

0806155 [2009] RRTA 420 (1 May 2009)

DECISION RECORD

RRT CASE NUMBER:	0806155
DIAC REFERENCE(S):	CLF2006/65602
COUNTRY OF REFERENCE:	Ethiopia
TRIBUNAL MEMBER:	Sydelle Muling
DATE:	1 May 2009
PLACE OF DECISION:	Melbourne
DECISION:	The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration and Citizenship to refuse to grant the applicant a Protection (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant, who claims to be a citizen of Ethiopia, arrived in Australia [in] May 2006 and applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa [in] June 2006. The delegate decided to refuse to grant the visa [in] September 2006 and notified the applicant of the decision and his review rights.
3. The applicant sought review of the delegate's decision and the Tribunal, differently constituted, affirmed the delegate's decision [in] March 2007. The applicant sought review of the Tribunal's decision by the Federal Magistrates Court and [in] September 2008 the Court set aside the decision and remitted the matter to the Tribunal to be determined according to law.
4. The delegate refused the visa application on the basis that the applicant is not a person to whom Australia has protection obligations under the Refugees Convention.
5. The matter is now before the Tribunal pursuant to the order of the Federal Court.

RELEVANT LAW

6. Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. In general, the relevant criteria for the grant of a protection visa are those in force when the visa application was lodged although some statutory qualifications enacted since then may also be relevant.
7. Section 36(2)(a) of the Act provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia to whom the Minister is satisfied Australia has protection obligations under the 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol Relating to the Status of Refugees (together, the Refugees Convention, or the Convention).
8. Further criteria for the grant of a Protection (Class XA) visa are set out in Part 866 of Schedule 2 to the Migration Regulations 1994.

Definition of 'refugee'

9. Australia is a party to the Refugees Convention and generally speaking, has protection obligations to people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

10. The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* (1989) 169 CLR 379, *Applicant A v MIEA* (1997) 190 CLR 225, *MIEA v Guo* (1997) 191 CLR 559, *Chen Shi Hai v MIMA* (2000) 201 CLR 293, *MIMA v Haji Ibrahim* (2000) 204 CLR 1, *MIMA v Khawar* (2002) 210 CLR 1, *MIMA v Respondents S152/2003* (2004) 222 CLR 1 and *Applicant S v MIMA* (2004) 217 CLR 387.
11. Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the regulations to a particular person.
12. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
13. Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve “serious harm” to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). The expression “serious harm” includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial of access to basic services or denial of capacity to earn a livelihood, where such hardship or denial threatens the applicant’s capacity to subsist: s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.
14. Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors. However the motivation need not be one of enmity, malignity or other antipathy towards the victim on the part of the persecutor.
15. Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase “for reasons of” serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s91R(1)(a) of the Act.
16. Fourth, an applicant’s fear of persecution for a Convention reason must be a “well-founded” fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a “well-founded fear” of persecution under the Convention if they have genuine fear founded upon a “real chance” of persecution for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. A “real chance” is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.
17. In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if

stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence.

18. Whether an applicant is a person to whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

CLAIMS AND EVIDENCE

19. The Tribunal has before it the Department's file relating to the applicant. The Tribunal also has had regard to the material referred to in the delegate's decision, and other material available to it from a range of sources.
20. According to the protection visa application, the applicant is an ethnic Christian Oromo, who was born on [date of birth deleted in accordance with s.431(2) of the Migration Act as it may identify the applicant] in Addis Ababa, Ethiopia. From 1996 to May 2006 he lived in Addis Ababa, [deleted: s.431(2)], [deleted: s.431(2)]. He received 14 years education, qualifying with a building contractor's diploma in 1994. He is fluent in Amharic and Oromo. The applicant described his occupation before coming to Australia as construction company owner. His past employment details included self employed clothing trader from 1989 to 1992; construction site engineer with [a company], construction business owner from 1994 to 1996; construction site engineer with [a company], construction business owner from 1998 to 1998; self employed clothing trader in 1998; and proprietor of [a construction company] from October 2001 to May 2006. The applicant was married in Addis Ababa on [date deleted: s.431(2)]. He departed Ethiopia illegally [in] May 2003. At the time of completing his application, his wife, 3 daughters and 2 sons were living in Ethiopia, as well as his mother, 4 brothers and sister.
21. The applicant claimed that he left Ethiopia because of persecution due to his political opinion and ethnicity. In a statement attached to his protection visa application, the applicant claimed that he belonged to a prominent Oromo family in Ormoia and he was always looking for opportunities to oppose the suppression of his fellow Oromos. In about 1996 he was approached by the Oromo Liberation Front (OLF) through his brother [Person 1], who was a member of the OLF and involved in the armed struggle in Oromia. The applicant claimed that he joined the OLF but limited his activities in providing material and financial assistance.
22. The applicant claimed that when he joined the OLF he received a membership card. He kept it hidden in his house until he was caught by the EPRDF authorities in January 2001. The Federal Police turned up at his home one night at about 11:00pm He was locked in one bedroom with his children and a guard while they searched the place. His wife was allowed to remain in the living area and was required to unlock any cabinets etc. She saw them search the whole house. The applicant claimed that apart from the OLF card there was nothing there that could incriminate him but he was scared they would plant a gun or something. He claimed they did not find anything but he was arrested and taken away. It was not exactly clear why he was arrested but he suggested Oromo people were often suspected of supporting the OLF and when an Oromo person like him was doing well in business and living an affluent lifestyle, they tended to suspect that person might be supporting the OLF financially. The applicant claimed that he was taken to [a] Police Station in Addis Ababa and he was detained for almost 6 months without charge. During this time he was persecuted. He experienced frequent interrogation (about every week or so), physical mistreatment amounting to torture in the form of beatings with a kind of whip, kicking and denial of access

to proper food or sanitation. He was allowed one visit per month but even then he could only see his wife from a distance. She was allowed to bring him food and medication.

23. The applicant stated that he denied being a member of the OLF or raising funds for them through his business. He supposed that because they had no evidence he was eventually released [in] June 2001 and was warned not to discuss what happened to him during his detention. He was still subject to reporting conditions. He was told he would have to go back whenever they wanted him. After he was arrested his wife had torn up his OLF membership card and flushed it down the toilet.
24. After his release he went to [town deleted: s431(2)], Oromia and spent a few months with his family to try to recover from what had happened to him. He also decided to continue supporting the movement because he realised that the repression and persecution of Oromos, including himself, would not go away unless he stood up and fought the system. He also decided to start his own construction business. For a few years things went well despite the adverse interest of the authorities. As far as he could tell he was under surveillance and sometimes it was quite obvious that he was being followed but he was not arrested and his house was not raided.
25. The applicant claimed that the OLF gave him the task to raise money from other Oromo people in his business and social network. He would try to work out where a person stood politically before asking them for money. He played a key role in raising over 50,000 Ethiopian birr from the OLF in June 2004.
26. [In] July 2004 the Federal Police came to his house at about 5:00am with a search warrant. They searched his house but did not find any incriminating evidence. He was taken to his local police station, [name deleted: s.431(2)] where he was detained and interrogated for three weeks about whether he was involved in the Oromo separatist movement, particularly whether he was funding the movement. After payment of 25,000 birr “bail” he was released from detention. He was not charged with any offence. He was able to resume his business but he was under surveillance and suffered some interference with his business activities. On two occasions when he tendered for government construction contracts he was told his company was not acceptable. Previously he had no difficulty getting these types of contracts. He asked for reasons but they would not give him any.
27. At about the end of 2004 he was approached by Pastor Tsehay Tedesse, a candidate for the Coalition for Unity and Democracy Party (CUD or CUDP) to support the campaign to remove the current regime in the elections scheduled for May 2005. He knew the pastor because he was a member of his church, the Mulu Wongel (Full Gospel) church in Nefas Selk, Addis Ababa. He joined the party through Pastor Tsehay Tadesse’s Nefas Selk branch but he was not issued with a membership card. In the lead up to the election he assisted Pastor Tsehay in his candidacy for the Woreda 15 seat by, for example, transporting people and materials around. The applicant claimed this would have been observed by the people who had him under surveillance. He and his family experienced verbal assault and intimidation daily. The CUDP candidate he was supporting won the local seat but he was detained soon after the election and since then he had been languishing in jail.
28. The applicant claimed that following the election there was a crackdown on the CUDP. He was being followed and it became impossible for him to operate his business. He scaled the business right back and limited activities to transportation. In order to escape the surveillance he left his wife and children and went into hiding, staying with various friends and moving

from house to house. Occasionally he would go back secretly to see his family and on one such occasion, [in] September 2005, his house was raided by Government security officers at approximately 5:00am. When he opened the door around 20 heavily armed security people ordered him to sit on the floor. He did not know how they knew he was there but suspected they had been monitoring his phone calls. Once again he and his children were locked in a room, while his wife remained outside and they searched all parts of his house. He was then handcuffed and taken away. He was detained for three weeks at the [town deleted: s.431(2)] Police Station and was interrogated. He was accused of plotting against the government and being a member of the CUDP. After three weeks of interrogation and mistreatment he was released. Again he was not actually charged with anything but was required to report to the same police station every three days.

29. The applicant claimed that after this he mainly stayed at home. When he heard rumours of an impending crackdown he would go and stay with a friend in the hope of avoiding arrest. On a number of occasions the police came to his house while he was there and searched the place and then left without arresting him. The applicant claimed he decided there was no choice but for him to leave the country because he was in danger of future imprisonment. He knew someone who worked in the passport office and paid them a bribe to get an official passport issued in his own name. After he got his passport, he tried to find someone overseas to sponsor him. He knew a man called [Person 2] who had moved to Australia and he asked him to send a letter of invitation.
30. [In] January 2006, whilst waiting for the letter, about 20 police and a couple of vehicles arrived outside his home. They had documentation which they showed him only very briefly. He saw the name of the High Court on the papers and they told him the Court had authorised his arrest and the search of his house. They once again locked him and his children in a room and kept his wife to accompany them in their search. He was then taken to the nearby police station and again detained and interrogated for 3 weeks. This was the third time he had been detained for 3 weeks. While he was in detention the invitation came from [Person 2], and in late February 2006, after his release, he applied for a visitor visa to Australia. He contacted [Person 2] to inform him but he asked him to not to call him again and hung up. He understood that when the Australian High Commission also called [Person 2] to confirm the invitation he told them he was withdrawing his support for his visit. He was contacted and advised of this but he managed to satisfy them that he could support himself.
31. The applicant claimed at about this time he heard from a business associate that a friend of his who worked at police headquarters told him that his name was on a government hit list. The applicant stated he still had the problem of where he would stay in Australia and he discovered [information deleted: s.431(2)] a woman, [Person 3, who was] in Australia He contacted her using [information deleted: s.431(2)] and after discussions with her and her husband, they agreed to help him when he first arrived in Australia.
32. The applicant explained that after being told he was on a hit list he was concerned his details would be recorded at the airport. However, he had an Oromo friend working there so he arranged to book a flight at the time his friend was on duty. Since he arrived in Australia he had had contact with his wife over the phone a number of times. She told him that she had been taken to the police station twice and interrogated. Her passport was confiscated and she was ordered not to travel 100km out of Addis Ababa. His construction office at [location deleted: s.431(2)] had been sealed. His wife indicated that she feared for his life if he returned. The applicant claimed more recently, he called his wife the previous Friday but she was not there. His mother-in-law told him that his wife had been arrested that day because he

was in breach of his reporting conditions. He spoke to his wife on Monday and she confirmed she had been arrested and after about an hour, interrogated about him. She told them she did not know where he was. They informed her that until she told them where he was she would have to stay. They interrogated his wife again on Monday morning and then released her without warning.

