests and detentions; the routine use of torture and other serious ill-treatment; and the use of extrajudicial executions and enforced disappearances in the Oromia region.

68. In its '*Beyond law enforcement*' report Amnesty International conducted research into communal violence that took place in Oromia Region in 2019. Following investigations conducted in the zones of East Guji and West Guji Amnesty International concluded that members of the Ethiopian National Defence Force, regional police special forces, local administration officials and allied militia armed youth and vigilante groups carried out serious human rights violations. The report's introduction observes that "while initial first steps had been taken towards improving the human rights environment in the country, a persistence of old-style patterns of violence perpetrated by the security forces threatens to derail sustained long-term gain." In its conclusion, the report's authors state:

'In Oromia, there were arbitrary arrests and detention of thousands of people suspected of supporting OLA and opposition political parties by kebele militia, Oromia Police and the EDF. In the absence of criminal charges against many of the former detainees, the security forces told all of them they were suspected of supporting, sharing information with and feeding the OLA. Suspects were held in detention in local police stations for more than five months on average without charge, while thousands were transported to unofficial places of detention such as Tolay Military Training Camp and Sanqale Oromia Police Training College. Detainees were not accorded access to lawyers, courts, their families or anyone else outside the places of detention. At least 10,000 people were held in detention at Tolay during the of mass detentions that began in January 2019.'

69. Detainees held in police stations and Sanqale Police Training College were identified by the report as being held in dire detention conditions characterised by, among others, lack of sufficient food, bedding, and outdoor activities.

70. Before the First-tier Tribunal the respondent submitted that following the appointment of Prime Minister Abiy in April 2018 members and supporters of the OLF no longer possess a well-founded fear of persecution at the present time because the government they feared when they left Ethiopia had been replaced by one that had reconciled with the OLF. Express reliance was placed by the respondent upon her CPIN '*Ethiopia: Opposition to the government*' (July 2020) ('the *Opposition CPIN*') where the country guidance in MB (OLF and MTA - risk) is noted, but it is observed at para. 2.4.22:

'2.4.22 Since the country guidance determination in MB, the country situation has improved. Following the removal of the OLF's designation as a terrorist group in 2018, hundreds of thousands of people gathered in Addis Ababa to welcome back its leaders, although sources noted subsequent arrests. In April 2019 the Oromo Liberation Army (OLA) split from the OLF political party and in May the OLF stated it would merge with the Oromo Federalist Congress (OFC). In November 2019, the OLF registered with the election board (NEBE) as a political organisation,

agreeing to work with other political parties in Oromia state. In January 2020, the OLF signed an agreement with the Oromo Federalist Congress (OFC) and Oromo Nationalist Party (ONP) to form a coalition in the forthcoming elections (at the time of writing postponed indefinitely). However, some sources indicate that the OLF (and the OLA) may not be a single entity, but has fractured into a number of sub-groups and in some areas is not controlled by a single person or entity. OLF sources told the Home Office in September 2019 that they operated in Addis Ababa and the surrounding area and had opened 40 offices in 2019 across the country, although 30 subsequently closed.'

71. The respondent's view as to the present situation in Ethiopia and the guidance in MB (OLF and MTA - risk) is set out at paras. 2.4.26 and 2.4.27 of the *Opposition CPIN*:

2.4.26 The country information indicates that there are very strong grounds supported by cogent evidence to depart from UT's findings in MB. Since 2004, there has been a fundamental change in the legal status of the OLF now that designation as a terrorist organisation has been removed by the state, its leaders and exiled members have been able to return to Ethiopia, and it has been able to register as a political party in anticipation of national elections, opening offices and is able to operate and work with other political parties. OLF supporters and members do continue to face harassment and arrest from the state however, the available evidence does not indicate that all OLF activists, members or supporters - which may number in the hundreds of thousands to millions - throughout Ethiopia are at risk of treatment amounting to persecution by its nature and/or repetition. The assessment of risk for a person will vary between different areas of Ethiopia and within Oromia itself. OLF members or supporters in Oromia, particularly in areas where armed conflict between the OLA and the armed forces continues, face a higher risk of treatment that amounts to persecution than those in Addis Ababa.

2.4.27 In general, a person who is a member or supporter of the OLF is not at risk of persecution for that reason alone. Instead, each case must be considered on its facts with the onus on the person to demonstrate that they will be at risk of persecution based on their profile, political activities, past experiences including any arrests (and the timing of, location of and their experience during those arrests), and the proposed place of return.

72. Ms. Bayoumi confirmed before us that the *Response* constituted the high point of the respondent's case. In setting out the respondent's initial position, we were taken to section 2.2. which is entitled 'legal position and state treatment', which in turn references paras. 3.1-3.3, and 3.6-3.8 of the *DFAT Report*. The conclusions drawn from the *DFAT Report* are that ethnically-motivated societal violence is rare though it has increased since 2018; official discrimination based on race and/or ethnicity is rare; Oromo influence at the federal level has expanded significantly since the

accession of Prime Minister Abiy; Oromo form the single largest ethnic group in the federal cabinet; Oromo political prisoners have been released; and whilst there was widespread violence against - and detention of - protesters across Oromia Region between 2014 and 2018, this was not ethnically motivated but simply reflected the then federal government's sensitivity to political opposition.

73. In addition to the paragraphs identified above, paras. 4.1.3, 4.2.15 and 5.4.1 of the *Response* reference the following paragraphs from the *DFAT Report*:

'... tolerance for political dissent has increased considerably since April 2018. Opposition political parties are able to organise and operate significantly more freely, particularly in Addis Ababa, and their members face a low risk of harassment, arrest and detention by virtue of their political affiliations and views. DFAT assesses Ethiopians can openly criticise the ruling party.' [para. 3.41, DFAT]

'The authorities have typically welcomed voluntary returnees to Ethiopia, including, since April 2018, government critics and opponents. DFAT assesses that returnees, including failed asylum seekers and/or government critics and opponents, face a low risk of monitoring, harassment, detention and official discrimination ... DFAT assesses that people who openly criticise the ruling party while they are outside of Ethiopia face a low risk of official harm on their return to Ethiopia.' [para. 5.37, DFAT]

'DFAT assesses that, under the current federal government, failed asylum seekers face a low risk of harm on their return to Ethiopia, including where they sought asylum on political grounds.' [para. 5.38, DFAT]

74. Ms. Bayoumi expressly requested that we uphold the conclusion at para. 3.8 of the *DFAT Report*:

'3.8. While there was widespread violence against, and detention of, protesters across Oromia State between 2014 and 2018, DFAT assesses this was not ethnically motivated, but reflected the then-federal government's sensitivity to political opposition. The situation for government critics, including ethnic Oromos, has improved significantly since April 2018. DFAT assesses that individuals who are part of, or have links to, armed OLF factions engaged in criminal activities and clashes with government forces are likely to be of interest to the authorities, and face a moderate risk of arrest and detention. The risk of arrest and detention faced by OLF members who participate peacefully in the political process is low. DFAT assesses, overall, Oromos face a low risk of official discrimination based on their ethnicity, including with respect to employment in the public sector. DFAT assesses that, excluding in Addis Ababa, Oromos face a moderate risk of violence in areas or states where they constitute a minority.' [Emphasis added]

75. Ms. Bayoumi accepted that there were identifiable problems of ethnic tension and resulting violence developing in Ethiopia at the time of the hearing before us. However, she contended that the present evidence does not establish that anyone with a connection to the OLF is at real risk of being targeted by the federal or regional authorities. She confirmed the respondent's position to be that only if a person holds a high profile within the party will they be subjected to the adverse attention of the authorities. She drew our attention to paras. 4.2.11 and 4.2.13 of the *Response*, detailing an OLF press release of 20 December 2020 addressing recent arrests of OLF leaders, members and journalists, and subsequent coverage of the press release by an Ethiopian newspaper as evidencing the respondent's position that only the senior echelons of the party are targeted by the authorities.
76. Ms. Bayoumi asked us to note that the OLF remains a lawful political party and whilst it may face administrative and organisational difficulties at the hands of the authorities, this alone did not amount to persecution.
77. She also directed us to paras. 3.3 and 3.4 of the *DFAT Report* which states that inter-ethnic relations have deteriorated since 2018 but concludes that such ethnic discrimination as occurs is predominantly in the form of positive discrimination. Consequently, she asked us to consider the ongoing violence with its attendant arrests and detentions as flowing from inter-ethnic tensions, and not from the targeting of the nationalist political opposition.
78. Ms. Bayoumi placed reliance upon paras. 4.3.2 to 4.3.5 of the *Response*, where reference was made to the *DFAT Report*, a report from Human Rights Watch and articles from the BBC and the Addis Standard addressing the activities of the OLA, or OLF-Shene, in western and southern Oromia Region. She informed us that this section of the *Response* clearly illustrated the distinction now to be drawn between, on the one hand, the OLF and, on the other, the OLA along with 'other OLF factions', the latter having yet to disarm and engaging in armed clashes with federal and regional forces. She contended that at the present time it is only individuals who are part of, or who have links to the OLA, or OLF-Shene, including those engaged in criminal activities and clashes with government forces, that are likely to be of interest to the Ethiopian authorities.
79. Ms. Bayoumi relied upon paras 4.1.2 and 4.1.3 of the *Response*, which in turn referenced the *DFAT Report*, detailing that there was freedom of political expression in Ethiopia and tolerance of political dissent.
80. Consequent to questions from the panel Ms. Bayoumi conceded, on instructions, that the significant difference in opinion proffered by sources relied upon in the *Response* as to the present risk for OLF members and supporters in Ethiopia meant that the respondent was unable to produce

cogent evidence capable of justifying departure from MB (OLF and MTA – risk) on the grounds advanced. Therefore, by the conclusion of the hearing before this Tribunal the respondent had resiled from her stated position as advanced both in writing and at the outset of the hearing.

81. We take this opportunity to say that Ms. Bayoumi presented the respondent's case with considerable skill, but we agree that the concession was the only appropriate course open to the respondent upon careful consideration of the objective and expert evidence before us and so we allowed the appellant's appeal at the conclusion of the hearing. We give our reasons below.