33. The applicant claimed he had never been outside Ethiopia before and, but for the problems he experienced, he would have no wish to live outside of his country. However, because of these circumstances he had been forced to do just that. He did not want to just go to a neighbouring country by crossing the border illegally, as this was not only dangerous but offered no security as he would have been at risk of being caught and sent back.
34. In the submission from the applicant's adviser it was claimed that the applicant's case was that he had been persecuted extensively in the past on account of his Oromo ethnicity, an actual and/or imputed political opinion. He was a member of the both the Oromo Liberation Front (OLF) and Coalition for Unity and Democracy (CUD or CUDP) and as a successful businessman was a relatively prominent member of the Oromo community. The adviser provided country information in support of the applicant's claims regarding the OLF, state repression in Oromia, and the 2005 elections in Ethiopia and their aftermath.
35. [In] August 2006, the applicant's new adviser informed the Department that there was a mistake in the applicant's statutory declaration submitted with his protection visa application. It was submitted that in paragraph 55 it was stated that following the attendance by the police at the applicant's house [in] January 2006, the applicant was taken to the police station and detained for 3 weeks. However, on this occasion the applicant was in fact only detained for about 12 hours. It was submitted that the applicant was clear that he was only detained for extended periods on three occasions – from January 2004 for 6 months; [in] July 2004 for 3 weeks; and [in] September 2005 for 3 weeks.
36. [In] September 2006, the Department received a submission from the applicant's adviser addressing the veracity of the applicant's claims, the convention nexus, country information which corroborated the applicant's claims and the risk of harm to the applicant if he returned to Ethiopia.
37. The delegate refused the applicant's protection visa application [in] September 2006.

First Tribunal

38. [In] September 2006 the applicant applied for review of the delegate's decision refusing him a protection visa.
39. [In] November 2006 the first Tribunal received a submission from the applicant's adviser which included the following documents:
 - A letter from the Oromo Community Association in Melbourne Inc., dated [in] November 2006, stating that it believed that the applicant had been a victim of harassment and detention by the Ethiopian government and that he was accused of being a supporter of the OLF and he could not return to Ethiopia for fear of his life;
 - Statutory declaration from [Person 4], dated [in] November 2006, in which he claimed that when he went to visit Ethiopia in 2000 he learnt from his family that the applicant was

involved in the OLF, but did not remember them telling him any details about the applicant's involvement or anything that had happened to him. He was also told that the applicant's brother [Person 1] had joined the OLF and was not around very much in the suburbs or towns because if he was caught he would be arrested. [Person 4] stated that when he met the applicant in Melbourne, the applicant also told him about his brother's decision to become an active member of the OLF;

- Statutory declaration made by the applicant expanding on the claims that he had made previously.

2. In the DIMA decision dated [date] September 2006 ("the DIMA decision"), the delegate raised some doubts about my knowledge of the OLF, its activities and policies. I would like to provide the Tribunal with my personal knowledge of the OLF. I have some limited knowledge of the OLF. The rise of the OLF is related to the history of the Oromo people. For a long time the Ethiopian government have oppressed the Oromo people. It is a very long time since these problems started. The people who have power in Ethiopia do not respect the Oromo people. The Oromo people do not have their freedom and have lost their dignity. The people who have power don't consider the Oromo are people, they consider them to be like animals. This happens because Oromo people are usually farmers and keepers of stock and they don't hold positions of authority and they don't participate in parliament. Because Oromos are mostly farmers, they don't get power, and the people in power deny them freedom.

3. In the last few generations, Oromo people started to become educated. Recently Oromo people started to get some power. My father was a [profession]. My father was imprisoned by the regime of King Hiele-Selase because my father opposed the government and advocated freedom for the Oromo people. My father was watched by the authorities. The Oromo people have been working people and are now starting to accumulate some wealth. The rising education and wealth of the Oromo people pose a threat to the government. This history is the origin of the OLF.

4. The main aim of the OLF is to free the Oromo people. Our country is a developing country, and we do not have a well-developed and functioning democracy. Last week I was very happy to see how democracy worked in Australia during the Victorian state election. In our country, during an election, many thousands of people would have been killed. To achieve an open and working democracy with true representation for the Oromo people would give freedom to the Oromo people, and this is the main aim of the OLF. Freedom for the Oromo people will be when they can make their own decisions for their people and their future. Within the OLF there are various views as to what the aims of the party should be, so my views will not necessarily be the same as other OLF members. For example, in my view it is not good to separate the Oromo people into a different state or country. This is because Oromo people are married to people from many different ethnic groups, and how you separate these families?

5. Many Oromo people hide their ethnicity because it is too dangerous if you are a known Oromo person. Any known Oromo in the city who has relatives in the country can be targeted because the authorities think that your relatives in the country are rebel fighters.

6. I joined the Oromo Liberation Front ("OLF") in about 1996. My brother [Person 1] was a member and his colleagues in the OLF asked him to ask me to join. I joined the OLF because I could not sit and keep quiet and ignore the situation while my aunt or cousin or friend are killed or tortured by the authorities. We say that Oromo people

are all connected to each other. My heart would not stay quiet unless I helped in some way.

7. I received an OLF membership card (as described in my Statutory Declaration dated [date] June 2006 in paragraph 11), but I never received any other document which might prove my membership of the OLF. If the authorities saw a document like this, you would be killed immediately. Ethiopia is not safe like it is in Australia, it is very dangerous. While I was in Ethiopia, and since I have been in Australia, it was not possible for me to obtain documentary evidence of my involvement with the OLF because these documents simply don't exist. People in the free democratic system in Australia do not know what it is like in Ethiopia. If I had any document in my possession while in Ethiopia I would have been killed already. I could not risk my life by carrying such documents and I could not risk others' lives by asking them to provide such documents. It is too dangerous to ask associates to provide these documents because if they were caught they would be killed.

8. My activities within the OLF were to raise money for the OLF and to follow the city media reports about the OLF's struggle in the country, and pass this information to the people in the country because they did not have access to the media. There are very few radios in the country and no televisions. Also, I would meet with other OLF members every month or two months. I would meet with 5 or 6 people. We couldn't go to people's houses because it was too dangerous, so we met in restaurants and pretended we were just having a social lunch. We would position ourselves in a corner of the restaurant and speak in very low voices in the Oromo language, in order not to be detected. We would talk about getting freedom for the Oromo people - it doesn't come from the sky, we have to struggle for freedom.

9. In 2004 the OLF gave me the task of raising money for the OLF struggle from other Oromo people in my business and social network. I did this by talking to sympathetic Oromo people. It is not so difficult to find out who is sympathetic to the OLF cause because many people talk (only with people they trust) about the terrible oppression of the Oromo people.

10. The leadership of the OLF is like a network around the world. Some of the leaders are in Kenya and Eritrea, and some in other countries. Not everyone knows everyone else, it is like a network where members know other members who are within their business or social circle that they can trust. In a free country it is possible to know the names of the leaders of an opposition movement, but in Ethiopia there is no freedom so I didn't have any information about who was an OLF leader. There are no leaders in Ethiopia because it would be too dangerous to be a leader of the organization and live in Ethiopia. Of course there are many people in Ethiopia who are active OLF members or who organize for the OLF, but there are no high-level leaders - they would be killed by the authorities. The OLF doesn't have a permanent leader, the leader changes every 6 months or year.

11. In the DIMA decision, the delegate expressed some doubts about my knowledge of the Coalition for Unity and Democracy Party ("CUDP"). I would now like to provide the Tribunal with my personal knowledge of the CUDP. I joined the CUDP around the end of 2004 because I was approached by Pastor Tsehay Tedesse, who was pastor of my church, the Mulu Wongel (Full Gospel) Church in Nefa Selk, Addis Ababa. Pastor Tsehay was a CUDP candidate in the Addis seat of Woreda 15 and he asked me to join the CUDP and support his candidacy. Oromo people joined the CUDP because the CUDP was campaigning for freedom and democracy. Prior to the May 2005 elections the government promised to recognize any candidate who was

elected from the CUDP party, so we got very excited about the possibility of electing CUDP representatives. I put our party's poster on my car, as did many other people.

12. The CUDP had many candidates who were very well educated and very high in the professions in Ethiopia. One candidate was Dr Berhanu Nega, who is an economist and academic, who has travelled in Europe and Africa to lecture. He was the candidate for the whole of Addis Ababa, running for the equivalent of Steve Brack's position in Victoria. I met Dr Nega during the election, before he was detained. When he was visiting the local CUDP office, I met him with a few other people from our CUDP office. But he is higher in the party than me so we simply met and exchanged pleasantries. He was a very busy person, so he didn't have much time. It was before the election, and the purpose of coming to our office was to talk about the election, so he talked to higher people in the office about the strategies for the election. Another candidate was Professor Mesfin Woldemariam, who is also a lecturer at university. I saw him speak at rallies many times, and he is an excellent speaker and inspired us about the CUDP. He gave us the aims of the CUDP and what to do to achieve these aims. Another candidate was Dr Yacob Hailemariam, and he sometimes used to come to speak at rallies with Professor Mesfin Woldemariam, and he was also a very good speaker. All of these candidates, as well as many others, are in jail now. Attached to this declaration and marked "GLD-0" is a copy of a document from the internet that shows these CUDP candidates, and many others, who have been imprisoned.

13. The CUDP's main goals are to create a free and open democracy and to have Ethiopia led by a mix of ethnic groups, and not just have power in the hands of the Tigriyans. At present Ethiopia is controlled by the Tigriyans from top to bottom, but the CUDP wanted to have a collection of different peoples leading the country. The CUDP was made up of four different parties that became one party. I know the names of the parties in Amharic, but not in English.

14. During the May 2005 election campaign I campaigned on behalf of Pastor Tsehay. I assisted Pastor Tsehay by talking about him among people that I knew, telling them that he was a good candidate. I spoke to people about Pastor Tsehay in my business network and also people in my neighbourhood, for example when we went for a coffee. A lot of people know me very well so I talked to many people about Pastor Tsehay. I also distributed CUDP election materials. I put posters around our neighbourhood. The party had pamphlets which said that if we win the election we will have true democracy, and I put copies of these pamphlets in cafes and restaurants and churches and everywhere. Also I drove other CUDP supporters around to put posters up and distribute pamphlets. In my neighbourhood it was well known that I was campaigning on behalf of the CUDP because I am well known and I spoke to many people about Pastor Tsehay and I had a CUDP poster on my car and I distributed CUDP posters and pamphlets.

15. Even though the government said it was free to express political opinion during the May 2005 election, the government put spies in the CUDP. After the election, the next day, everything changed completely. Suddenly, if the authorities saw you with any party material, they would arrest you. After the election, while I was still in Ethiopia, and since I have been in Australia, it has not been possible for me to obtain documentary evidence of my involvement with the CUDP because after the election it was too dangerous to be caught with any party material. The fact that the CUDP was, and still is, a legally registered political party is irrelevant to the Ethiopian authorities. Since the May 2005 elections the authorities have tried to destroy all

political opposition, whether the opposition comes from a legally registered political party or not. Therefore to have any documentary evidence of involvement with the CUDP after the May 2005 elections was far too dangerous.

16. I would like to clarify paragraph 39 of my Statutory Declaration dated [date] June 2006. In paragraph 39 I state that “during the election period” we had to resist a great deal of pressure from the Ethiopian security forces, and my family and I experienced daily verbal assault and intimidation. Actually this did not happen before the election or during the campaign, it only happened after the election. A majority of the people in Addis voted for the CUDP, which made the authorities very angry, and there was a terrible crackdown on all opposition parties. The security forces could not imprison the majority of the population of Addis so they harassed me, my family and many other people by calling out in the street, warnings like “You wait for your turn” They tried to arrest everyone in the party, but they could not detain everyone. They arrested so many people that they detained a huge number of people in a sports field and put guards on the perimeters to hold them.

17. The candidate that I supported in the May 2005 elections, Pastor Tsehay, won the seat he was contesting. Attached to this statement and marked “GLD-1” is a document from the website of the National Electoral Board of Ethiopia which shows that Pastor Tsehay Tadese Ali won 77.38% of the votes in the Woreda 15 seat. However, shortly after the elections he was detained by the authorities, and he has been in jail ever since. Even if it was safe for me to contact people in Ethiopia to request documentary evidence of my membership of the CUDP, Pastor Tsehay and many other party members would not be able to help me because they are in jail.

18. I established my own building construction company, [name] in the second half of 2001. For a few years things went well in my business, despite the adverse interest of the authorities. At the height of my company’s success in 2002-2003, the company employed about 100 people. Unfortunately, due to the authorities’ ongoing suspicion in me, my business suffered. I was detained without charge for three weeks in July 2004 and September 2005, and the company lost work and income. After the July 2004 detention I applied for two government construction contracts and was told that my company was not acceptable. Previously I had no difficulty getting this type of work. Following the May 2005 elections there was a government backlash against CUDP supporters and I was being followed by Ethiopian security forces, so it became impossible for me to continue with my construction business. I had to limit the business’ activities to transportation. By this time the company employed only two people and the company’s income was drastically reduced.

19. I provided to DIMA a registration certificate issued by the Ethiopian Ministry of Infrastructure on [date] January 2006 which entitles me to “participate in all government construction procurement as [a] building contractor”. Attached to this statement and marked “GLD-2” is a copy of the registration certificate. The registration certificate is my building contractors’ license, and every building contractor in Ethiopia needs one to do business, whether the work is government or private. Anyone who wants to hire me will always ask to see this license. The registration certificate is issued annually. The procedure for applying for the registration certificate is to fill out a lot of forms. Also, the registration certificate is not issued until I pay VAT to the Ethiopian Government, which is a form of tax. Attached to this statement and marked “GLD-3” is a copy of my VAT statement for 2004. Once I have paid the VAT the registration certificate is issued. I cannot get the registration certificate until I have paid the VAT. The registration certificate is issued to encourage people to keep paying their VAT every year. Even though the registration certificate states I am entitled to “participate in all government

construction procurement as [a] building contractor”, in practice I have not received any government work since about mid-2004 because I am on a blacklist. I still have to get the registration certificate every year because I need it for my private work as well as government work. It is my license. My registration certificate was issued this year on [date] January 2006, and just prior to this date, on [date] January 2006, I had been detained and interrogated by the authorities for 12 hours. However, the fact that the registration certificate was issued soon after my release is not surprising because it is automatically issued every year after I have paid my VAT. The government issues the registration certificate to encourage me to keep paying VAT, so it is in the government’s interests to keep issuing me with a registration certificate, even if I am a suspected political opponent.

20. In paragraph 49 of my Statutory Declaration dated [date] June 2006 I discuss paying a bribe to obtain an official passport issued in my name. I would like to expand on this issue. The person who helped me at the passport office was not a friend or someone that I had met before. In Ethiopia, when you need to do something fast or without official permission, you ask other people who might be able to help. I had heard of people who had paid a bribe for a passport, so I knew it could be done. I asked people and they told me about a man that could help. I cannot tell his name because that would be too dangerous for him. It is common for people in government departments to accept bribes to do things for people. Also, the people who are working in the Department of Immigration feel sorry for people who they know should be entitled to a passport. In my experience, it is not easy to bribe someone for a passport but it can be done depending on who you know and if you have enough money.

21. My Australian visitor visa was issued on [date] April 2006. Even though I was afraid for my life, I did not leave Ethiopia until [date] May 2006 because it was very difficult to get an exit visa. After I got the Australian visa, I could not leave the country until I had organized with someone to help me get an exit visa, and this took several weeks, as described in the next paragraph.

22. In paragraph 60 and 61 of my Statutory Declaration dated [date] June 2006 I discuss my departure through Addis Ababa international airport. I would like to expand on this issue. I knew my friend who worked at the airport because he was a neighbour of my mother’s sister. I cannot say his name because it would be too dangerous for him. He worked as an immigration worker at the airport, employed by Ethiopian immigration control. He said he would help me, and that I should book a flight when he was on duty. He gave me the times when he would be working. I booked a flight on Emirates airline and made sure the departure time of my flight was during my friend’s shift. My flight was due to leave on [date] May 2006 at about 7.30pm in the evening. I arrived at the airport at about 2pm, because my friend said there were almost no flights at that time and it would be very quiet. When I arrived at the airport there was almost no-one there. My friend stamped my passport with the exit visa which allowed me to leave the country.

23. Since I have been in Australia I have spoken to my wife on the phone two times a month. She is still living in our home. I do not call her on the phone in my house, because sometimes the government monitors the phone lines. She has told the authorities that she doesn’t know where I am, so it would be too dangerous for her if I called to my home phone number. I call her on her mobile phone. Since I left, my family has been supporting themselves on the savings which we had before I left. Since I left, my wife has been taken to the police station twice. Once she was taken to the police station on Friday and was released on the following Monday. The other time they took her in the morning and she was back at night. They asked her where I

am, and they asked if she was a member of the CUDP. She said she doesn't know where I am and she is looking for me. She denied being a member of the CUDP.

40. [In] December 2006, the Tribunal received a letter from [name deleted: s.431(2)] of Foundation House, dated [date deleted: s.431(2)] November 2006, in which he advised that he was unable to provide a report to the Tribunal. [Name deleted: s.431(2)] explained that he had only seen the applicant four times and this was usually an insufficient amount of contact to establish a trusting relationship to be able to explore and provide treatment for trauma issues. He stated that the applicant had found it difficult to discuss his experiences and it was submitted that in an interview situation the applicant was likely to appear disengaged or respond indirectly to questions.
41. [In] December 2006, the Tribunal also received a submission from the applicant's adviser which reiterated the applicant's claims and discussed those claims in light of the available country information, addressed issues regarding the applicant's credibility, discussed aspects of the delegate's decision, and outlined the relevant legal considerations.
42. [In] December 2006, the adviser provided a further submission drawing the Tribunal's attention to a decision made in another case which was contended to be factually similar to the applicant's.
43. The first Tribunal hearing was held [in] December 2006. Following the hearing, the Tribunal received a submission from the adviser raising serious concerns about the standard of the interpreting during the hearing.
44. [In] February 2007, the Tribunal received a partial response to its s424A letter, dated [date deleted: s.431(2)] February 2007, which explained the discrepancies identified by the Tribunal as being a consequence of difficulties in converting dates given in the Ethiopian calendar to Western calendar dates; errors made by the applicant's representatives; flawed and unsatisfactory interpreting during the Tribunal hearing; and an error made by the applicant during the hearing due to nerves and tension caused by the pressure of the hearing. Attached to the submission were the following documents:
 - An excerpt from the US Library of Congress' Online Catalogue entry for: Ofcansky, Thomas P and Berry, LaVerle (Eds), *Ethiopia: a country study* (4th edition) 1993 and an excerpt from the Glossary of the same book explaining the complexities of the Ethiopian calendar;
 - A transcript, prepared by the adviser, of selected excerpts of the hearing held [in] December 2006;
 - A table comparing the evidence and representations in relation to the applicant's four detentions drawing on various submissions, statutory declarations and verbal evidence provided in interview and the hearing;
 - A statutory declaration made by [name deleted: s.431(2)], dated [in] February 2007, outlining his concerns about the standard of interpreting during the applicant's hearing with the Tribunal;

- A statutory declaration made by the applicant addressing concerns raised in the 424A letter, dated [in] February 2007; and
 - A statutory declaration made by [name deleted: s.431(2)], dated [in] February 2007, regarding the use of particular direct translation by the interpreter in the hearing and how this may have led to the applicant's confusion.
45. [In] February 2007, the Tribunal received a further submission from the adviser in response to the Tribunal's s424A letter. This discussed the complexities of the Ethiopian calendar and the fact various interpreters had been relied on to make conversions from the Ethiopian to the Western calendar; the unreliable date conversions made by the interpreter during the Tribunal hearing and the poor standard of the interpreting at the hearing generally; as well as the specific concerns raised by the Tribunal in the s424A letter in relation to each detention claimed by the applicant.
46. [In] September 2008, the Court set aside the decision of the first Tribunal dated [in] March 2007, affirming the delegate's decision and remitting the matter to the Tribunal to be determined according to law.
1. This statement supplements my previous statutory declarations and therefore does not articulate all the details of my claims.
 2. I was born in Addis Ababa, Ethiopia. As a young child, my family moved to Negele, Borena in Oromia. I completed my elementary and secondary education in Negele, Borena in Oromia, in Southern Ethiopia.
 3. I joined the OLF when I was about 19 years old. I was studying full time at college at the time, the Science Ethiopian Social College in Addis Ababa in my first year. I was supported by my family and had a small business, involving selling food and clothes from wholesalers to shops. I was studying building engineering.
 4. In Addis I was living with two older brothers when I commenced College. My father was deceased and my mother was living in Negele, Borena in the family home. I had two other brothers and two sisters.
 5. My younger brother [Person 1] was involved with the OLF. He joined when he was a teenager and then he left home. He then lived on the border with Kenya with OLF troops situated in that area. The rest of the family were not involved with the OLF, but the family often discussed what was happening to the Oromo people and were sympathetic to the cause.
 6. My father who was a [occupation] was imprisoned for two years when I was about 10 years old. He was imprisoned because of statements he made against the Ethiopian government regarding its mistreatment of the Oromo people. My mother told me this. She didn't tell me the details. After he was released he didn't work for long because he was distressed and unwell. He died a few years later.
 7. My family is a member of the middle class in Ethiopia. If you are Oromo and have some wealth it makes it more likely you will be persecuted because they suspect you of supporting the OLF. Both my father and I were in our own ways economically successful and actively opposed to the regime.

8. I became increasingly aware of the persecution of the Oromos. Oromo people were being imprisoned and killed. Oromos were poorly paid and were exploited in employment.

9. I attended primary school and high school in Negele, Borena. I suffered discrimination at school and college. At school, when I was a child, I was insulted, teased, verbally abused and bullied by non-Oromo students and by non-Oromo teachers. I remember one teacher who used to hit me because I was Oromo when I was in years 5 and 6.

10. Seventy per cent of the students at my school were Oromo. However, the majority of the teachers at that time were not Oromo.

11. Now things have changed and there are many more Oromo teachers in the region however this was not the case while I was growing up.

12. After High School, at the age of 19 years, I enrolled in a two year building engineering course. I graduated when I was 21 years old.