## **F. Analysis**

82. As we note above, for the purposes of our decision we have only found it necessary to refer to a small number of documents relied upon by the parties, the Amnesty International documents to which we have referred, the CPINs, the *Fact-Finding Report* and the *Response*.
83. CPINs are published by the respondent in respect of over 40 countries identified as the most common countries of origin of persons seeking asylum in the United Kingdom. They evidence the respondent's position at the date of publication on identified issues concerned with protection. Several are themed and at present there are three themed CPINs concerned with Ethiopia: the *Opposition CPIN*, '*Ethiopia: Oromos*' (October 2019) ('the *Oromos CPIN*') and '*Ethiopia: Actors of protection*' (September 2020) ('the *Actors of Protection CPIN*'). A fourth CPIN is concerned with general background information and internal relocation (September 2020). Each CPIN provides country information as well as policy analysis drawn from the country information and operational guidance providing direction on deciding claims. Our summary of the country background situation above has drawn significantly on the source material set out in these documents.
84. COI reports, including the country information element of CPINs, whether originating from this country or from European countries such as Denmark, the Netherlands, Norway and Sweden, are not themselves evidence but identify the position adopted by a government department. They serve two other functions. They set out, in summary form, evidence from other sources. To that extent they might be secondary, or even tertiary, sources of information. They may also serve to reflect the policy position of the relevant government.
85. In LP (LTTE area – Tamils – Colombo – risk?) Sri Lanka CG [2007] UKAIT 00076 the Upper Tribunal held that the weight to be given to expert evidence (individual or country) and country background evidence is dependent upon the quality of the raw data from which it is drawn and the quality of the filtering process to which that data has been subjected. The Tribunal observed at para. 43 that while the evidence upon which COI

reports rely is filtered, it is – importantly – sourced. Consequently, these reports are to be treated in the same way as any other background evidence. We adopt the same approach to the country information element of CPINs.

86. The *Fact-Finding Report* was prepared following a visit to Ethiopia by three officials from the respondent’s Country Policy and Information Team (CPIT) with support from the British Embassy in Addis Ababa between 16 and 20 September 2019. The team was based in Addis Ababa and visited Ambo in Oromia Region. The purpose of the mission was identified as gathering accurate and up-to-date information from a range of sources about the political situation in the country since April 2018 and the changes that had occurred under Prime Minister Abiy. As the written conclusion of an information gathering visit to Ethiopia the *Fact-Finding Report* offers illumination as to a snapshot in time, providing information as to knowledge and perceptions held by persons on the ground, but the inherent nature of a fact-finding mission report results in it being deleteriously affected by material changes in the country situation post-dating the conclusion of the mission.
87. It was no doubt developments on the ground in Ethiopia that led Ms. Bayoumi to place the greatest reliance on the *Response*, the most recent of the documents she relied upon. The document expressly identifies its focus as being upon events occurring after the publishing of the *Oromos CPIN* in October 2019. It runs to twenty-two pages and is divided into two sections: (i) Is Ethiopia safe for Oromos to return given recent unrest and protests? and (ii) Is there a risk to previously detained OLF supporters and those who have protested abroad? The bibliography cites twenty-seven sources with a further five sources consulted but not cited. Several sources are media outlets: including the BBC, Addis Standard, Reuters and The Economist. Human Rights Watch’s World Report of 2021 is cited as a source of information, as is one press release from Amnesty International. The *Response* cites COI reports originating from the Norwegian Country of Origin Information Centre (Landinfo) and the Swedish Migration Agency (Migrationsverket). However, the most cited source is the *DFAT Report*, with express reference to nineteen paragraphs of this report as well as fifteen references in the fifty-two footnotes. The BBC follows with four news reports referenced in eight footnotes.
88. In considering the *DFAT Report* we note that it is a statement of position, not evidence, as confirmed by the self-declaration that it is the department’s ‘best judgment and assessment’ as to a country overview for use in protection status determinations. Consequently, we consider it appropriate to assess the methodology adopted by the report’s authors identified at para. 1.4:

‘This report is informed by DFAT’s on-the-ground knowledge and discussions with a range of sources in Ethiopia. It takes into account relevant and credible open source reports, including those produced by: the United Nations and its agencies; the US Department of State;

the UK Home Office; the World Bank; the International Monetary Fund; leading human rights organisations such as Amnesty International, Human Rights Watch and Freedom House; and reputable news sources. Where DFAT does not refer to a specific source of a report, this may be to protect the source.'

89. News sources are not named. Beyond general reference to NGOs as sources, no detail is provided as to which NGO press releases, news articles or reports have been considered. No detail is provided as to the substance, title and age of country of origin and international organisation information relied upon. Sources are rarely identified in the body of the report even in respect of uncontroversial matters. There are no footnotes.
90. The European Court of Human Rights in Sufi and Elmi v. United Kingdom (2012) 54 E.H.R.R. 9, at [230]-[234], expressed concern as to the reliance upon unidentified sources in the preparation of COI reports. Whilst it noted that there may be legitimate security concerns for sources who wish to remain anonymous, the Strasbourg Court held that an absence of information about the nature of sources' operations in the relevant area results in it being virtually impossible for a court or tribunal to assess their reliability unless the information provided accords with other, verifiable, information.
91. We note the recent observation by this Tribunal in KK and RS (Sur place activities; risk) Sri Lanka CG [2021] UKUT 0130 (IAC), at [302]:

'302. In addition to taking account of open source materials such as the US Department of State human rights reports, DFAT is based on "on-the-ground knowledge and discussions with a range of sources in Sri Lanka." However, none of the sources are identified, there is no explanation as to how the information from these sources was obtained, and there is no annex containing, for example, records of any interviews (unlike the FFM), Indeed, it is unclear whether any formal interviews took place. The report does not provide direct quotes from any source. In light of these matters, it is difficult to gauge the reliability of the sources which have informed the "judgement and assessment" applied to them by the authors of the report ...'
92. The *DFAT Report* relied upon by the respondent in this matter gives rise to the same concerns identified by the Tribunal in KK and RS. We consider the methodology adopted by DFAT to be unsatisfactory for the reasons expressed in KK and RS. We are unable to adequately assess the reliability of the report's sources, and this adversely impacts upon the weight that we can properly place upon the conclusions reached unless supported by other corroborative evidence.
93. The merits of the positive conclusions drawn in the *DFAT Report* are properly to be assessed by our considering the political situation existing in Ethiopia as at the date of its publication in August 2020. At that time the chairman of the OLF, Dawud Ibsa, had been subjected to house arrest;

several leading members of the party had been arrested, detained and in some cases held for several months without charge; and several thousand people had been arrested in June and July 2020 following violent disturbances in Oromia Region and Addis Ababa, many of whom were - or were suspected to be - members and supporters of the OLF. Many thousands were to remain in detention for long periods of time in poor detention conditions or were subjected to cyclical arrest, release and re-arrest. Re-education was conducted upon detainees held in military camps. Further, the OLF was subject to significant obstruction in respect of opening and running party offices, including the occupation of its office in Addis Ababa by police officers on 1 August 2020 and the resulting bar upon party officials and members from entering the premises. Such circumstances are either given limited weight in the report or simply not referenced.

94. We conclude that the optimistic assessment adopted by DFAT of the situation for the OLF in Ethiopia was one that failed to adequately engage with significant, and adverse, developments then arising in the country. We have some sympathy for the report's authors as its publication coincided with fast moving regression in the political space existing in Ethiopia consequent to events in June and July 2020 and an accompanying increase in the obstruction of the OLF's on-the-ground activities. Such regression has become clearer with the passage of time but there were significant, adverse indicators as to the deterioration in the political sphere for the optimistic conclusion drawn by the report to be difficult to justify at the date of publication. Our concerns further impact upon the weight that can properly be given to the report.
95. We are satisfied that the considerable deterioration in the government's rapprochement with the OLF was much clearer at the date of the publication of the respondent's *Response* in February 2021. We conclude that the respondent should have been mindful of the adverse targeting of the OLF by both federal and regional authorities at the time of the publication of the *DFAT Report*, as well as the continuation of such targeting in the months afterwards, when considering the weight to place upon the report's conclusions.
96. We are satisfied that the optimistic conclusions advanced by the *DFAT Report* could not properly be relied upon by the date of the publication of the *Response*. We note that Ms. Bayoumi candidly, and quite correctly, drew our attention to para. 4.1.4 of the *Response*, which considered a report issued by Landinfo - '*Politisk utvikling og menneskerettighetssituasjon i 2019- 2020, med fokus på Oromia-regionen*' (January 2021):

'4.1.4 However, Landinfo, in an English summary of their note, based on a range of sources, on political developments in Ethiopia in 2019-20, with a focus on Oromia, observed 'When Abiy Ahmed took office as Prime Minister in 2018, optimism was high. Two years later, the human rights situation has deteriorated, and the

authorities have reverted to repressive methods in order to curb political opposition and maintain law and order.'

97. We further note the reference at para. 4.2.1 of the *Response* to a May 2020 information report authored by Migrationsverket, '*Etiopien - Säkerhetsläget, politisk utveckling och utsatta grupper*' (May 2020), detailing, *inter alia*, that consequent to a conflict between the federal army and the OLA in parts of Oromia Region, "This has led to arrests of OLF affiliates under current command posts in Oromia, and members of the group can be considered at risk of mistreatment and apprehension by local, regional and federal authorities." Whilst noting that this reference to the Migrationsverket report is concerned solely with certain zones in Oromia Region, we conclude that neither Landinfo nor Migrationsverket outwardly project the same confidence as the respondent as to there being a positive change in the situation on the ground.
98. The Dutch Ministry of Affairs COI Report on Ethiopia (February 2021) details at para. 3.2.4 that "the situation has deteriorated recently and that practices such as the arbitrary arrest of (alleged) supporters of the OLF are again the rule rather than the exception." The same paragraph further notes, "In March 2019, more than 1,000 people had been arrested for alleged links to the OLF, according to Ethiopia Insight. A year later, in February 2020, the same news channel cited sources who spoke of the arrest of between 5,000 and 10,000 (alleged) members of the OLF since July 2019. The youngest detainee known to Ethiopia Insight was 13 years old and the oldest 76."
99. At its heart, the decision of the First-tier Tribunal in this matter was to adopt the position of the optimists who consider the progression of the political reforms initiated by Prime Minister Abiy in 2018 to be on-going and succeeding. The respondent had successfully persuaded that Tribunal to reject the more pessimistic view that the Ethiopian government has reverted to its authoritarian and repressive past. However, save for the optimistic conclusions reached in the *DFAT Report*, the expert and objective evidence points to there being significant regression in both the federal and regional authorities conduct towards the OLF. Whilst the party continues to enjoy lawful status, its ability to operate is being significantly impeded by the arrest of various ranks of its leadership and general membership. Ms. Bayoumi was correct to accept that the respondent was unable to rebut the evidential presumption placed upon her.
100. Before concluding, it is appropriate that we address one issue that did arise before us: what is the meaning to be ascribed to the term 'significant history' which appears in the country guidance?
101. The requirement that a claimant prove a significant history of membership or support for the OLF can be traced to the 2005 decision in HA (OLF Members and sympathisers - risk) Ethiopia where it appears, for the first time, in the penultimate paragraph. No elaboration is given as to the meaning of 'significant history', but we note that the Tribunal accepted the

evidence set out in a Country Information and Policy Unit (CIPU) report of April 2004 as to the arbitrary detention and ill-treatment of ‘thousands of OLF members and sympathisers’. In 2007, the evidential finding in HA was converted into formal guidance by the Tribunal in MB (OLF and MTA – risk). Again, the term is not defined. In that case the Tribunal accepted, without qualification, the evidence of country expert Dr Roy Love. It was his evidence that the *modus operandi* of the Ethiopian security forces was to arrest large numbers of civilians, accusing them of OLF involvement, only to release, then re-arrest in a cycle of harassment and ill-treatment. Others were kept in arbitrary detention for prolonged periods, often without hearing or cause shown, sometimes incommunicado. The Tribunal also considered a range of evidence identifying the use of torture by the authorities. We note that this accords with Prime Minister Abiy’s subsequent admission to Parliament that the EPRDF engaged, for many years, in the systemic use of torture against perceived opponents. This was the context in which the previous Tribunal, whose guidance we are invited to uphold, employed the term.