13. When I enrolled in college I moved from the family home in Borena to Addis Ababa.

14. At college I had friends among Oromos and non-Oromos. Not all fellow students discriminated against us but many students and teachers didn't like us.

15. I worked for two different building companies for a total of four years as a site engineer. I then worked as a clothing trader for a number of years. I was arrested for six months in 2001 as previously explained in earlier statutory declarations. After my release and recovery I began my own business at the age of about 31 years. I was a building contractor. The company's name was [name]. I provided assistance in building schools, hospitals, bridges and apartments. I gained government and private contracts in competitive tenders.

16. I employed people for particular contracts, sometimes up to one hundred people. The work was often very labour intensive.

17. I joined the OLF after becoming increasingly aware of what was being done to our people. These injustices affected my immediate family. For example, when I was 18, one year before I joined the OLF, my older brother, [name], lost his work as an electrical engineer with a government organisation due to him being Oromo. I have already mentioned what happened to my father, and other extended family members were also mistreated by the authorities.

18. I joined the OLF through a friend of my brother [Person 1]. Before I joined, I spoke to this friend, [Person 5], three or more times in my house in Addis Ababa, the house where I lived with my two brothers. [Person 5] got my address from my family home. He had been with my brother [Person 1] on the border and decided to come to Addis to recruit me to the OLF cause, because the OLF were looking for new members. I don't know exactly where [Person 5] lived but I know he travelled a lot, often between Negele Borena and the Ethiopian Kenyan border. One of [Person 6's] roles was to recruit new members to the OLF. He came to my house to speak with me about the OLF. Because [Person 5] was a friend of [Person 1] he knew about the situation of our family. When he came to visit, he spoke to me about the oppression of Oromo people. I was convinced of that owing to my own experience. When we

met and discussed the oppression of the Oromo people, [Person 5] explained that he was involved in the OLF and asked me to join the OLF. It was a difficult decision to join however because it is a proscribed organisation and membership had the potential to destroy my career and could risk my life.

19. When I joined, I recruited four other people, who were Oromo friends of mine, to the OLF. I knew they were sympathetic to the OLF because of past discussions we had had, so I telephoned them by mobile phone and asked them to meet with me in a cafeteria to have a general chat. I told them we had a guest to speak with so indirectly they would have known it was something to do with the OLF. I selected these people of many Oromo people I knew, because I had had a number of previous discussions with them about oppression of the Oromo people and the OLF and they were good friends and I trusted them.

20. [Person 5] met with me and the four others I had recruited at the cafeteria and led the first meeting. The cafeteria was in the Mexico quarter of Addis Ababa. During this meeting, we discussed generally the oppression of the Oromo people and the need to find a solution and the need to make a sacrifice and commit to joining the OLF. Everyone at the meeting had had family affected in one way or another by the Ethiopian government's oppression of the Oromo people. During the meeting, these other four people who I had invited to the meeting decided to join the OLF.

21. At this first meeting we decided we would form a group and meet regularly. At the meeting [Person 5] explained to us about how the Oromo people were suffering in the country. We spoke about the problems in everyone's family because of the discrimination against the Oromo. [Person 5] also explained about the structure of the OLF. He explained the OLF is a big organisation with its head office in Germany. He also explained there were a number of OLF members situated on the Kenyan border. He explained that there were many OLF armed forces based on the Kenyan border, around the town Moyale. He also explained that OLF members would also travel to Nairobi and gather support in Nairobi and throughout Kenya. Many Oromos live in Kenya. While I was a member, the OLF produced a newspaper in Germany and there was an OLF radio broadcast from Nairobi. I used to listen to this radio broadcast. The paper was also secretly distributed among members.

22. More recently the OLF has started broadcasting a television program from Eritrea.

23. Our group covered the Nefaseleke area for the OLF, a suburb of Addis Ababa.

24. Our group's duties were to recruit members, collect money and gather information. We had some communication with other small cells of members, but mostly we communicated directly to the leadership through a single person, [Person 5]

25. I received my identity card a few months after the first meeting. Before this, at one of the earlier meetings, [Person 5] collected photographs from all of us and had us fill out an OLF membership form. After the meeting where we signed the form, [Person 5] delivered the photos and the forms to the OLF administration, on the Kenyan border. My understanding is that the OLF administration on the border prepared our identity cards. A few months later he brought our OLF identity cards to one of our group meetings and distributed them to us.

26. At this meeting where our identity cards were distributed, we all had to make a pledge in the presence of each other and [Person 5] and then he gave us our cards.

[Person 5] said the words of the pledge and then I and the other members repeated them. We spoke softly and there was no ceremony involved, due to the fact the meeting was being conducted in a cafeteria.

27. My identity card was destroyed by my wife during my first detention.

28. We met about every month in a cafeteria. The cafeterias would be mainly in the Mexico and Qera quarters of Addis. The meeting would last for about an hour. We spoke in Oromo. Sometimes we would walk in the street and talk. When the group first formed, the other people attending were a nurse, a driver, a businessman, and a teacher. The composition of the group changed over the years, but it was always five people.

29. We met in a cafeteria because it was less conspicuous than meeting in a house. We could be easily seen going into a private home.

30. At the meetings we decided what each of us should do. It was decided that I would raise money for the organisation. I was able to handle money. Even when I studied I earned money (I delivered food from wholesalers to shop keepers) so I was skilled in dealing with financial matters. When I started working as an Engineer I had contact with many Oromos including professionals. They would give me cash directly; we wouldn't deposit money in banks because the money flows could be detected by the government. Other members of the group made their own contributions financially but I was the one that sought out money from donors. The other members would give me the money and then I then provided all the funds to [Person 5] The other members gave me their money at various times when they had funds to contribute. It wasn't always during our meetings in the cafeteria.

31. I would give all the money collected to [Person 5], who would distribute it to the OLF in regional areas. I explain more about this distribution of the money later in this statutory declaration.

32. When I was gathering funds, I would discuss with the potential donor about the Oromo people and their problems in general terms to establish whether the person was sympathetic and whether I could trust them.

33. An example of collecting money is as follows. On one occasion I gathered a large sum of money from an NGO manager. I knew him when I was growing up. I called at his office and we had coffee together. We discussed the situation of Oromos. After several meetings he donated 20,000 (Ethiopian birr) in cash. I passed this money to [Person 5]. A second example of a donation I arranged was with a logistic manager of a private transport company which transported goods from Djibouti. He was Oromo and I knew him through a common friend. We discussed the problems of the Oromo people and then after meeting over several months I asked for a donation. He gave 5000 birr. It was very rare that the people I approached would refuse to make a donation. Over the sixteen years of collecting donations, only a handful of people refused, and this was usually due to a lack of financial capacity.

34. Money I collected I would put in a bank account or keep at home. When I was a student I would not put the money in my account because it might look suspicious. When I had my business it mattered less.

35. I also made personal donations to the OLF. In total I would have donated a minimum of 20-30,000 bin.

36. The other role I had was to collect information. All of us in our group had this role. We gathered information relevant to the OLF's activities from the media and from leaks from the government. For example an Oromo man I knew who worked for the government told me of government military intentions in relation to attacking Oromo troops. I passed this information on to [Person 5] who took it to the leadership on the Kenyan border. Information from the media was sometimes relevant because the leadership in rural areas and on the Kenyan border often didn't have access to media sources. Leaked information was also very important as this often gave OLF members warning of planned government activities against them.

37. When I had money to pass on to [Person 5] or when I or someone else from our group had some information to pass to [Person 5], I would contact my younger brother [name] who was living in the family home in Negele Borena. I contacted him at his home phone and would tell him I had some information or money for [Person 5]. My brother would then get into contact with [Person 5] and tell [Person 5] he needed to meet with me in Addis Ababa. [Person 5] would then come to Addis and telephone me on my mobile phone. Then all five of us would meet with [Person 5] in a cafeteria. I organised these meetings by calling one member who would then call another member and so on until all were aware of the meeting time and place. If the information was urgent I would ring Yonas and tell him I needed to speak to [Person 5]. [Person 5] would call me and I would pass the information on by telephone. We would use code words because of the risk of telephone interception.

38. If there was a small amount of money or there was only information to pass on, we would provide this money or information at the cafeteria. If there was a large amount of money to be passed on, I would go with [Person 5] to his hotel and exchange the money. The other group members would sometimes accompany us to the hotel but not go inside. [Person 5] would then take the money to the OLF leaders based in Moyale, on the Kenyan border. The next time [Person 5] met us he would bring a receipt to demonstrate that the money had gone to the OLF. I would then hand deliver the receipt to the individual donor. The recipient would usually destroy the receipt because it was dangerous to keep.

39. When I or another group member had information we would try to hold it in our heads for security reasons but sometimes if the information was detailed we might write down a few notes in a booklet. We would then give the information verbally to [Person 5] who might also take notes. [Person 5] would cross check our information with other groups working to obtain information to make sure it was accurate before passing it on.

40. I met with other four OLF members for the entire period of my adulthood up until my last year in Ethiopia, except when I was detained. In my last year in Ethiopia I ceased meeting with OLF members and started working with the CUD party. The CUD represented the OLF's interests and because the CUD was an open party there was no need to meet secretly with its members.

41. The OLF approved support for the CUD. The leadership said that the CUD should be supported in order to overthrow the existing government.

42. I wish to add some information about my periods of detention and its effects. When I was first detained in January 2001 for six months, I was kept in a small room of about 4 x 4 metres with about forty or fifty people. There were people in other cells. Our room had only one window at the top of the wall. Often I felt I was suffocating. We were let out of the room twice in 24 hours to go to the toilet. Otherwise you had to urinate into plastic bags. It was difficult to sleep. You couldn't

stretch out and people were sick during the night. There was violence between the prisoners. They were all political prisoners. I was not attacked by the prisoners. I was beaten when I arrived at the prison. During the interrogation there were three officers. They threatened me with life imprisonment. I was brought before a court the day before I was released. The judge said I could go home, but I could be arrested again.

43. I was in a bad physical and mental state after the imprisonment. I was suffering from depression and had lost about 13 kgs. I had gastrointestinal problems and had very itchy skin. I was not mentally stable and I took two or three months off work and stayed with my parents.

44. I was detained on the second occasion in July 2004 for three weeks at [name] police station. I was in a room with about 30 others. They were all political prisoners. It was a little less crowded than the first place of detention. I was interrogated by two or three people.

45. The third time I was detained was in September 2005, again for three weeks. I was held again at the [name] police station. I was interrogated and I was pushed around but not tortured.

46. On the fourth occasion, in January 2006, I was detained for 12 hours at the same station. I was kept by myself in a small room attached to the police office, with an officer guarding the door. I was interrogated five or six times during the period I was held. They told me that they knew I had information. They knew I was an active CUD member who had distributed information promoting the party.

47. I have stated in this statutory declaration that I joined the OLF when I was 19 and began raising funds and passing on information from the outset. I am aware that in my two earlier statutory declarations made [in] June 2006 and [in] November 2006 I stated that I joined the OLF in 1996. My migration agent has pointed out to me that this would have made me 26 at the time of my joining. I cannot account for this discrepancy. I definitely joined when I was 19. I have had trouble providing accurate dates because of the difference between the Ethiopian and Western calendars and because of the stressors I have been under. All I can say for sure is I was 19 years of age when I joined. So my migration agent has explained to me that this would make the year I joined 1989.

48. In my second statutory declaration of November 2006 I also stated that in 2004 the OLF gave me the task of raising money (paragraph 9).

49. I would like to clarify that I always raised money for the OLF, from the time I joined. However, it is the case that in 2004, political activities of the OLF and other anti government groups in Ethiopia were increasing and there was a need for more funds and the OLF did request of me, through [Person 5] to try to increase my financial contributions.

50. I believe if I were returned to Ethiopia I would again be detained and tortured, and this time I may not survive.

51. I would be at risk both due to my past involvement with the CUD and also with the OLF, and because of my Oromo ethnicity.

52. I have described in previous statutory declarations the very difficult circumstances of my wife and children since I have left Ethiopia. They continue to

feel very unsafe and for this reason I call them every second day. My wife has told me she is ill and suffering depression and my children are very distressed.

47. The applicant appeared before the Tribunal [in] December 2008 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Amharic (Ethiopian) and English languages.
48. The applicant was represented in relation to the review.
49. The applicant stated that he was born on [date of birth deleted: s.431(2)] in Addis Ababa. He lived in Addis Ababa He had also lived in Negele Boren in Oromo. His whole family, except for his 2 oldest brothers, moved to Negele when he was about 4 years old. He lived in Negele until he finished high school and then he moved to Addis Ababa to attend college. The applicant stated that he received 14 years education. He completed college in 1982 in the Ethiopian calendar and qualified as a building engineer. He can speak Amharic and Oromo. The applicant stated that he worked as a building engineer in Ethiopia When he first started working as a building engineer after he graduated, he worked for two different companies. He worked for [one company] for two years and then [another company] for two years. He then worked for himself when he started his own construction company in 1984 in the Ethiopian calendar. The Tribunal asked the applicant if he was working up until he left the country. He stated there was a time when he ceased in the middle. The Tribunal repeated the question and the applicant stated yes. When asked what work he had done before he had his construction company, the applicant stated he had a small distribution business. He would buy food items and materials from big companies and distribute the goods to small shops. He did this work after his imprisonment until he got other work.
50. The applicant stated he was married between 1984 and 1985 in the Ethiopian calendar. He arrived in Australia [in] May 2006 in the Western calendar. He did not depart Ethiopia legally. The applicant stated that his wife, 5 children, 2 brothers, 2 sisters and mother were living in Ethiopia. His wife and children were living in Addis Ababa, as well as 2 of his brothers. The rest of his siblings and his mother were living in Negele. The Tribunal asked the applicant if his brothers were working in Ethiopia. He stated one brother was employed in water engineering and the other brother lost his job in electric engineering the year before he started college. Since then his brother had worked in the private sector and not in a government job. The applicant confirmed his brother was currently working in a private company. The Tribunal asked the applicant if he was in contact with his family in Ethiopia He stated that he had spoken to his wife every 2 days since coming to Australia and he would speak to his children as well. He spoke to his mother every couple of months and to his brothers and sisters every 3 months or so. When asked when his father had passed away, the applicant stated that when he was ten years old his father was imprisoned and 2 years after he was released he died.
51. The Tribunal asked the applicant when he first became interested in the struggle of the Oromo people. The applicant stated he remembered between 1983 and 1984 in the Ethiopian calendar there had been lots of executions and many people died. At that time the current regime had taken power. He confirmed it was during this period he became interested in the struggle of the Oromo people. He joined the Oromo Liberation Front (OLF) when he was 19 years old. The Tribunal asked the applicant to explain how he had consistently claimed to have joined the OLF in 1996 or 1997 until 3 days ago when he raised for the first time that he actually joined when he was 19 years old. The applicant stated that it was the interpreter's problem before, in that they translated the calendar the wrong way. The Tribunal noted that it

had been claimed over an extended period of time in a number of statutory declarations, as well as in the submissions made by his previous advisers, that he had joined in 1996 or 1997. The Tribunal put to the applicant that it was difficult to accept that all these different people assisting him, including the interpreters, had got this aspect of his evidence wrong up until recently. The applicant stated as long as he stayed in Australia he was getting his memory back and was remembering things. He also claimed that the period 1996 to 1997 was the time he was imprisoned in Ethiopia. He stated all the documents submitted “were not his way of saying” The Tribunal asked the applicant if all the statutory declarations which included this information were read to him before he signed them. He stated that the people who supported him and his advisers, told him before he signed however he knew the interpreters frequently made mistakes. The Tribunal asked the applicant if he signed the statutory declarations confirming what was stated was true, knowing that there were mistakes in those documents. He stated that the interpreters were professionals and the government believed that they were. The interpreters were there to help him so he had no other choice.

52. The Tribunal asked the applicant what made him join the OLF. He stated the reason he became interested to join the OLF was because he as an individual, as well as his family and the OLF party, had suffered and gone through a lot of trauma and injustice and he felt that was not right so he tried to make a change. He had a stand and belief based on his experiences at school when teachers and other people were against the Oromo people and he suffered racial discrimination. He felt that there was not equal opportunity and tried to make a change since then. The Tribunal asked the applicant if any members of his family were members of the OLF. The applicant stated only one, his younger brother [Person 1]. He could not really remember when [Person 1] joined the OLF. He knew [Person 1] was located on the border with the OLF but he did not know where. The Tribunal asked the applicant what he had to do to join the OLF. The applicant stated the reason why he joined the OLF was because being Oromo there was a lot of condemnation by the government. He explained Oromia was established by the Oromo people. If he was Oromo and did not join the OLF or an Oromo group he would have some execution, unemployment or discrimination. The Tribunal asked the applicant again how he went about joining the OLF. He stated that he wanted to join because of what had happened to the Oromo people. A friend of his had preached to him about the situation and when he offered, he decided to join. The name of his friend was [Person 5]. The Tribunal asked the applicant if he sought to join the OLF or did [Person 5] convince him to join the party. He stated that he was interested but [Person 5] gave him the opportunity. The Tribunal asked the applicant how he knew [Person 5]. He explained that [Person 5] was a friend of his brother's. He confirmed that [Person 5] came and found him because he was his brother's best friend and he knew what had happened to his family because they were Oromo so assisted them by joining them to the OLF. The Tribunal asked the applicant if [Person 5] came to Addis Ababa to recruit him. He stated not only him but other Oromo people as well. The Tribunal asked the applicant if [Person 5] attempted to recruit any other members of his family such as his brothers who were also living in Addis Ababa He stated that [Person 5] tried with all his family but he was the only one who took the big step. The applicant stated that his family had connected with other groups recruiting Oromos. The Tribunal asked the applicant if his family were members of the OLF. He confirmed all his family were members of the OLF.
53. The Tribunal asked the applicant what activities he engaged in when he first joined the OLF. The applicant stated raising money from people and also recruiting people. The Tribunal asked the applicant about the people he recruited into the OLF. He stated after [Person 5] recruited him, he recruited another 4 people and they all became one group. He recruited

these people during the time he was studying, when he was 19 years old. The Tribunal asked the applicant why he recruited these particular 4 people. He stated he had a strong belief these people spoke the same language and had the same stance about the Oromo so he believed they were the strongest people to carry out his mission. He knew these people as they lived in the same town and spoke the same language. The 4 people were [names deleted: s.431(2)] The Tribunal asked the applicant how he actually went about recruiting them. He stated because they spoke one language and had the same stand and belief they also studied and did some research about what had happened to the Oromo people. They discussed this a lot as they had something in common and he gave them some more information. Once he recruited the 4 people, his next step or plan was to recruit more people. The Tribunal asked the applicant what his plan was to recruit more people. He stated the first step or plan was to get to know people and ask them some questions. They would build up a trusting relationship with them and then ask them their opinion of the OLF. After investigating their feelings, they would then ask the people to join the OLF.

54. The Tribunal asked the applicant about the group he formed with the 4 people he recruited. The applicant stated that they sent a message to the OLF whenever there was a leak by the government or about any information spread around the country. They would send messages about what was reported in the media about what the government had been decided to do to the OLF and the Oromo people. The Tribunal asked the applicant how he formed the group rather than what his group did. He stated once they formed a group he would try to contact the people and they would sit in a cafeteria often and conduct many meetings to discuss the aim and purpose of the OLF. The first meeting was in a cafeteria called the [deleted: s.431(2)]. At the first meeting he was present with the four people he recruited and [Person 5]. [Person 5] facilitated the first meeting and gave them a lot of information regarding the background and aims of the OLF. The Tribunal asked the applicant if there was anything else that they discussed during this meeting. He stated [Person 5] told them afterwards that they had to be united and live the rest of their lives with this aim and in a structured way.
55. The Tribunal asked the applicant what his main responsibility in the group was. The applicant stated recruiting more people and raising money. He confirmed that he provided the OLF with his own funds through his membership fee. The Tribunal asked the applicant if he provided the OLF with money apart from his membership fee. He stated yes, very much so. When asked how often he provided them with his own money, the applicant explained about his small business distributing goods from big companies to small shops. The Tribunal asked the applicant if he routinely gave money to the OLF The applicant stated that he paid a continuing membership fee every month but sometimes when they needed more money he just gave money. The applicant confirmed he collected money from other people. When asked how he went about collecting money from other people, the applicant stated it was not hard for him. He would research the person he was collecting from. He would build up a relationship with them and make sure the person spoke the same language, and had the same ideas and aim in their heart, and then once he knew that he would ask for the money. The Tribunal asked the applicant how long it would take to do this. He stated 2 to 3 months. When asked how he would identify the people, the applicant explained because Oromo had specific language he could identify from their speech that they were people he could talk to and ask whatever he wanted. The Tribunal asked the applicant if he asked people he already knew or approached strangers whom he researched. He stated most of them he knew. The Tribunal asked the applicant how they would give him the money. He stated once they believed in the OLF it was very easy to get the money. They would give him cash and after he had collected all the money he would hand it to [Person 5] with the name of the person

who gave it and [Person 5] would take it and later he would come with a receipt and he would give the receipt to the person to confirm the money had been given to the OLF. The applicant stated he would meet [Person 5] every month but if he was very busy, he would see him every 2 months. The Tribunal asked the applicant how often he would approach people for money. The applicant stated after study or work they would always discuss about the money and also other matters. The Tribunal repeated the question. He stated that as soon as he was sure the people were ready to give money he would collect it from them. He would go to different people at different times to get financial assistance for the OLF. Some people gave money more than once. The Tribunal asked the applicant if he spoke to the people he asked for money about the OLF. He stated they knew the whole story and they wanted to join the OLF but did not know how. The Tribunal asked the applicant about his claims in his recent statutory declaration of gathering funds from an NGO manager and asked which organisation he was from. The applicant stated his name was [name deleted: s.431(2)] and he was from [company deleted: s.431(2)] which was a very famous organisation in Ethiopia which [company information deleted: s.431892)]. The Tribunal asked the applicant how many years he collected money for the OLF. He stated about 15 or 16 years, until he came to Australia.