102. We do not find the evidence before us to be materially different today. As the evidence outlined in the CPINs illustrate, many thousands continue to be arrested in sweeps, such as that which occurred in the aftermath of the murder of Hachalu Hundessa. These civilians are then subject to the same cycle of arrest/release/re-arrest as that identified by Dr Love over 15 years ago. Whilst it cannot be said that *any* level of support for the OLF will give rise to a well-founded fear of persecution, it cannot be said that ‘significant’ must denote a high-level or prominent connection to the party. We note Mr. Southerden’s evidence on behalf of Amnesty International, consistent with other evidence placed before us, that “both formal arrest warrants and institutional as well as personal memory of individual officers plays a major role in determining who is perceived as possessing an anti-government agenda and therefore subject to suspicion.” This local, and informal, approach is the context in which we must place the numbers of those arrested. We therefore conclude that ‘significant’ should not be read as necessarily denoting a very high level of involvement or support. Rather, it relates to suspicion being established that a person is perceived by the authorities as possessing an anti-government agenda. This is a fact sensitive assessment.

## **G. Country Guidance**

103. In broad terms, MB (OLF and MTA – risk) Ethiopia CG [2007] UKAIT 00030 still accurately reflects the situation facing members and supporters of the OLF if returned to Ethiopia. However, in material respects, it is appropriate to clarify and supplement the existing guidance.

- 1) OLF members and supporters and those specifically perceived by the authorities to be such members or supporters will in general be at real risk if they have been previously arrested or detained on suspicion of OLF involvement.

- 2) Those who have a significant history, known to the authorities, of OLF membership or support, or are perceived by the authorities to have such significant history will in general be at real risk of persecution by the authorities.
- 3) 'Significant' should not be read as denoting a very high level of involvement or support. Rather, it relates to suspicion being established that a person is perceived by the authorities as possessing an anti-government agenda. This is a fact sensitive assessment.
- 4) 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.

## **H. Individual Appeal**

104. We proceed to consider the appellant's appeal, having considered the evidence relied upon by both parties. The parties agreed as to the appellant's personal history.
105. The appellant is a national of Ethiopia, ethnically Oromo and presently aged 21. He hails from a farming family residing in the Oromia Region. His father is a supporter of the OLF. The Ethiopian authorities attended the family home twice in 2013 looking for the appellant's father but he was not at home on either occasion. His absence led to the property being ransacked. Eventually the appellant's father was arrested by the authorities in February 2014, and he was detained in prison for some 22 months before being transferred to hospital in 2016, consequent to injuries suffered through torture.
106. When the appellant was aged 14, an OLF flag was found at his school, and this led to the authorities rounding up students and beating them. As a result of his beating the appellant sustained an injury to his right eye which led to impaired vision. He was subsequently arrested after his beating and detained in prison for 10 days. To secure his release he was required to sign a declaration that he would not in future be involved with the OLF.
107. Following his release from prison the appellant attended OLF meetings and distributed leaflets on the party's behalf. In February 2016, aged 15, he attended a demonstration seeking greater rights for the Oromo people. He was again arrested and detained for 28 days. Whilst in detention he was beaten on four separate occasions leaving him with scarring. He was released following the payment of a bribe by his uncle on the understanding that he was to be listed as an escapee. He subsequently left Ethiopia.

108. The appellant left Ethiopia on 25 March 2016 and travelled to this country via Libya, Italy, Germany and France. He clandestinely arrived in the United Kingdom on 8 September 2017. He attended a police station on the same date and sought international protection. He was accepted by the respondent as being a minor soon after arriving in this country and was placed in the care of a local authority.
109. The appellant attended a screening interview on 25 September 2017. In preparation for a substantive interview, he served a witness statement dated 7 December 2017 succinctly identifying: (i) his personal and family connection to the then illegal OLF; (ii) his father's arrest and detention; (iii) his two detentions as a minor, in respect of Oromo nationalist activity, with attendant serious ill-treatment; and (iv) the use of bribery to secure his release from his second detention and his being recorded as an escapee.
110. The respondent conducted an asylum interview with the appellant on 16 March 2018 during which the appellant remained consistent as to his personal history.
111. The appellant was referred to the Competent Authority as a potential victim of trafficking. By a decision dated 27 February 2019 the Competent Authority concluded that the appellant is a victim of human trafficking.
112. The respondent refused the appellant's application for international protection by a decision dated 2 May 2019. She accepted that the appellant was ethnically Oromo and a supporter of the OLF. However, she did not accept the appellant's stated history of arrest and detention. In respect of the appellant's fear of persecution upon return to Ethiopia consequent to both his and his family's support of the OLF, the respondent noted that Oromo political prisoners were being released in Ethiopia, the OLF was no longer banned, and its leader had returned to Ethiopia.
113. By its decision of 18 July 2019, the First-tier Tribunal (Judge of the First-tier Tribunal Obhi) found the appellant to be credible as to his personal history but dismissed his appeal. Having considered the Danish Immigration Service Report '*Ethiopia: Political situation and treatment of opposition*', relied upon by the respondent, Judge Obhi concluded, at [34]:

'34 Bearing in mind the significant and startling changes to the country since the appellant left, and the fact that his family including his father remain in the country, I am not satisfied that the appellant can prove that there is a reasonable likelihood that he will be persecuted on the basis of his political opinion or any ill-treatment he may have suffered in the past. There is now a willingness on the part of his country to offer him protection and he is not at risk from the State authorities. No country can give a citizen complete protection and whilst there may be incidents of violence and opposition at a local level there is no evidence before me that this is supported or perpetuated by the authorities. ...'

114. On 27 August 2019 the appellant was granted permission to appeal to this Tribunal by Judge of the First-tier Tribunal Macdonald.
115. By a decision sent to the parties on 10 October 2019 Judge O’Callaghan found a material error of law in the decision of the First-tier Tribunal and set it aside, with a direction that the decision was to be remade by this Tribunal. Judge O’Callaghan concluded that the First-tier Tribunal had materially erred in law by its failure to consider relevant country guidance, namely MB (OLF and MTA – risk).
116. We find that the appellant is properly to be regarded as a person with a known OLF family history. He is a known supporter of the party. He has a history of arrest, detention and torture consequent to his support of the party. He was released from prison by means of a bribe and is listed as an escapee. We conclude that the appellant’s removal from this country to Ethiopia would expose him to a real risk of persecution within the meaning of the Refugee Convention and ill-treatment contrary to article 3 ECHR.

#### **I. Anonymity**

117. The First-tier Tribunal issued an anonymity order but provided no reasoning as to why the appellant’s private life rights protected by article 8 ECHR outweighed the public interest in open justice, as protected by article 10 ECHR.
118. Given the importance of open justice, the general principle is that an anonymity order should only be made by this Chamber of the Upper Tribunal to the extent that the law requires it, or it is necessary to do so.
119. Para. 13 of Guidance Note 2013 No. 1: Anonymity Orders (30 September 2013) confirms that an anonymity order will be made in all appeals raising asylum or other protection claims, “unless a UT judge decides it is unnecessary”.
120. In re Guardian News and Media Ltd and Others [2010] UKC 1, [2010] 2 A.C. 697, the Supreme Court held that, where both articles 8 and 10 of the ECHR are in play, it is for the court or tribunal to weigh the competing claims under each article. Since both article 8 and article 10 are qualified rights, the weight to be attached to the respective interests of the parties will depend on the facts.
121. The appellant has been found credible as to his personal history of persecution and has been successful on appeal. We are therefore satisfied that when weighing the extent of the interference with his privacy on the one hand against the general interest at issue on the other hand, the balance now tips in favour of the public interest in open justice. The appellant will not be returned to Ethiopia. It is not his case that the authorities are targeting his family in Ethiopia in pursuit of him. Indeed, his father has suffered detention and ill-treatment because of his own political

activity. The publication of his name will not adversely affect either his family or himself.

122. We accordingly decide that the anonymity order made by the First-tier Tribunal should be lifted.
123. Observing that the respondent enjoys a right of appeal to the Court of Appeal against our decision under the 2008 Rules we impose a stay on our decision to lift the anonymity order, whereby the lifting will take effect ten working days after the Upper Tribunal has informed the parties of its decision on an application for permission to appeal, with liberty to the parties to request a continuation of the stay if there is an intention by the respondent to renew an appeal to the Court of Appeal on receipt of an adverse decision, if made, issued by this Tribunal.
124. Otherwise, if the respondent does not exercise her right of appeal within the time limit established by rule 44(3A), (3B)(a)(i) of the 2008 Rules the lifting will take place twenty working days after the sending of this decision to the parties.
125. Since our decision to lift the anonymity order is an ancillary decision made in relation to an appeal under section 82 of the 2002 Act, it is an excluded decision by reason of article 3(m) of the Appeals (Excluded Decisions) Order 2009 and, thus, challengeable only by means of judicial review.

#### **J. Notice of Decision**

126. By means of a decision sent to the parties on 10 October 2019 this Tribunal set aside the decision of the First-tier Tribunal promulgated on 18 July 2019 pursuant to section 12(2)(a) of the Tribunals, Courts and Enforcement Act 2007.
127. The decision is re-made, and the appellant's appeal is allowed on:
- i) Refugee Convention grounds
  - ii) Human rights (article 3) grounds
128. The anonymity order is lifted, subject for the stay on lifting identified at paras. 123 and 124 above.