56. The Tribunal spoke to the applicant about his role in recruiting people to the OLF and asked how many people he recruited to the party apart from the 4 people he had named. The applicant stated it depended. There were some people who wanted to join the OLF who he spoke to and some of them could pay and some of them are unable to pay because they did not have much money. The Tribunal asked the applicant if he knew how many people he actually recruited to the OLF. He stated that it was a long process and it was very hard to identify who had remained with the OLF. His duty was to give them advice and the second person would not know him because that was the chain and their system. Once he recruited someone, that person was not allowed to know him after that. The Tribunal told the applicant that it did not understand what he was saying. He stated it was hard for him to know how many persons he recruited because it was a long process and once he recruited someone, the other person recruited someone else. The reason why the process was sophisticated was so that if there was any problem in the chain the other people could not be identified. The Tribunal asked the applicant what his position was in the chain of recruitment. The applicant stated recruiting people and establishing financial strengths by raising funds for the OLF. The Tribunal asked the applicant what exactly he did when he recruited people. He stated the first thing he did was to talk to people and once they were willing to talk he would identify their needs and values and then he would explain what he needed from them. The Tribunal asked the applicant what he needed from these people. He stated that he would look at the people he recruited to make sure they did not have opposing attitudes or values.
57. The Tribunal asked the applicant about his role collecting information. The applicant stated that the work he did gave him the opportunity to meet people in the hierarchy and in government and whenever there was information about the OLF he would distribute it. The Tribunal asked the applicant what sort of information he collected. He stated it was more securing the OLF in any way. For example, if there was any decision made by the government he would have to prevent that action before it happened. The Tribunal asked the applicant where he got the information about what the government was planning to do which effected the OLF. He stated from the media saying things about the OLF and also the politicians who always talked about this so it was not difficult to gain a lot of information from them. The Tribunal asked the applicant if he had contact with members of the government. He stated he had a connection through his work, which gave him an opportunity

to meet them. The Tribunal asked the applicant who he would provide the information he gathered to. He stated he would give the information to [Person 5] straight away. If it was urgent and an emergency he would send [Person 5] a code and he would understand. The Tribunal asked the applicant if he gave the information to [Person 5] verbally or write it down. He stated that if it was an emergency they had their own code on the mobile phone and they would speak their own language which no-one else could understand. If it was not an emergency he would contact [Person 5] with a local call and he would come to Addis Ababa and they would discuss it. The Tribunal asked the applicant again if he gave the information to [Person 5] in writing or would he just tell [Person 5] what he learnt. He stated it was forbidden to write at that time because they could be identified by the government. It was only discussion. The Tribunal asked the applicant if he contacted [Person 5] directly. He stated not directly but indirectly through his family. He explained where [Person 5] was living there was no mobile phone, so he would talk to his family and they would call from their home to the centre where [Person 5] was, and then it would take 3 or 4 days for him to get the information and then [Person 5] would call him on his mobile. The applicant stated his younger brother was the only one who knew how to contact [Person 5]. He could not say much about whether his brother was a member of the OLF but he used him to get to [Person 5] all the time.

58. The Tribunal asked the applicant how often he would meet with his group. The applicant stated they were living in one town so whenever there was an issue to discuss they would meet every week or sometimes every two or three weeks. They would meet at a cafeteria at different places. Sometimes they met at a place called [deleted: s.431(2)] and sometimes the [deleted: s.431(2)] cafeteria. The Tribunal asked the applicant how he and his fellow group members made arrangements to meet. He stated that they knew each other and did not discuss important issues on the phone. They would just say the place and the time and then they would meet there. He confirmed they made all arrangements over the phone. The Tribunal asked the applicant if he or his group had any communication or involvement with any other OLF groups such as their own. He stated there were many. There were times that they sometimes met but for their safety they did not meet much. The Tribunal asked what the reason was for meeting on those occasions that they did. The applicant stated to discuss the freedom of the OLF in the future and the issue of race. They would meet the other groups at lunchtime in a cafeteria or tea room. The last time he met with his group was in 1995, 1996 or 1997 in the Ethiopian calendar. The Tribunal asked the applicant if he only met with his group up until the period he claimed. He stated since 1997 he saw them often but they were changing. Some of them were very busy with other commitments and other camps. After 1997 they still met, however, the meeting had changed as another organisation was formed called CUDP and this organisation was a different level of their experience and so they all connected to that and that was how they met again. The Tribunal asked the applicant again when he stopped meeting the people in his group. He stated they never stopped meeting.
59. The Tribunal asked the applicant who made the arrangements for him to get a membership card for the OLF. The applicant stated that [Person 5] did. The Tribunal noted that in his recent statement he discussed a pledge which he had to take when he received his identity card from [Person 5]. He stated that he swore with all his power, honesty and dignity to honestly serve the organisation with all his heart. The Tribunal asked the applicant the names of any of the prominent leaders of the OLF. He stated there were a lot but he mentioned Colonel Matagolo and Colonel Denge who were located on the border of Kenya. The Tribunal asked the applicant if he knew the name of the former Chairman of the OLF who was now in

exile. He stated that he knew his name but could not remember it at the moment. This person had changed his name.

60. The Tribunal asked the applicant when he was first detained. The applicant stated it was in January 2001 in the Western calendar. Two government soldiers and police from the police department came to his home and took him by car and imprisoned him. They took him away handcuffed and he had a very bad experience. They came to his home at night time, at 5:00 o'clock in the morning, before it became day. He was in his pyjamas and did not know anything. They surrounded his house and knocked on his door. He opened the door in his pyjamas and he did not know what was happening. He was shocked and almost lost control of himself. He saw a lot of guns in his face They pushed and abused him and then took him to the car. They took him to prison and asked him a lot of questions from time to time. The Tribunal asked the applicant if they came into his house. He stated that they did. Once they entered the house some of them started searching and some of them stayed with him and he could not talk. The Tribunal asked the applicant where he was whilst they searched his home. He stated that after they pointed the gun at his face, they took him out to the veranda and he waited there. Once they finished searching his house, they abused him and pushed him and took him to the car.
61. The applicant stated that he was taken to the third brigade police station in Addis Ababa. He was detained for 6 months. He was not charged but they asked him different questions for 6 months. They asked him about himself and told him he was nobody. The Tribunal asked the applicant what the police thought he was involved in. He stated that they mentioned frequently that he was an OLF member and servicing the OLF. The Tribunal asked the applicant if anyone else associated with his group detained. He stated only one other, Solomon. The applicant stated that he could not remember when he was released. The Tribunal asked the applicant if there were any conditions attached to his release. The applicant stated the reason why he was released was because they did not get any information or documents on him. The Tribunal repeated the question. He stated they just called him and told him to go home. He asked them the reason why he had been detained and asked him if he wanted to stay or go home. The Tribunal asked the applicant if he ever had to go back to the police station at any stage. He stated no.
62. After he was released from detention, the applicant stated that he started his small business with food items and garments. He stayed in Addis Ababa. The Tribunal asked the applicant when he started his construction business. He stated that after he collected money from his small business, he also obtained some money from the collection method in Ethiopia called acouk, and then he began his construction business. He began the construction business in 1994 in the Ethiopian calendar.
63. The Tribunal asked the applicant if he continued to engage in activities for the OLF. The applicant stated that he did it even more powerfully. With all his power he tried to recruit people. The Tribunal asked the applicant when he realised he was under surveillance. The applicant explained that construction building work was respected and a high level kind of work. He had a lot of networks with many people and could gain a lot of money and that was the reason why he was being followed and thought he was being monitored. Their fear was that he would become rich and he was Oromo. The applicant stated that he was followed by government security officers straight after he was released from detention because they wanted to get documents or any evidence against him. The Tribunal asked the applicant how often he was followed. He stated it was hard for him to explain because they always changed their faces and used different methods. The Tribunal asked the applicant how he managed to

engage in OLF activities more powerfully and recruit more people if he was under surveillance by the government security officers. He stated as soon as he was released from detention that was when he used all his power and his belief was even stronger.

64. The Tribunal asked the applicant when he was next detained. The applicant stated it was in July 2004 in the Western calendar. They came once again and surrounded his house. They knocked on the door and took him. The applicant confirmed they entered the house. In the normal way they did, they surrounded the house and as soon as he opened the door they put their guns around him and they searched the house and took him. They took him to the [local] police station. They came to his house at the same time on this occasion as this was the normal time that people were in deep sleep in his country. He confirmed it was 5:00am. The applicant stated that he was detained for 3 weeks and was not charged. The police asked him the same questions, particularly whether he was a member of the OLF and what activities he engaged in. He denied being a member or engaging in political activities. The Tribunal asked the applicant if there were any conditions attached to his release this time. He stated that they told him the same thing, that he had to go home. They asked him questions every 3 days and told him they would get him back. The Tribunal asked the applicant if he was required to report to the police station after he was released from detention. He stated no. While he was there he asked why he had been detained and they told him to go home. They did not ask him to come back again. He then realised they were monitoring him. The Tribunal asked the applicant if he had to do anything to facilitate his release. He stated that they asked him to confess that he was an OLF member but he always denied this. They wanted him to support their party. They did not arrange anything for him when they released him. The Tribunal asked the applicant if he had to pay them any money. He said he did not have to pay any money.
65. The Tribunal asked the applicant if he had any problems with the authorities between his first arrest in January 2001 and this arrest in July 2004. The applicant stated that he had not been imprisoned but that did not mean he did not have any other problems. He had suffered a lot. The Tribunal asked the applicant if he had any dealings with the authorities between those two arrests. He stated he did have connections. They were Oromos who were like double agents because they were working for the government. They did not know he was working for the OLF. The Tribunal asked the applicant why the police came and searched his home and arrested him after such a long period after his initial arrest if they suspected he was an OLF member and were monitoring him as he claimed. The applicant stated even though they knew he was an OLF member they did not get any documents or information from him personally. They had hoped to find him in a compromising position.
66. The Tribunal asked the applicant what he did after he was released from detention in July 2004. The applicant stated after his second detention he was doing the same job recruiting people and fundraising. He confirmed his business was still operating and he was doing contracts mostly with NGOs and private companies. He was excluded from government jobs. The applicant confirmed he was still under surveillance. He would see similar faces and due to work and other involvement he was always suspicious of people.
67. The Tribunal asked the applicant when he first became interested in the Coalition for Unity and Democracy Party or CUD. The applicant stated it was in 1997 in the Ethiopian calendar. He became a member in the same year. The Tribunal asked the applicant what made him become interested in CUD. He stated CUD was the right movement to change the government. He explained CUD was an organisation which was established by all the opposition parties against the government regardless of race. The reason he entered this

organisation was because the current regime had a fascist attitude to his people and other people. The Tribunal asked the applicant if anyone approached him to become a member of CUD. He stated that Pastor Tsehay Tedesse recruited him. They practised the same religion. The applicant stated he was involved in a district called [deleted: s.431(2)]. He did not hold an official position. The role he had was to drive people from place to place, place posters and flyers, and produce more advertising for the CUD. Many people knew him including people in the hierarchy. Therefore he was very visible so the government could identify who he was. The Tribunal asked the applicant if he was an ordinary member of the CUD. He stated he was just a member but he had a specific duty.

68. The Tribunal asked the applicant when the CUD was formed. The applicant stated the year before he became involved. It asked him if he knew the political parties which comprised the CUD. He stated the event was in Mexico square and hundreds of people gathered and they established it. The Tribunal repeated the question. He stated MAD, EDUPA, Harare group and Oromo group but not the OLF. It was a group voice for local Oromo change and Dr Mara Gudina was the leader. The Tribunal asked the applicant when he engaged in the activities he previously described. He stated in 1997 in the Ethiopian calendar or 2005 in the Western calendar, before the elections. The Tribunal asked the applicant if he was active outside of election periods. He stated after that all the members were imprisoned and people died. More than 60,000 people were imprisoned and everyone had to flee from their homes. He explained that was the governments' strategy to identify who was against the government.
69. The Tribunal asked the applicant when he was transporting people, where did he take them. The applicant stated it was the same purpose as what he did; to print papers and accomplish every aspect that affected the duties. He was the only person who had a car and he tried to help them. When he did anything to support the party he would have a flag on his car. He engaged in transporting people until the election. He did this activity at different times. The Tribunal queried how he managed to engage in these activities as well as run his business. He stated there were people under him. He controlled specific things and the rest of the things he would look to others to finalise. The Tribunal asked the applicant if he actually did the driving or was it one of his employees who used his company's vehicles to transport the people and material. He stated it was his car and he drove it.
70. The Tribunal asked the applicant if other than transporting people around and pasting posters, did he engage in any other activities during the election period for CDU. The applicant stated that was the only duty he had. The Tribunal queried whether he did any campaigning for the candidate in his district. He stated that was the main part of it. He explained that there were not many candidates in his district and his goal was to have Pastor Tsehay Taddese elected and he was fully involved in achieving this. He stated when campaigning for the Pastor they made posters and announced his name everywhere and put his name everywhere. The Tribunal asked the applicant if he spoke to people about the Pastor. He stated most of the time he spoke to people and called people for a meeting and distributed information. The Tribunal asked the applicant what he spoke to the people about. The applicant stated their major aim was to tell people the current government was hopeless, not fair, and there was no justice, and they were executing innocent people so the government had to be removed. The Tribunal asked the applicant when the election was. He stated 2005 in the Western calendar, in September, which was the first month of the Ethiopian calendar. All he could remember well was that it was in 2005 in the Australian calendar and then after that he fled the country.
71. The Tribunal asked the applicant what changes CUD proposed to introduce and what other campaign promises they made during the election in 2005. The applicant stated that CUD

condemned all injustice, racism and inequality. It recognised that what was needed was a government which would provide equal opportunity to everyone and establish a country with a government which did not believe in guns and power but freedom. He stated that there were a lot of issues and proposals but these were some. The Tribunal asked the applicant what the result was in the seat which he was campaigning for. He stated CUD won the election. As soon as the government realised they had won, they started galvanising the whole nation and holding people in prison. They said the election result had been sabotaged and they made it harsh for everyone. He claimed during that savage action many people died on the street and it was a very scary moment. He did not leave his home for 3 days. He could not explain how severe the situation was. The Tribunal asked the applicant what happened to the Pastor. He stated the pastor was imprisoned since that time. Even when he arrived in Australia he was still in prison, as well as all CUD official members. The Tribunal asked the applicant who the Pastor's rival EPRDF candidate was. The applicant had difficulty answering the question and the Tribunal had to rephrase it on numerous occasions. He finally stated it was Kasohay Tsegai.

72. The Tribunal asked the applicant if he experienced any problems during the election period because of his activities in support of CUD. The applicant stated there was a lot of condemnation and warnings from supporters of the opposition. They used very strong and bad words and swore a lot but they handled those situations. The Tribunal noted that he had claimed that he and his family were verbally abused and intimidated. He stated police officers from the government were responsible. The Tribunal asked the applicant when this happened. He stated that they came and did all the pushing, throwing things and his family had been victim of this process. The Tribunal noted that he had raised the intimidation and verbal abuse of him and his family in relation to his CUD activities so the Tribunal asked the applicant again if he and his family were subjected to intimidation and verbal abuse around the time of the election in 2005. He stated that they immediately took people to the concentration camp whenever it was discovered that a person was against the government and then they executed everyone. That reason or mentality made everything difficult, for example they thought they were against the government and that was why they became victims. The Tribunal asked the applicant what sort of intimidation he and his family were subjected to around the time of the election in 2005. He stated at soon as the police came they surrounded the house. They knocked on the door and he opened it. They came in and locked his children in one room. They held him and pushed him and abuse him badly and took him in to the police station. The applicant's adviser interjected to submit that the applicant appeared to not understand the Tribunal's question and was confusing this with the incidents he had already discussed in relation to his OLF claims. The Tribunal noted that it had asked the applicant a number of times, in different ways, about his experiences in 2005 during the election. The adviser submitted the she did not think the applicant was trying to fabricate or avoid answering but he clearly was not understanding the question and she did not know why this was. The adviser stated that she intended to make submissions in relation to the applicant's mental health at the conclusion of the hearing. The Tribunal suggested that she may wish to address any of these concerns in her subsequent submissions.
73. The Tribunal asked the applicant if he engaged in any political activities after the 2005 election. The applicant stated that after the 2005 election he and other political involvement ceased. No-one could do anything as the government controlled everything. The Tribunal repeated the question, asking the applicant to focus on himself and whether he engaged in any political activities either for the CUD or the OLF. He stated he could not although he wanted to because it was a very dangerous time. The Tribunal asked the applicant if he experienced

any difficulties after the election in 2005. The applicant stated that he was imprisoned after the elections, in September 2005. The Tribunal asked the applicant if, after the election in May 2005 and before he was imprisoned in September 2005, he had any problems. He stated he could not live with full rights. He could not go out or get to work as he was identified as an involved person. The Tribunal asked the applicant where he was living. He stated at a friend place far away from where he lived, called Kalit. He went there as soon as the election was finished and they started executing people around him because he believed he would be next. He stayed only with this friend and his friend's family, for around 3 weeks and then he went back home. During the 3 weeks he was there he did not see his family but his wife visited him sometimes. From then he continued to stay home. The Tribunal asked the applicant what happened to his business after the election in 2005. The applicant stated that there was no work at all after the election.

74. The Tribunal asked the applicant what happened when he was arrested again in September 2005. The applicant stated they came to his home and handcuffed him and took him after bashing his family. They also mentioned that he had weapons hidden and that was why they searched his home. His children and wife were crying and he was helpless, just waiting to see what would happen to him. The Tribunal asked the applicant where he was whilst they searched his house. He stated that he was on the verandah, just outside the door so he could see through. After they finished searching his house, they pushed him and threw him in the car. They took him to the [local] police station and he was detained for 3 weeks. The Tribunal asked the applicant if he was told why he had been detained. He stated that they were saying he was against the current government therefore he needed to be evicted or charged. The Tribunal asked the applicant if he was charged. He stated they asked him lots of questions after that but they did not ask him anything else. The Tribunal repeated the question. He stated there were no charges. The Tribunal asked the applicant if there were any conditions attached to his release. He stated that he did not know why he was released. The Tribunal asked the applicant if he was required to return to the police station and report to them after his release. He stated they asked him to come back almost every day and sign some papers until he left the country.
75. The Tribunal asked the applicant if he could explain why the police released him after 3 weeks given that this was the third time he had been arrested and he was now suspected of not only being associated with the OLF, which was a prescribed group, but also the CUD and plotting against the government, which is a very serious matter. Given the country information which has been provided by your previous advisers about the crackdown on CUD or suspected CUD members and supporters following the May 2005 elections, as well as your alleged profile as someone of interest to the authorities, it is difficult to accept that he would be released without charges and merely placed on reporting conditions if he had been accused of activities which were a threat to the regime. The applicant stated that he had a high suspicion on the third imprisonment. When he had been imprisoned when he supported the OLF it was only in the middle stage but on third occasion they actually saw him when he had placed the flyers. The third time they released him it was very easy to capture him when he was signing the papers and that was how they controlled him. He then realised it was very easy to be killed like any other politician so he decided he had to flee from his country. That was why he asked the Australian government for the visa.
76. The Tribunal asked the applicant what happened once he was released from detention in 2005. The applicant stated his business was paralysed. Since the election in 2005 his business had stopped and it had never resumed operation. The Tribunal asked the applicant when he

applied for his visa to travel to Australia. He stated it did not take even a month. They gave it to him quickly. He received the visa [in] May. He could not remember when he filled out the forms but it was a month or 2 before the visa was granted. The Tribunal asked the applicant what he had to do to organise the visa to come to Australia. He stated someone sent him a tourist visa application from Australia and he filled out the form and sent it to the Embassy in Kenya. The Tribunal asked the applicant how he got his passport. He stated that he did not get it legally. He spent \$10,000 BIR in order to get the passport. He stated that there were people within Immigration who helped people to get their passports illegally. He met the person who assisted him indirectly, through other people. He gave this person his picture and a few days later he brought the passport home.

77. The Tribunal asked the applicant if he was arrested again. The applicant stated yes, the last time was for 12 hours. He stated they were very sure there was a weapon inside his house and they wanted him to confess. The applicant stated that this happened in January 2006 in the Western calendar. They came to his home. The Tribunal asked the applicant if they had a search warrant or papers from the Court when they came to his home. He stated no. They did not show him that they were allowed to search. They just knocked on the door and entered the house. Once they finished searching they took him and detained him for 12 hours. They asked him questions, five to six times, because they were sure there were some weapons and documents in his house. They threatened to keep him in prison forever. The Tribunal asked the applicant why they only detained him for 12 hours when in the past they had held him for 3 weeks and the first time for 6 months, and now they were threatening to keep him in prison forever. He stated that they wanted to release him so they could see his movements as they thought they could find something to do with the weapons. The Tribunal asked the applicant if he had to report to the police station after he was released. He stated yes.
78. The Tribunal asked the applicant when he learnt he was on a police hit list. The applicant stated he saw a similar face during his movements everywhere. The Tribunal noted that he had claimed that a particular person had told him that his name was on a police hit list. The applicant stated it was a very tense time for him. There was lots of worry and the tension was so high. He realised due to the three times he had been imprisoned, the monitoring process, and with people dying all the time, that he was on a police hit list. The applicant stated he was told by [name deleted: s.431(2)] that he was on a hit list. [Name deleted: s.431(2)] had a friendship with a police commissioner.
79. The Tribunal asked the applicant how he came to know [Person 3]. The applicant stated that after he received his visa, he called the person who had sponsored him just to talk to him but this person said he did not know him and hung up the phone. He explained he [information about Person 3 deleted: s.431(2)] spoke to her as she was an Oromo. He explained almost everything to her and that he was wanted in Ethiopia. He asked if she would help him by receiving him if he came to Australia. The Tribunal asked the applicant what her reaction was to his request given that he was a complete stranger and for all she knew, a dangerous person. He stated there was no barrier when he spoke to her because he was Oromo and a born-again Christian. They had a lot in common, as the same sort of things had happened to her so it was easy for him to talk to her. The applicant stated that [Person 3] did not answer his request as soon as he called her. She told him that she would call him back and she called about half an hour later.
80. The Tribunal asked the applicant how he managed to depart through the airport in Ethiopia if his name was on a government hit list. The applicant stated that a guy he knew worked in the exit visa department. He spoke to him at his home and asked for his help. He managed to get

this person's timetable so when he was working he managed to leave through the airport. He did not leave legally, like a normal person. The Tribunal put to the applicant if he was on a government hit list, given that he departed the country on a passport in his own name, this was a substantial risk this person was taking by assisting him to leave. The applicant stated that this person was living in his cousin's area so he knew him and his problem. This person was the only one who sat in the box so there was no other person involved and he knew what the plan was. He wanted to help him and was so willing and understood the risk.