Signed: D O'Callaghan  
**Upper Tribunal Judge O'Callaghan**

Dated: 21 December 2021

## APPENDIX 1

### Objective documentary evidence before the Upper Tribunal

Item	Document	Author/Publisher	Date
1.	<i>'Suppressing Dissent Human Rights Abuses and Political Repression in Ethiopia's Oromia Region'</i>	Human Rights Watch (USA)	05/05
2.	Report of the Committee against Torture, 66 <sup>th</sup> Session, (A/66/44)	UN Committee against Torture	2011
3.	<i>'Because I am Oromo: Sweeping repression in the Oromo Region of Ethiopia'</i>	Amnesty International (UK)	28/10/14
4.	<i>'Ethiopia: The Oromo Liberation Front (OLF), including origin, mandate, leadership, structure, legal status, and membership; treatment of members and supporters by authorities (2014-2015)'</i>	Immigration and Refugee Board of Canada (Canada)	7/5/15
5.	<i>'National Intelligence and Security Services - Ethiopia'</i>	Action on Armed Violence (UK)	2/4/16
6.	<i>'Political unrest simmering in Ethiopia'</i>	Deutsche Welle (Germany)	10/2/17
7.	<i>'A license to torture'</i>	Amnesty International (UK)	28/3/17
8.	<i>'The original sin of Ethiopia federalism'</i>	Yonatan Tesfaye Fessha, <i>Ethnopolitics</i> 16, 3 (June 2017), pp232-245 (published UK)	6/17
9.	<i>'Cracks emerge in Ethiopia ruling coalition'</i>	Argaw Ashine, The East African (Kenya)	14/6/18
10.	<i>'Ethiopia: Political situation and treatment of opposition'</i>	Danish Immigration Service (Denmark)	9/18
11.	<i>Ethiopia Stakeholder Report for the United Nations Universal Periodic Review</i>	The Advocates for Human Rights (USA) and United Oromo Voices (USA)	10/18
12.	<i>'Game Over? Abiy Ahmed, The Tigrayan People's Liberation Front and Ethiopia's Political Crisis'</i>	Jonathan Fisher and Meressa Tsehaye Gebrewahd, <i>African Affairs</i> 118/470, pp 194-206 (published UK)	12/18
13.	National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Ethiopia	Human Rights Council Working Group on the Universal Periodic Review Thirty-third session (6-17 May 2019)	25/2/19
14.	<i>'Ethiopia: Abiy's First Year as Prime Minister, Review of Arbitrary Detention, Torture and Detention Conditions'</i>	Human Rights Watch (USA)	5/4/19

15.	<i>'Human Rights Abuses in Ethiopia'</i>	Oromo Support Group (Australia)	7/19
16.	<i>'Why I nominated Abiy Ahmed for the Nobel Peace Prize'</i>	Awol K Allo	13/10/19
17.	<i>'Ethiopia's Abiy Ahmed: Inside the mind of this year's Nobel Peace Prize winner'</i>	BBC (UK)	10/12/19
18.	<i>'World Report 2020: Ethiopia'</i>	Human Rights Watch (USA)	14/1/20
19.	<i>'Ethiopia: Vendor killed, musician injured after police attack opposition supporters in Oromia'</i>	Amnesty International (UK)	17/2/20
20.	<i>'COI Ethiopia: Opposition groups - recent developments'</i>	Ministry of Immigration and Integration (Denmark)	3/20
21.	<i>'2019 Country Reports on Human Rights Practices: Ethiopia'</i>	US Department of State (USA)	11/3/21
22.	<i>'Failed politics and deception: Behind the crisis in western and southern Oromia'</i>	Addis Standard (Ethiopia)	20/3/20
23.	<i>'Landinformation: Etiopien - Säkerhetsläget, politisk utveckling och utsatta grupper'</i>	Migrationsverkets (Swedish Migration Agency) (Sweden)	14/5/20
24.	<i>'Onslaught in Oromia: A hidden war threatens Ethiopia's transition to democracy'</i>	The Economist (UK)	19/5/20
25.	<i>'Beyond law enforcement: Human rights violations by Ethiopian Security Forces in Amhara and Oromia'</i>	Amnesty International (UK)	29/5/20
26.	<i>'Ethiopia: Rape, extrajudicial executions, homes set alight in security operations in Amhara and Oromia'</i>	Amnesty International (UK)	29/5/20
27.	<i>'Ethiopian security forces accused of 39 extrajudicial killings'</i>	Reuters (UK)	29/5/20
28.	<i>'Ethiopia's security forces accused of torture, evictions and killings - report'</i>	Tom Gardner, (The Guardian, UK)	29/5/20
29.	<i>'The fragile federation: A musician's murder sparks mayhem in Ethiopia'</i>	The Economist (UK)	5/7/20
30.	<i>'Country Information Report, Ethiopia'</i>	Department of Foreign Affairs & Trade (Australia)	12/8/20
31.	<i>'Mass arrests in Ethiopia raise spectre of repressive past'</i>	Dawit Endeshaw (Reuters, UK)	13/8/20
32.	Written Statement submitted by Society for Threatened Peoples, a non-government organisation in special consultative status.	United Nations General Assembly, Human Rights Council, 54 <sup>th</sup> Session 14/9/20 to 2/10/20	19/8/20
33.	<i>'Qeerroo: A regimented organization or a spontaneous movement?'</i>	Ethiopia Insight (Ethiopia)	21/8/20
34.	<i>'Let that be your last battlefield in Ethiopia'</i>	Yves-Marie Stranger (Ethiopia Insight,	24/8/20

		Ethiopia)	
35.	<i>'Ethiopian political parties agree to cooperate'</i>	Fana Broadcasting Coporate (Ethiopia)	23/9/20
36.	<i>'Charges state that Hachalu's assassins were part of "OLF-Shane" anti-government plot'</i>	Ethiopia Insight (Ethiopia)	7/10/20
37.	<i>'From Nobel peacemaker to authoritarian: Ethiopia falling out of love with Abiy Ahmed'</i>	Jane Flanagan, Samuel Getachew (The Times, UK)	8/10/20
38.	<i>'Ethiopia: The OLF Chairman Dawub lbsa, and audiences present to attend media brief put under house arrest at the Chairman's residence'</i>	Human Rights League of the Horn of Africa (Ethiopia)	14/10/20
39.	<i>'Regions blames OLF-Shene, TPLF for deadly attack in West Wollega'</i>	Ethiopian Monitor (Ethiopia)	2/11/20
40.	<i>'Ethiopia says militants killed 32 people in Oromia Region'</i>	Samuel Gebre, Simon Marks (Bloomberg News, USA)	2/11/20
41.	<i>'Ethiopia: Over 50 ethnic Amhara killed in attack on village by armed group'</i>	Amnesty International (UK)	2/11/20
42.	<i>'Ethiopia: OLF-Shene Group, TPLF are behind vicious attacks on civilians'</i>	Ethiopian Herald (Ethiopia)	3/11/20
43.	<i>'Ethiopia: Police arbitrarily arrested Dr. Diriba Wakjira, Deputy Chairperson of HRLHA's board - His whereabouts and fate remains unknown since November 06, 2020!'</i>	Human Rights League of the Horn of Africa (Ethiopia)	6/11/20
44.	<i>'Awol Allo Reflections on The Oromo Protests'</i> [Transcript of interview]	The American Assembly, Columbia University (USA)	12/11/20 [Interview 8/20]
45.	<i>'Ethiopia expels Crisis Group senior analyst'</i>	International Crisis Group (Belgium)	22/11/20
46.	<i>'Ethiopia: The unrelenting extrajudicial killings of citizens in Oromia Region by the so-called 'Oromia Special Force' is very alarming'</i>	Human Rights League of the Horn of Africa (Ethiopia)	22/11/20
47.	<i>'As Ethiopia's army declares daily victories, its people are being plunged into violence'</i>	Alex de Waal (The Guardian, UK)	24/11/20
48.	<i>'Ethiopia's Tigray Crisis: Fears of ethnic profiling stalk conflict'</i>	BBC (UK)	25/11/20
49.	<i>'Nobel Peace Prize Winner To Belligerent Warmaker: Ethiopia Under Abiy Ahmed'</i>	Eyder Peralta NPR (USA)	29/11/20
50.	<i>'The unfolding crisis in Ethiopia'</i>	Lauren Ploch Blanchard, written testimony before Committee on Foreign Affairs, US House of Representatives (USA)	1/12/20
51.	<i>'Ethiopia's Tigray Crisis: Why Nobel laureate Abiy Ahmed sent his troops'</i>	BBC (UK)	6/12/20

	<i>to battle'</i>		
52.	<i>'Why has civil war returned to Ethiopia?'</i>	The Economist (UK)	10/12/20
53.	<i>'The Prosperity Group has arrested OLF members and leaders again'</i>	Oromo Liberation Front. Press Release (Ethiopia)	20/12/20
54.	<i>'OLF accuses Gov't of fresh crackdown on its members; Oromia Region says measures taken on several dozen rebel members, thousands arrested across region'</i>	Siyanne Mekonnen (Addis Standard, Ethiopia)	21/12/20
55.	<i>'Ethiopia: At least 100 dead in latest surge of violence against ethnic minorities'</i>	Amnesty International (UK)	23/12/20
56.	<i>'Exceedingly worrying and volatile situation in Ethiopia'</i> [transcript of remarks made at a press conference]	Michelle Bachelet, UN High Commissioner for Human Rights	9/12/20
57.	<i>'Ethiopia poll plans continue despite opposition crackdown'</i>	Habtmu Tibebe (BBC, UK)	22/12/20
58.	<i>'Ethiopia: OLF-Shene rebel leader reportedly dead'</i>	Agence de Press Africaine (Republic of Congo)	29/12/20
59.	<i>'Schism threatens oldest Oromo political party, once again. Can latest electoral board decision right the wrong?'</i>	Addis Standard (Ethiopia)	30/12/20
60.	<i>'It did not feel like we had a government: Violence and human rights violations following musician Hachalu Hundessa's assassination - Investigation Report'</i>	The Ethiopian Human Rights Commission (Ethiopia)	1/1/21
61.	<i>'Chaos in the Rift - a microcosm of Ethiopia's brutal polarization'</i>	Ethiopia Insight (Ethiopia)	5/1/21
62.	<i>'All is not quiet on Ethiopia's western front'</i>	Tom Gardner (Foreign Policy, USA)	6/1/21
63.	<i>'Etiopia, Politisk utvikling og menneskerettighetssituasjon i 2019-2020, med fokus på Oromia-regionen'</i>	Landinfo (Norway)	6/1/21
64.	<i>Talking and fighting about self-determination in Ethiopia</i>	Alex de Waal (UK)	11/1/21
65.	<i>'Ethiopia's Oromia conflict: Why a teacher was killed 'execution-style'</i>	BBC (UK)	16/1/21
66.	<i>'Ethiopia's leader must answer for the high costs of hidden war in Tigray'</i>	Simon Tisdall (The Guardian, UK)	24/1/21
67.	<i>'Report: Ethiopia'</i>	Ministry of Foreign Affairs (The Netherlands)	2/21
68.	<i>'Prison conditions in Ethiopia'</i>	ARC Foundation / Garden Court Chambers (UK)	2/2/21
69.	<i>UN: Ethiopia may not have control of a large part of Tigray</i>	The Independent (UK)	4/2/21
70.	<i>'World Report 2021: Ethiopia'</i>	Human Rights Watch (USA)	18/2/21

71.	<i>'Oromia Police rearrests OLF members again after Oromia Supreme Court dismisses charges and order their release'</i>	Addis Standard (Ethiopia)	29/3/21
72.	<i>'OLF's Colonel Gemechu Ayana taken away by security forces; PR says whereabouts of detained members unknown; Chairman remains incommunicado'</i>	Addis Standard (Ethiopia)	19/5/21
73.	<i>'Amnesty calls for the release of OLF's chairman under house arrest for months'</i>	Addis Standard (Ethiopia)	16/6/21
74.	Mission <a href="https://oromoliberationfront.org/english/mission/">https://oromoliberationfront.org/english/mission/</a>	Oromo Liberation Front	Undated

## APPENDIX 2

### Home Office Documents filed with the Upper Tribunal

<b>Item</b>	<b>Title</b>	<b>Date</b>
1.	Country Policy and Information Note (CPIN): Ethiopia: Oromos (version 3.0)	11/19
2.	Report of a Home Office Fact-Finding Mission: Ethiopia: The political situation	2/20
3.	Country Policy and Information Note (CPIN): Ethiopia: Opposition to the government.4.0) (version	7/20
4.	Country Policy and Information Note (CPIN): Ethiopia: Actors of Protection (version 1.0)	9/20
5.	Country Police and Information Note (CPIN): Ethiopia: Background information, including internal relocation	9/20
6.	Response to an Information Request: Ethiopia: Oromos and the Oromo Liberation Front	2/21

### APPENDIX 3

#### Expert evidence filed with the Upper Tribunal

<b>Document</b>	<b>Author</b>		<b>Date</b>
1.	Dr. Awol Allo	Senior Lecturer in Law at Keele University	2/11/19
2.	Peter Thorne	Consultant Clinical Psychologist	5/11/20
3.	Dr. Awol Allo	Senior Lecturer in Law at Keele University and Fung Global Fellow at Princeton University	6/11/20
4.	Dr. Awol Allo	Senior Lecturer in Law at Keele University and Fung Global Fellow at Princeton University	8/12/19
5.	Dr. Awol Allo	Senior Lecturer in Law at Keele University and Fung Global Fellow at Princeton University	Undated

## APPENDIX 4

### Letter from Amnesty International, dated 9 November 2020

1. The appellant filed and served a letter authored by Tom Southerden on behalf of Amnesty International, dated 9 November 2020.
2. The latter is annexed to this decision, with the name of the appellant edited so as to prevent identification.

Amnesty International

Ms Kam Dhanjal  
JD Spicer Zeb Solicitors  
83 Kilburn High Road  
London  
NW6 6JE

9 November 2020

Dear Ms Dhanjal

#### **Re: [Appellant], Ethiopia & Country Guidance on Oromo Liberation Front (OLF) Supporters and Activists.**

We write regarding your above-named client, who we understand has sought international protection in the UK. We understand that this application has been refused by the Secretary of State and on appeal at the First Tier Tribunal. We further understand that this case has now progressed to the Upper Tribunal where it is being considered for use as a vehicle for a new country guidance case on the issues last determined in the case of MB (OLF and MTA - risk) Ethiopia CG [2007] UKAIT 00030 (hereafter referred to as MB). We understand that it is the Secretary of State's position, accepted by the First Tier Tribunal Judge, that there has been [sic] there are very strong grounds, supported by cogent evidence of a change in circumstances in Ethiopia, to justify a departure from the findings in MB. A panel of the UT will be considering whether the current country guidance in MB should continue to apply.

You have asked for [sic] Amnesty International if we are able to respond to the following questions regarding your client's case, in light of our organisation's ongoing research and experience of human rights conditions in Ethiopia:

**Question 1: Do Oromo Liberation Front members and sympathisers (whether perceived or otherwise) continue to be at real risk of persecution in Ethiopia?**

**Question 2: To what extent does the above depend on profile; (with reference to the appellant's case for instance)?**

**Question 3: Are you able to comment on the assertion by the Home Office at 2.4.26 of their July CPIN on Ethiopia that there are very strong grounds supported by cogent evidence to depart from the Upper Tribunal findings in the current country guidance case of MB (OLF and MTA - risk) Ethiopia CG [2007] UKAIT 00030 (29 March 2007) set out at 2.4.21 - 22 of the current CPIN on opposition to the Government?**

**Question 4: The present position of members and supporters of the OLF vis-a-vis government security forces?**

**Question 5: Is there today likely to be a presumption by the state that an Oromo person on return to Ethiopia is a member of, affiliated to or associated with the OLF?**

Our answers to these questions should be read alongside our publicly published information on Ethiopia, all of which is available from the Ethiopia database on our website.<sup>1</sup> In particular, however, we would ask that this letter be read alongside our recent in-depth report, 'Beyond Law Enforcement: Human Rights Violations By Ethiopian Security Forces In Amhara And Oromia', a copy of which we have provided as an annex to this letter.

Our answers to these questions have been prepared by Amnesty International UK's Refugee and Migrant Rights Programme in conjunction with the individual Ethiopia research team based at AI's International Secretariat. The Ethiopia research team consists of experienced research and campaigning staff who conduct continual research in the field and from AI's regional hub office in Nairobi, Kenya. They conduct field research to gather information and testimony, as well as maintaining regular contact with a range of sources in Ethiopia, which includes Ethiopian human rights organisations, UN bodies and international non-governmental sources. They also receive information from detainees and their families, lawyers, journalists, asylum-seekers and refugees, diplomats, humanitarian agencies, and government officials. They monitor newspapers, websites and other media outlets. All research is carried out in accordance with the goals of the organisation and the principles of independence and impartiality.

Over the last ten years our organisation has provided responses to queries of this kind in excess of 400 individual cases, across a wide range of nationalities and at various stages of the international protection process in the UK, including at first instance, before the First-Tier and Upper Tribunal, the High Court, the Court of Appeal and in proceedings in the European Court of Human Rights. We can confirm that no financial income is derived from preparing letters of this kind regarding international protection cases.

### **Documents in the Case**

In relation to the case of [the appellant] we have had sight of the following documents

- Determination of FTT Judge Obhi, dated 18<sup>th</sup> July 2019
- Appellant's Bundle of Documents to the FTT Appeal, including, inter alia;
  - Screening Interview Record, 25<sup>th</sup> September 2017
  - SEF Interview Record, Dated 16<sup>th</sup> March 2018
  - Home Office Reasons for Refusal Letter, dated 2<sup>nd</sup> May 2019
  - Statement of [the appellant], dated 5<sup>th</sup> June 2019

We have also read the following Home Office publications, relevant to [the appellant's] case and to the wider country guidance issues in this case:

- Country Policy and Information Note Ethiopia: Opposition to the government, Version 4.0, July 2020
- Report of a Home Office Fact-Finding Mission Ethiopia: The political situation, February 2020
- Country Policy and Information Note Ethiopia: Oromos, Version 3.0 November 2019

We have also read the current country guidance case in relation to OLF members and supporters in Ethiopia, *MB (OLF and MTA - risk) Ethiopia CG* [2007] UKAIT 00030.

Having read these documents and emails to us, we understand that [the appellant] is a young man and an Ethiopian national of Oromo ethnicity. He states that he is the son of a farmer and OLF supporter. He states that in 2013 (when [the appellant] would have been aged around 13) police raided his family home on several occasions looking for his father, and that his father was eventually arrested in February 2014 due to his involvement with the OLF. He states that his father was held in Dallomana prison until Jan 2016 when he was taken to hospital, weak from beatings and torture. [The appellant] states that in 2015 a fellow pupil brought an OLF flag to his school and distributed it and displayed it amongst the pupils. The police arrived, rounded the students up and questioned them. [The appellant] states he was beaten and arrested and then held in Dallomana prison for 10 days before being made to sign a promise not to be involved with the OLF again and threatened he would be killed if he did so. He states that despite this he began secretly attending OLF meetings, distributing leaflets and in February 2016 took part in an OLF demonstration against police misconduct in the region. He states that he was arrested again and detained, this time for 28 days during which time he states he was beaten and questioned about his activities. He states he was released after payment of a bribe, by his uncle, and that it was then arranged for him to travel on the overland route out of the country.

### **Background - Human Rights in Ethiopia**

This section refers to information published in our recent public report, 'Beyond Law Enforcement: Human Rights Violations By Ethiopian Security Forces In Amhara and Oromia', and should be read alongside that report.

Ethiopia has been ruled since 1991 by the Ethiopian People's Revolutionary Democratic Front (EPRDF); a coalition of ethnically-based parties representative of the main regions in Ethiopia's ethnic-federal constitutional system, dominated by the Tigray People's Liberation Front (TPLF). The EPRDF pursued a highly autocratic and repressive governing strategy, criminalising and in other ways targeting political opponents, real and perceived, and imposing strong controls on freedoms of expression, assembly and association. Arbitrary detention, unfair trials and trumped up charges were commonly used, and abuses in custody up to and including torture and extrajudicial executions were widespread.

The EPRDF also fought a prolonged war against the Oromo Liberation Front (and its armed wing the Oromo Liberation Army, OLA), an Oromo nationalist group that had fought against the previous government of Mengistu Hailemariam and which in 1991 was briefly part of a transitional government led by the EPRDF coalition. The OLF always had an uneasy relationship with the TPLF, and these tensions led to the OLF leaving the transitional government in 1992 to take up a low-level armed struggle against the government. The OLF stated that its fundamental objective was to exercise the Oromo peoples' right to self-determination. The EPRDF viewed them as violent separatists threatening the integrity of the nation.

Moving to the years 2014 and 2015, spurred by the government's systemic human rights repression, as well as economic and political marginalisation, youth in the Oromia and Amhara regions launched a wave of what would become large scale and sustained street demonstrations, of a kind that had not previously been seen in the country under the EPRDF. The government used excessive, and often lethal, force to quell the protests, killing, beating and arresting protesters. The protests continued until February 2018, when the then Prime Minister Hailemariam Dessalegn was forced to resign. He was replaced by a new Prime Minister, Abiy Ahmed, the first Oromo to hold the post.

In an attempt to appease the public protest, Prime Minister Abiy, announced reforms to address economic issues as well as structural and systematic human rights issues. Thousands of prisoners who were serving sentences on politically motivated charges were released. The state of war with neighbouring Eritrea was ended and relations were normalised. Bans on many websites and independent news outlets were lifted; and a number of opposition groups were removed from the official government terrorist list. This latter move included the Oromo Liberation Front (OLF), whose leaders were told it was safe to return to the country from their prolonged exile abroad.

In response, many senior political opponents in the Ethiopian diaspora, including a number of OLF figures, return to the country after agreeing to pursue peaceful means to achieve their political goals. National parliamentary

elections were scheduled for 2020 and in November 2019 Prime Minister Abiy, as chairman of the EPRDF, dissolved the coalition and merged most of its constituent parties into a new coalition party to contest the elections, named the Prosperity Party. The TPLF did not become part of this new coalition party.

However, despite the ambitious reform agenda pursued by Prime Minister Abiy, there were a number of key areas that remained untouched. In particular, the state security apparatus, including the Ethiopian National Defence Force (ENDF), the regional police forces and government-controlled local militias, remained largely unreformed. While the government took some steps to ensure accountability for past human rights violations (principally the prosecution of some federal security officers accused of torture and ill-treatment of detainees) little was done to address the abusive practices of security forces and the leadership, institutional culture and legal framework that enabled them. The truth about the depth of past human rights violations committed since 1991 is yet to come out and reparations for victims remained elusive. The bulk of past atrocities in Ethiopia - including widespread acts of killing, torture and other ill-treatment, and excessive use of force against protesters - remained unaccounted for.

At the same time, the period during which Prime Minister Abiy's government was instituting its human rights reforms was interspersed with political and ethnic tensions that prompted military insurgencies and inter-communal violence in Amhara, Oromia, Harar, Dire Dawa, Benishangul and the Southern Nations Nationalities and Peoples (SNNP) regions. In particular, a splinter wing broke away from the Oromo Liberation Army, the military wing of the OLF, after rejecting the OLF's adoption of exclusively peaceful means. The OLA splinter group staged armed attacks in Western and Southern parts of Oromia. In response to the armed violence in January 2019 the government launched a law-enforcement offensive, ostensibly against the OLA, arguing that violent ethnic separatists posed a fundamental threat to the liberalising reform programme that Prime Minister Abiy was trying to institute.<sup>ii</sup>

Over the next year, regional and federal security forces oversaw a campaign of mass arbitrary arrests and detentions; the routine use of torture and other serious ill-treatment; and the use of extrajudicial executions and enforced disappearances in the Oromia region and elsewhere. In addition, security forces have arbitrarily banned certain flags and expressions and/or the use of mobile phones; imposed internet blackouts and physical curfews, movement restrictions and checkpoints; and in some cases have been implicated in forced evictions. The OLA were not, however, the main target for these tactics. Oromo civilians resident in areas of suspected OLA activity were arbitrarily targeted and accused of providing practical and moral support to the OLA. Individuals perceived as being associated with the OLF, (whether through membership, support, historic association through security agency records, or family ties) were particularly targeted, on the pretext of support for the OLA and terrorist violence, but a far wider group of people, either associated with other Oromo nationalist groups, such as the Oromo Federalist Congress (OFC), or in some

cases having no association beyond being Oromo and living in a certain area, were also caught up in these arrests.

Moving into 2020, the year was designated as a national election year, with parliamentary elections due to be held in August. However, following the start of the global coronavirus pandemic the National Electoral Board of Ethiopia (NEBE) postponed the elections indefinitely, on the grounds that it was not safe to conduct ordinary campaigning and polling practices. This was inevitably a highly contentious decision and how the country will move forward from this point is still being heatedly debated. Our current understanding of the official position is that the elections will now be held in May or June 2021.<sup>iii</sup>

In the meantime, in a move that escalated the tension between the Federal government and the Regional government in Tigray, the TPLF - a party which controls all the seats in the Tigray Regional State Parliament - held a regional election in September 2020. This move was deemed unconstitutional by the NEBE and the results were not recognised by the national government. In response the government withheld the national budget allocation for the region, which has been met with a vociferous response from the TPLF leadership and heightened tensions.<sup>iv</sup> During the period when this letter was being prepared, the Ethiopian government announced that military action would be taken against the TPLF in Tigray. The government blamed the TPLF for attacking the Ethiopian National Defence Force's Northern Command based in the regional capital Mekelle, after "months of continued provocations and incitement for violence by the TPLF".<sup>v</sup> While not directly relevant to this case, this is an important and concerning development both in its own terms and in demonstrating the strength of the Ethiopian federal government's response to the rival ethnically-based regional political groupings it faces.

In Oromia, prior to the general election's suspension the OLF held a commanding lead in the polls and were widely predicted to win political control of the region away from the Oromo Democratic Party (formerly known as the Oromo Peoples' Democratic Organisation (OPDO)), which has governed the region as part of the EPRDF coalition since 1991. However, the postponement of the elections was combined with both targeted arrests and killings of leading OLF figures and the ongoing use of mass-scale arbitrary arrests and other repressive tactics targeted at OLF activists and supporters in the region.

In the early hours of 29 February 2020, security officers stormed a guest house in the southern part of Addis Ababa where five senior members of the OLF and four supporters were staying. All nine were arrested. While eight were subsequently released, Abdi Regassa, a member of the OLF's Executive Committee who had previously returned to the country from exile following the 2018 reforms, was held in incommunicado detention.<sup>vi</sup> On 7th March, three OLF members, including a member of the Central Committee and a political officer, were arrested by police immediately after visiting Abdi Regassa. Despite having charges against them dropped and their release ordered by a court at the end of March, police continue to hold them in detention.<sup>vii</sup> On 3 June 2020 Bekele

Bidra, the head of the Oromo Liberation Front (OLF) office in Bole Sub-City of Addis Ababa was killed in his car.<sup>viii</sup>

Perhaps most significantly, given the consequences, on 29th June, Hachalu Hundessa a very popular Oromo singer, was shot and killed in the street in Addis Ababa.<sup>ix</sup> A week earlier he had given a controversial interview to the Oromo Media Network (OMN), a youth-orientated Oromo nationalist television network. In the aftermath of his killing, protests sprang up in Addis Ababa and the Oromia region, some of which degenerated into intercommunal violence, which together with a violent police response left at least 177 dead and hundreds wounded.<sup>x</sup> The Ethiopian government has sought to place the blame for the killing on the 'OLF-Shene', Shene being a term for the armed factions of the OLA, and suspects have been charged. They deny the charges, as does the OLF-Shene. The suggestion is widely disbelieved in Oromia, but we are yet to see the strength of the evidence in the case.

Following these protests the police arrested thousands of people, many of whom remain in incommunicado detention with their whereabouts unknown. The arrests continued for weeks and reached over 10,000 people at their height.<sup>xi</sup> Many of those arrested were OLF and Oromo Federalist Congress (OFC) members and supporters, while others were accused of being so. On 30th June, Jawar Mohamed, a leading figure at the Oromo Media Network and for the OFC, was arrested on charges relating to the killing of a policeman during the protests. He and 22 others connected to the OMN have since been charged with terrorism offences.<sup>xii</sup> On 26th July reports emerged that Daud Ibssa, the Chairman of the OLF, who had returned to the country from exile in 2018, had been placed under house arrest.<sup>xiii</sup> He was subsequently freed, but was again placed under house arrest in October, when a press conference he was holding from his home was raided by the authorities. Journalists for Oromo nationalist outlets and others attending the press conference were arrested and taken away when they tried to leave.<sup>xiv</sup>

In August, widespread reports emerged of further killings of protesters and perceived supporters of the OLF by security forces in Addis Ababa and various towns around Oromia. While we have not been able to verify the exact number of dead, we have confirmed that at least 20 protesters were killed and believe that the real figure is likely to be higher than that; there are reports of dozens more being killed.<sup>xv</sup> The killings were part of a disproportionate use of force against demonstrators protesting about the arrest of Jawar Mohamed and about the mass arrests following the killing of Hachalu Hundessa.<sup>xvi</sup>

Targeted killings of individuals by security officers have also continued, either following accusations of involvement with the OLF-Shene, or in some instances with no explanation at all. Recent, non-exhaustive, examples include the October 23rd killing of five young men in the town of Nekemte in the East Wollega zone of western Oromia by the Oromia Special Police. Police stated that the men had been involved in the killing of a policeman the week before and had fired on officers when the house they were in was raided. Other witnesses reported that the men were unarmed, uninvolved with the armed

movement and were extrajudicially executed in their homes after an anonymous denouncement.<sup>xvii</sup> Two days later, on 25<sup>th</sup> October, university lecturer Fecadu Tolera was reportedly shot dead, again by Oromia Special Police officers outside his house. No official explanation has been given for his killing. Oromo nationalist supporters believe it was connected to his academic publications discussing the history of the foundation of Ethiopia and Oromia's place within it.<sup>xviii</sup>

On 1st November, at least 54 people from the Amhara ethnic group were killed in an attack on Gawa Qanqa village in Guliso District of West Wellega Zone. The attack appears to have been carried out by members of the OLA. The attack took place just a day after Ethiopian National Defence Force troops withdrew from the area unexpectedly and without explanation. Witnesses said dozens of men, women and children were killed, property looted and what the militants could not carry away, they set on fire.<sup>xix</sup>

On Sunday 8<sup>th</sup> November 2020, Prime Minister Abiy announced a slate of changes at the top level of the security apparatus, replacing the heads of the ENDF, the National Intelligence and Security Service, the Federal Police and also Ethiopia's Foreign Minister.<sup>xx</sup> These appointments appear to be more a reshuffling than a serious sign of reform from a human rights perspective. None of the new appointees are new faces to the security sector; all have been part of the system for a very long time holding other senior posts. The reason for the reshuffle appears to be more to do with loyalty to Prime Minister Abiy and commitment to the current military operations against the TPLF, mentioned above, done with any reform agenda.

With this background in mind, we will now address each of your questions in turn.

**Question 1: Do Oromo Liberation Front members and sympathisers (whether perceived or otherwise) continue to be at real risk of persecution in Ethiopia?**

As is set out in our summary of the background above, Ethiopia has undergone, and is continuing to undergo, significant political developments in the last few years. The change of Prime Minister has brought both a new agenda for government and some important symbolic developments in a country that continues to suffer from ethnic division and factionalism; in particular the coming to power of the first Oromo prime minister. However, there is an inherent tension in a liberalising reform agenda being pursued by a new Prime Minister at the head of a governing coalition that is very similar to the previous one, and without fundamental reform to the security services. This is particularly the case in the context of the ongoing popularity of influential regional/ethnic separatist movements such as the OLF, tensions between the federal government and the Tigray regional government of the TPLF, and increasing incidents of inter-ethnic violence across the country, particularly targeting minorities.

Despite the encouraging signs of the first months of Prime Minister Abiy's rule, which, along with many others, our organisation praised at the time, we are increasingly concerned at what appears to be a downward spiral for human rights in the country. As was noted above, most recently this has been indicated by the announcement of a military operation against the TPLF, but has now long been the case in the Oromia, and also the Amhara, regions. What may have begun as a police action to deal with a relatively small armed splinter group, the OLA, and violent attacks on ethnic minorities in the region, particularly Amharas, has now in our assessment gone well beyond law enforcement.<sup>xxi</sup>

It is increasingly apparent that the security apparatus has used the rise of a relatively small OLA as a pretext for a widespread crackdown on supporters and perceived supporters of Oromo nationalism in general and the OLF in particular, who are viewed as a threat to the territorial integrity of the state and an obstacle to the current government and its agenda. This crackdown has come in the context of Federal and Regional elections that, prior to their suspension due to the Coronavirus pandemic, the OLF and other nationalist parties were expected to do very well in; potentially displacing the political leadership the security services had been loyal to since the early 1990s. As discussed above, those with OLF backgrounds have been targeted in the crackdown, but so have others unconnected to the OLF but affiliated with other Oromo nationalist organisations, including journalists and others working for nationalist-sympathising media outlets, such as the Oromo Media Network (OMN) and members of other nationalist groups such as the OFC. Others still have also been caught up through participation in protests or mere residence in areas targeted by the security services. Those arrested are increasingly and routinely labelled as 'OLF-Shene'; Shene being a term for the armed factions of the OLA. It is therefore more instructive, in our view, to focus on the question of Oromo people perceived as opponents of the new government, who are then as a result either perceived or labelled as OLF activists, than solely on those people with documented histories of OLF involvement specifically.

As part of this, we would emphasise the extreme arbitrariness of the Ethiopian security services' conduct in Oromia and in its dealings with Oromo people perceived as political opponents of the government. While this is a longstanding issue, it is particularly pronounced at the present time, where mass-roundups, enforced disappearances and extrajudicial executions are regular occurrences, alongside indiscriminate violence in response to public demonstration and perceived dissent. In Oromia, the grounds on which a person can be accused or perceived of being a supporter of the OLF, and therefore a potential supporter of the OLA and a threat to the government, are broad, dependent on the whims of the officers involved and to an extent unpredictable. As discussed in our 'Beyond Law Enforcement' report, in recent months the reasons have included simply being Oromo and living in a certain location, or because a person's mobile phone rang and interrupted a public meeting.<sup>xxii</sup> While specific individuals are certainly targeted, based on suspicion of OLF involvement, the arbitrariness of the security services' conduct has meant that in multiple instances, where security officials were not able to find

the suspects they were looking for, they arrested or abducted family members including children. In one instance, the police physically assaulted an 8-year-old girl, because they couldn't find her mother at home when they came to arrest her.<sup>xxiii</sup>

As a general statement, our organisation's assessment is that Oromo Liberation Front members and sympathisers (whether perceived or otherwise) do continue to be at risk in Ethiopia. Further details about the nature and extent of that risk will be discussed in our response to the questions below.

**Question 2: To what extent does the above depend on profile; (with reference to the appellant's case for instance)?**

There are a number of ways in which a person's profile is relevant to the level of risk they face.

Firstly, much of the targeting of individuals perceived as members or supporters of the OLF is conducted by local militia and police forces, informing and working alongside federal forces operating in the region. These local militia and police officers are stationed in local communities, ostensibly providing protection and security services to the community, but also providing intelligence gathering on perceived anti-government activists and their supporters for the authorities. As has been, and will be, highlighted throughout this letter, security force operatives conduct themselves with high levels of arbitrariness and benefit from a high degree of impunity from accountability, even following the Prime Minister's reforms. In this context, both formal arrest records and institutional as well as personal memory of individual officers play a major role in determining who is perceived as possessing an anti-government agenda and therefore subject to suspicion.

This makes a history of arrest for OLF or other Oromo nationalist activity an important risk factor in the current context. It also makes a family history of OLF or other Oromo nationalist activity a significant risk factor. This institutional and personal memory at the local level routinely extends to identifying whole families as supporters of the OLF, based on the political activities of one or two members, or holding the whole family responsible for the activities of one or two members.

While men, and young men in particular, make up the majority of those targeted by the authorities or caught up in mass arrests, gender and age do not appear to offer any significant level of protection against suspicion and targeting by the authorities. Our researchers found that women are routinely targeted for arrest, often on accusations of providing support for the 'OLF-Shene'. Likewise, older people and children have also been targeted, particularly those who have family connections to 'OLF-Shene' suspects.

Another factor relates to the person's stature within the organisation, or the extent of their public profile. While this is hard to precisely delineate, given the arbitrary nature of the security forces' conduct and the ever-changing

circumstances in the country, there does appear to be some limited protection from arrest afforded to very senior and prominent members of the OLF, whose arrest would risk causing disproportionate adverse consequences for the government. For example, as discussed above the chairman of the OLF, Daud Ibssa, has not been imprisoned. However, it appears that in these circumstances alternative methods are used to inhibit their capacity to operate effectively, including house arrest, communication shutdowns and the arrest of middle-ranking individuals working under and alongside them, thus leaving them isolated. At the same time, rank and file members and supporters benefit from no such protection.

Beyond personal profile elements, there are two points regarding geography that we also consider to be relevant profile factors in the question of risk.

Firstly, we have noted the statement in the Home Office's Country Policy and Information Note that,

'the available evidence does not indicate that all OLF activists, members or supporters ... **throughout Ethiopia** are at risk of treatment amounting to persecution by its nature and/or repetition. The assessment of risk for a person **will vary between different areas of Ethiopia** and within Oromia itself' (emphasis added)<sup>xxiv</sup>

We are concerned that this is potentially misleading, insofar as it implies that the entirety of the country of Ethiopia is a relevant consideration in this case. The OLF, and those perceived as supporting it, are present essentially exclusively in Oromia and the capital Addis Ababa (which is in any case geographically encircled by Oromia). The realistic question, therefore, is whether there are areas of Oromia or Addis Ababa where the risks identified in MB no longer apply.

On this second point, we note that the CPIN states that,

'Areas such as West Wollega and Guji, in western and southern Oromia respectively, have been subject to government and OLA (sometimes also referred to as 'shene', a faction of the OLA), clashes, violence and killings including of civilians, attributed to both sides. The federal government has established military 'command posts' in these areas in an attempt to counter the OLA threat. ... There have been reports of OLA, 'shene' and OLF members and sympathisers being arrested and detained, as well as some being extra-judicially killed, in the areas around 'command posts' where there have been notably high levels of violence and fighting, particularly in western and southern Oromia.'<sup>xxv</sup>

And goes on to argue that,

'OLF members or supporters in Oromia, particularly in areas where armed conflict between the OLA and the armed forces continues, face a higher risk of treatment that amounts to persecution than those in Addis Ababa.'<sup>xxvi</sup>

This section of the CPIN concludes by asserting that a person who is a member or supporter of the OLF is not at risk of persecution for that reason alone, and that each case must be considered on its facts, including the 'proposed place of return' the person would be being sent to.<sup>xxvii</sup>

While we broadly agree with the thrust of the Home Office's description of both sides' actions in areas such as West Wollega and Guji, and events following the introduction of 'command posts' in those regions, we are respectfully concerned that abusive conduct by the security forces in the rest of Oromia has not been given sufficient prominence. In the last year, our organisation has documented hundreds of arrests of OLF members and perceived supporters in East and West Hararghe (eastern zones of Oromia), North, west and east Shewa (northern zones of Oromia, around Addis Ababa), and East and West Arsi (central zones of Oromia).<sup>xxviii</sup> Incidents like these are illustrative of the widespread nature of the crackdown on those perceived as OLF supporters throughout the Oromia region.

With regards to Addis Ababa itself, our organisation has recorded instances of individuals associated with the OLF or OLF-supporting media networks being arrested, detained or attacked in Addis Ababa, in some cases repeatedly. In addition to the incidents discussed in the above 'background' section of this letter, these include the July arrests of OLF political officers Chaltu Takkele and Gemmechu Ayana, and Kennesa Ayana, a member of the OLF's central committee.<sup>xxix</sup> There are also reports from the OLF, that we are yet to fully confirm, of wider scale arrests of OLF supporters in the city over the summer.

The final points we would make regarding the extent to which a person perceived as an OLF supporter's profile would affect the level of risk they face relates to their recent and ongoing participation in activism for the Oromo nationalist cause.

While, in our view, individuals being returned to Ethiopia from the UK with a known history of OLF support, whether that be an arrest history or otherwise, face a significant risk for that reason alone, individuals who go on to continue their activism with the OLF on return will inevitably face an even greater risk. Likewise, individuals who have engaged in significant recent activism on behalf of the OLF, or other Oromo nationalist groups, while in the UK may also face a greater risk. This would include participation at the large-scale, and at times disorderly, demonstrations that have taken place outside the Ethiopian embassy in London over the summer of 2020.<sup>xxx</sup> These demonstrations were closely monitored by the Ethiopian authorities, who reportedly raised diplomatic complaints with the British government over what they perceived to be the British police's failure to appropriately protect the Embassy and its staff.<sup>xxxi</sup> The events have also been widely reported in Ethiopian media and

videos have been circulated online amongst both supporters and opponents of the OLF's cause.<sup>xxxii</sup>

With reference to [the appellant], the appellant in this case, our organisation has not previously documented his case and we are therefore not able to comment on his background directly. We would note, however, that his claimed background, as summarised above, is in our experience very common amongst young supporters and activists for the OLF or the wider Oromo nationalist movement, including a family history of involvement, youth engagement and serious adverse experience with the Ethiopian security forces. If his background is accepted by the Tribunal, in our organisation's view it contains a number of elements that in combination would indicate a significant risk of being perceived as a supporter of the OLF, including his age and gender, his family history of involvement with the OLF and his arrest history.

**Question 3: Are you able to comment on the assertion by the Home Office at 2.4.26 of their July CPIN on Ethiopia that there are very strong grounds supported by cogent evidence to depart from the Upper Tribunal findings in the current country guidance case of MB (OLF and MTA - risk) Ethiopia CG [2007] UKAIT 00030 (29 March 2007) set out at 2.4.21 - 22 of the current CPIN on opposition to the Government?**

Having read the MB case, it is our understanding that it finds that 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.

Based on our ongoing research into the recent events of 2019 and 2020 documented in our published reports, it is our organisation's assessment that while much has changed in Ethiopia since MB was promulgated in 2007, the situation has not improved sufficiently to justify an assertion that the risk assessment made in MB is no longer valid. Indeed, in our assessment, the nature and the extent of the current risks may be broader than the above summary position given in MB would seem to imply, insofar as the need for a 'significant' history of membership or sympathy for the OLF does not reflect the extent of the mass and arbitrary arrests of Oromo people, including those with little realistic connection to the OLF and the increasing targeting of other non-OLF Oromo nationalist groups, and other abuses that are being perpetrated in the Oromia region.

One caveat we would make to this assessment is that some former OLF and other exiled opposition group members are now active supporters of the new government such as by taking up government posts or through supporting the party in public electoral activities.<sup>xxxiii</sup> We do not consider such people to be at significant risk, absent other factors, as the underlying basis of the risk is to Oromo people perceived by the authorities to be opponents of the new

government, in the context of arbitrary decision making over suspicion or 'innocence' conducted by local militia and police officers acting with impunity and with political and institutional loyalty to the new government. A former OLF member or supporter who went out of their way to demonstrate that they had withdrawn themselves entirely from politics might also be able to benefit from some level of protection, but this would be less reliable and in the arbitrary context described above, would be very difficult to precisely define.

For these reasons, and those given in our answers to questions 1,2 and 4, while we agree with the Home Office's assessment that since Prime Minister Abiy Ahmed came to power in April 2018 there has been an important change in the political landscape, we are respectfully of the view that the Country Policy and Information Note overstates the case by arguing that these constitute sufficient grounds for departing from the risk criteria identified in MB.

#### **Question 4: The present position of members and supporters of the OLF vis-a-vis government security forces?**

Firstly, and perhaps most importantly, as we have noted above, despite Prime Minister Abiy's reform programme the security forces remain largely unreformed across any of the relevant metrics, including personnel, leadership, institutional culture, political independence and accountability. This has been amply demonstrated by their activities in Oromia and elsewhere over 2019 and now into 2020. Moreover, their actions, which include engaging in mass arbitrary arrests and the use of extreme violence up to and including extrajudicial executions and torture, have been given political cover and downplayed by Prime Minister Abiy and his leadership group as merely 'robust measures'.<sup>xxxiv</sup> Indeed, the reform programme has itself been invoked as justification for these actions, with the argument that a strong response is necessary to deal with those that the government views as opponents or obstacles to its agenda.<sup>xxxv</sup>

Secondly the reliance placed on the fact that a number of key OLF figures returned to Ethiopia in 2018 for evidence that it is now safe for OLF supporters to return is, in our view, undermined by many of those leaders' subsequent arrest and detention. As we noted above, both Abdi Regassa and Daud Ibssa have been arrested and detained since returning. Other senior OLF figures detained since return include Michael Boran, Shigut Geleta, Lemi Benya, Kenessa Ayana and Colonel Gemechu Ayana.<sup>xxxvi</sup>

The ongoing use of sweeping powers of detention against thousands of perceived OLF/OLA supporters may differ from previous periods of OLF suppression in terms of political context and external justification, but this does not change the reality of ongoing suppression of the Oromo nationalist movement and those Oromos perceived as engaging in dissent by security services loyal to the current government and acting with near total impunity.

**Question 5: Is there today likely to be a presumption by the state that an Oromo person on return to Ethiopia is a member of, affiliated to or associated with the OLF?**

It is not our organisation's view that any Oromo person being returned to Ethiopia from the UK would be presumed by the state to be associated with the OLF. As has already been noted, there are Oromo people in senior positions in the Ethiopian government, including the Prime Minister himself; the region is currently governed by an ethnic Oromo party loyal to the national government; and it is policed largely by locally recruited police officers and militia members. As such, we do not consider that there is a universal presumption of Oromo ethnicity equating to opposition to the government generally or support for the OLF specifically.

That said, we do consider that the circumstances of an Oromo person being forcibly returned from the UK to Ethiopia, whether or not the Ethiopian authorities were aware that they were being returned as a failed asylum seeker, would be likely to give rise to at least some initial suspicion of the individual by the authorities, which could in turn prompt some further enquiries and background checks. If these enquiries were to reveal a connection to the OLF or other Oromo opposition groups, then the considerations relating to risk described in our answers to the questions above would apply.

**Conclusion**

Since coming to power in 2018, Prime Minister Abiy Ahmed has instituted a number of important reforms that opened up an opportunity for fundamental human rights change in Ethiopia, including the release of political prisoners and the repeal of a range of repressive laws. However, a number of areas remain largely or entirely unreformed, most pertinently the state security apparatus, which remains politically loyal to the governing party and which engages in arbitrary and extremely abusive practices, including mass arrests, incommunicado detention, torture and extrajudicial execution. At the same time, the government has been confronted by increasing ethnic tensions in the country, intercommunal violence and the growing influence of nationalist, self-determination and independence movements in various regions of Ethiopia. The government sees these movements both as obstacles to its agenda and as potential threats to the territorial integrity of the nation.

The state security apparatus, under the command of the government and with its political backing, has engaged in serious human rights abuses across the country, but particularly in the Oromia region, which is home to an ambitious and popular nationalist movement for self-determination. This security apparatus has used the rise of a relatively small armed splinter faction, the OLA, as a pretext for a widespread crackdown on supporters and perceived supporters of Oromo nationalism in general and the OLF in particular. This crackdown has come in the context of Federal and Regional elections that, prior to their suspension due to the Coronavirus pandemic, the OLF were expected

to do very well in; potentially displacing the political leadership the security services have been loyal to since the early 1990s.

The crackdown has been characterised by extreme brutality, including public extrajudicial executions and other forms of extreme arbitrary and indiscriminate violence. Rather than focus its efforts on targeting and confronting the relatively small armed splinter faction from the OLA, which has undoubtedly committed grave human rights abuses itself, the security services have instead focused on civilians in Oromia and suspected OLF supporters in particular. Thousands have been arrested and detained for prolonged indefinite periods on broad and unparticularised grounds of suspected support for terrorism and the OLA. Thousands remain detained to this day.

In this context, it is our organisation's assessment that the overall risk assessment findings of the MB case remain appropriate, and may even be too narrow, even if the background justification for them has changed.

We hope that this letter will be of assistance to the Tribunal in its deliberations. Please feel free to contact us at the above address if you wish to discuss any of these matters further.

Yours sincerely

Tom Southerden - Refugee Researcher  
Refugee and Migrants' Rights Programme - AIUK



<sup>i</sup> <https://www.amnesty.org/en/search/?country=38595>

<sup>ii</sup> See e.g. <https://www.economist.com/by-invitation/2020/09/17/abiy-ahmed-on-the-threats-to-ethiopia's-democratic-transition>

<sup>iii</sup> See e.g. <https://uk.reuters.com/article/us-ethiopia-politics/ethiopia-proposes-holding-postponed-vote-in-may-or-june-2021-fana-idUSKBN27F14A>

<sup>iv</sup> See e.g. <https://www.bbc.co.uk/news/world-africa-53807187>

<sup>v</sup> <https://www.amnesty.org/en/latest/news/2020/11/ethiopia-authorities-must-ensure-human-rights-are-respected-in-tigray-military-operator>

<sup>vi</sup> <https://www.amnesty.org/en/latest/news/2020/03/ethiopia-police-must-account-for-missing-oromo-opposition-leader/>

<sup>vii</sup> <https://www.amnesty.org/en/documents/afr25/2017/2020/en>

<sup>viii</sup> <https://www.amnesty.org/en/latest/news/2020/06/ethiopia-popular-musicians-killing-must-be-fully-investigated/>

<sup>ix</sup> <https://www.amnesty.org/en/latest/news/2020/06/ethiopia-popular-musicians-killing-must-be-fully-investigated/>

<sup>x</sup> <https://www.amnesty.org/en/latest/news/2020/07/ethiopia-account-for-all-people-arrested-after-hachalu-hundesala-killing/>

<sup>xi</sup> [No footnote provided]

<sup>xii</sup> <https://www.bbc.co.uk/news/world-africa-53306091>

<sup>xiii</sup> <https://www.ezega.com/News/NewsDetails/8042/OLF-Leader-Daud-Ibssa-under-House-Arrest-Party-Official>

<sup>xiv</sup> See e.g. <https://www.humanrightsleague.org/?p=16643>

<sup>xv</sup> <https://addisstandard.com/analysis-oromia-reeling-from-state-violence-after-security-forces-kill-injure-a-staggering-number-of-protesters/>

<sup>xvi</sup> <https://addisstandard.com/analysis-oromia-reeling-from-state-violence-after-security-forces-kill-injure-a-staggering-number-of-protesters/>

<sup>xvii</sup> <https://addisstandard.com/analysis-teachers-doctors-not-spared-as-use-of-excessive-force-extrajudicial-killings-in-oromia-intensify-what-we-know-so-far/>

<sup>xviii</sup> [No footnote provided]

<sup>xix</sup> <https://www.amnesty.org/en/latest/press-release/2020/11/ethiopia-over-50-ethnic-amhara-killed-in-attack-on-village-by-armed-group/>

<sup>xx</sup> <https://addisstandard.com/news-alert-unprecedented-move-by-pm-abiy-sees-new-leadership-in-entire-security-sector-foreign-ministry/>

<sup>xxi</sup> <https://www.amnesty.org/en/documents/afr25/2358/2020/en>

<sup>xxii</sup> <https://www.amnesty.org/en/documents/afr25/2358/2020/en>

<sup>xxiii</sup> <https://www.amnesty.org/en/documents/afr25/2358/2020/en>

<sup>xxiv</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/900975/CPIN\\_-\\_Ethiopia\\_-\\_Opposition\\_to\\_the\\_government.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900975/CPIN_-_Ethiopia_-_Opposition_to_the_government.pdf)

<sup>xxv</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/900975/CPIN\\_-\\_Ethiopia\\_-\\_Opposition\\_to\\_the\\_government.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900975/CPIN_-_Ethiopia_-_Opposition_to_the_government.pdf)

<sup>xxvi</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/900975/CPIN\\_-\\_Ethiopia\\_-\\_Opposition\\_to\\_the\\_government.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900975/CPIN_-_Ethiopia_-_Opposition_to_the_government.pdf)

<sup>xxvii</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/900975/CPIN\\_-\\_Ethiopia\\_-\\_Opposition\\_to\\_the\\_government.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900975/CPIN_-_Ethiopia_-_Opposition_to_the_government.pdf)

<sup>xxviii</sup> <https://www.amnesty.org/en/documents/afr25/2538/2020/en/>

<sup>xxix</sup> See e.g. <https://www.france24.com/en/20200706-political-arrests-follow-protests-that-killed-166-in-ethiopia>

<sup>xxx</sup> See e.g. <https://borkena.com/2020/08/25/radical-oromo-mob-took-down-ethiopian-flag-at-the-embassy-in-london/>

<sup>xxxi</sup> <https://borkena.com/2020/08/25/radical-oromo-mob-took-down-ethiopian-flag-at-the-embassy-in-london/>

<sup>xxxii</sup> [https://www.youtube/watch?v=VB1zG9yQxRw&ab\\_channel=ZenaTube](https://www.youtube/watch?v=VB1zG9yQxRw&ab_channel=ZenaTube)

<sup>xxxiii</sup> E.g. Mr Taye Dendea, who previously served jail terms of three and seven years on charges that he belonged to the OLF is now working as a PR for the Oromia Prosperity Party. Mr Lencho Bati, formerly chairman of the exiled Oromo Democratic Front, is now an advisor to the Prime Minister.

<sup>xxxiv</sup> <https://www.economist.com/by-invitation/2020/09/17/abiy-ahmed-on-the-threats-to-ethiopia's-democratic-transition>

<sup>xxxv</sup> <https://www.economist.com/by-invitation/2020/09/17/abiy-ahmed-on-the-threats-to-ethiopia's-democratic-transition>

<sup>xxxvi</sup> <https://www.amnesty.org/en/latest/news/2020/07/ethiopia-account-for-all-people-arrested-after-hachalu-hundesala-killing/>