81. The applicant stated his business was closed. The Tribunal asked the applicant if anything had happened to his family in Ethiopia since he departed the country. The applicant stated when he stopped reported they realised he was not around so they took his wife to prison. Soon after people who knew him and his wife went to the police station where she was being held and spoke to the police and because they had 5 children they decided to release his wife. While his wife was detained she was asked where he was and she told them she did not know. The applicant stated that his wife had also decided to become a refugee because her life was at risk because of him. She wanted to remove herself from the country and go to Kenya. The Tribunal asked the applicant if his wife had gone to Kenya He stated no. The Tribunal asked the applicant when his wife was taken to the police station. He stated it was after he came to Australia He did not know how long after. As soon as he travelled, within a week she was detained and she was held for 2 days. The applicant stated that his wife had only been imprisoned once. After that the police always came and moved around the area and looked around the house. He presumed the police were monitoring her because they did not know where he was and hoped he may be around to.
82. The Tribunal asked the applicant why he had not provided any details about his association with [Person 5] until his recent statutory declaration which the Tribunal received 3 days ago. The applicant stated that he had been telling the Tribunal everything he had been asked. The Tribunal asked the applicant again why he had not mentioned [Person 5] in any of the other statutory declarations he had made to the Department and the first Tribunal and he only mentioned it in the statutory declaration the Tribunal received 3 days ago. He stated that maybe he had not been questioned. When the Tribunal asked him about this question, he mentioned him. He always followed the questions.
83. The Tribunal put to the applicant in his statutory declaration that was attached to his protection visa application and in his statutory declaration submitted to the first Tribunal [in] November 2006, he had claimed that it was his brother [Person 1] who was asked by his colleagues in the OLF to ask him to join them and he had described how he had posted a photo to his brother and he sent him the membership card. However, this was inconsistent with the information in his recent statutory declaration and the evidence he had provided the Tribunal today, which was that it was [Person 5] who recruited him and got him his membership card. The applicant stated it was true, that [Person 5] was the one who took the pictures and got the cards. The Tribunal explained that it was putting this information to him because this discrepancy in his evidence as to how he joined the OLF and who arranged his membership card, in addition to the fact [Person 5] had been mentioned for the first time very late in the process, raised some concerns about the credibility of the claims regarding his membership of the OLF. The applicant stated the he believed there was no difference. [Person 5] was the one who contacted him through other family members and he was the one who took the pictures and went to one of the borders to get the photo ID for them.
84. The Tribunal put to the applicant that it also had some difficulty with the fact that he had provided such in-depth detail about his dealings with [Person 5] over a period of some 16

years but he had never made any reference to him until this very late stage in the process. Further, it appeared much of the information he had included in this recent statutory declaration had been provided to bolster his claims and to fill in the gaps or deficiencies in his case which had been identified by the delegate and the first Tribunal, such as his narrative of the structure of the OLF. Both the delegate and first Tribunal found his knowledge of the OLF to be lacking yet he had now explained its structure in Ethiopia and overseas. The applicant stated during the 16 years with [Person 5] they had a lot of experiences together. Even though he had a 16 year relationship with him he could only say what he has been asked about [Person 5] He had never stopped saying anything about [Person 5]. Whenever he was asked anything about [Person 5], he answered in depth. The applicant stated that secondly, the OLF was a very big organisation, however this organisation could not function within the initial government. OLF was a big organisation, functioning underground and he had a lot to say about the organisation. As it had a wide structure, it was hard for him to explain. The Tribunal noted that it did not need him to provide an explanation at this point.

85. The Tribunal discussed with the applicant's adviser the fact that there were a number of inconsistencies which it had identified and that the Tribunal was not intending to use s.424AA to consider them with the applicant. It explained that it intended to outline the inconsistencies that it had identified so far and suggested that it may be more beneficial for the applicant to respond to those inconsistencies in writing, after he received a 424A letter from the Tribunal, having more time to consider the information and the benefit of her assistance. The adviser agreed that this would be the best and fared method by which to proceed. This was also explained to the applicant through the interpreter. The adviser indicated that during the break the applicant had remembered the name of the OLF leader which the Tribunal had discussed with him earlier in the hearing. He stated the first one was Loncho Leta and the second name was Dawed Ibsa.
86. The Tribunal put to the applicant the inconsistencies which it had identified. Firstly, the Tribunal noted that in relation to the first arrest in January 2001 he had claimed today the police came to his home at 5:00am but in previous information provided by him he had claimed that it was 11:00pm when the police came to his home. The applicant stated it was the same time and the difference was a result of problems in translation, as 11 was 5 in Ethiopian time. The applicant stated that he had been in Australia for 3 years and he had suffered a lot of mental trauma and he could not explain the desperate situation he was in with his wife and children in Ethiopia and he here in Australia. The Tribunal noted that also in relation to that first arrest he had claimed in the hearing today that he was released without any conditions but previously he had claimed he was required to report the police after his release.
87. The Tribunal noted that the applicant had previously claimed that after he was released from the first detention in 2001, he went to Negele Boren and stayed there with his family to recover from the detention. However in the hearing today he claimed he stayed in Addis Ababa after he was released from detention.
88. In relation to the second arrest in July 2004, the Tribunal put to the applicant that previously he paid a "bail" of \$25,000 BIR to facilitate his release. However, in the hearing today he claimed he did not have to pay any money.
89. The Tribunal noted that in relation to the election period in 2005, there was some confusion in the applicant's evidence. The Tribunal noted that the election was in May 2005 and the applicant claimed in the hearing today that he went and stayed with some friends soon after

the election for a period of 3 weeks and then he returned home. However, previously he claimed to be in hiding for a longer period and that he returned home to see his family in September 2005 and was arrested at that time.

90. The Tribunal noted in relation to the January 2006 detention, he had previously claimed that the police had come to his home with papers from the Court to arrest and search his home. However, in the hearing today he had claimed the police did not have any papers. He had also claimed today that his wife had only been detained on one occasion since he departed the country. Yet he had previously claimed she had been taken twice to the police station and interrogated and detained.
91. The Tribunal noted that in relation to the activities that he had claimed to engage in with the OLF, his role in recruiting new members was raised only later in the process. Further, in relation to his role of passing on information to the OLF, he had claimed in the hearing with the first Tribunal that he passed the information that he obtained through letters. However, in his recent statutory declaration and in the hearing today, he claimed that he passed on the information he gathered verbally to [Person 5].
92. The Tribunal reiterated that given the number of issues that existed and the fact that the hearing had been going for some time, it was fairer that he be given time to consider these issues and then respond. The Tribunal explained that it would write to him with all this information and how it was relevant to his case and then he would have time to consider this information and consult with his adviser, and then respond. The Tribunal also invited the adviser to make any submission she wished in the same response.
93. [In] February 2009, the Tribunal wrote to the applicant, in accordance with s424A of the Act, with the following information for his comment:

- Up until the statutory declaration you submitted on [date] December 2008 to the Tribunal you had claimed that you had become a member of the OLF in 1996 in the statutory declarations submitted with your protection visa application and the first Tribunal. However in the statutory declaration submitted to the Tribunal on [date] December 2008 and in the hearing you claimed you joined the OLF when you were 19 years old, which was 1986.

This information is relevant because the inconsistency in the evidence you provided in relation to when you actually joined the OLF raises doubt you were a member of the OLF as you claimed and subject to your comments, could lead the Tribunal to find that you do not face a real chance of persecution if you returned to Ethiopia for reason of your membership of the OLF.

- In the statutory declaration that was attached to your protection visa application and in your statutory declaration submitted to the first Tribunal on [date] November 2006 you claimed that it was your brother [Person 1] who was asked by his colleagues in the OLF to ask you to join them and you described how you had posted a photo to your brother and he sent you the membership card. However, in the statutory declaration submitted to the Tribunal on [date] December 2008 and in the hearing you gave evidence that you joined the OLF through a friend of your brother's named [Person 5] and that [Person 5] collected photo his photo and completed membership form and delivered them to the OLF administration on the Kenyan border and then delivered it to you a few months later.

This information is relevant because the substantial difference in your evidence as to who recruited you to the OLF and arranged for your membership card raises serious doubts that you were in fact a member of the OLF and subject to your comments, could lead the Tribunal to find that you do not face a real chance of persecution if you returned to Ethiopia for reason of your membership of the OLF.

- In the statutory declaration attached to your protection visa application you claimed that when you joined the OLF you limited your activities to providing material and financial assistance. In the statutory declaration submitted to the first Tribunal on [date] November 2006 you claimed that the activities you engaged in for the OLF was to raise money and follow city media reports about the OLF's struggle and pass that information on. In your statutory declaration submitted to the Tribunal on [date] December 2008 and in the hearing with the Tribunal, you claimed you were also responsible for recruiting members.

This information is relevant because the discrepancies in your evidence as to the type of activities you engaged in support of the OLF raises doubts that you were an active member of the OLF and subject to your comments, could lead the Tribunal to find that you do not face a real chance of persecution if you returned to Ethiopia for reason of your membership of the OLF.

- In relation to your first arrest in January 2001 you claimed in your statutory declaration submitted with your protection visa application that the authorities turned up at your home one night at about 11:00pm and that you were locked in one bedroom with your children and a guard while the police searched your place. You claimed you were detained for 6 months and released without charge on [date] June 2001 but were subject to reporting conditions. However, in the hearing with this Tribunal you claimed the police came to your home at 5:00am and you were kept out on the verandah while they searched your home. You also claimed after you were released you did not have to go back to the police station.

This information is relevant because the inconsistency in your evidence as to what time the police came to your home, where you were kept whilst the police searched your home and the conditions attached to your release from detention raises concerns about the credibility of your claim that you were arrested in January 2001 and subject to your comments, could lead the Tribunal to doubt these claims.

- In the statutory declaration you submitted with your protection visa application you claimed that after you were released from the first detention in 2001, you went to Negele Boren and stayed there with you family to recover from the detention. However in the hearing you claimed that after your release you stayed in Addis Ababa and started your small business.

This information is relevant because the discrepancy in your evidence as to what you did after you were released from detention in 2001 raises serious doubts that you were arrested in January 2001.

- In relation to your second arrest in July 2004, you claimed in your statutory declaration attached to your protection visa application that after payment of \$25,000 you were released from detention. However, in the hearing before this Tribunal you claimed you did not have to pay any money.

This information is relevant because the inconsistency in your evidence as to whether you had to pay any money prior to your release from detention in July 2004 raises serious doubts that you were in fact detained in July 2004.

- In relation to the election period in 2005, you claimed in the hearing before this Tribunal that you went and stayed with some friends soon after the election for a period of 3 weeks and then returned home and was arrested. However, the election was in May 2005 and you had previously indicated in your statutory declaration attached to your protection visa application that you were in hiding for a longer period and that it was during one of the occasions when you returned home to see you family that you were arrested, in September 2005. You further claimed that when the police came you were locked in a room with your children. Yet, in the hearing you stated that you were kept on the verandah while the police searched your home.

This information is relevant because the discrepancy in your evidence as to when and how long you stayed with friends following the election in 2005 and when you were arrested raises serious concerns as to whether you actually were active during the 2005 election and were arrested in September 2005 and subject to your comments, could lead the Tribunal to doubt your claims.

-In relation to the January 2006 detention, you claimed in your statutory declaration attached to your protection visa application that the police came to your home with papers they told you were from the High Court to arrest and search your home. However, in the hearing before this Tribunal you claimed the police did not have any papers – no search warrant or court documents.

This information is relevant because the discrepancy in your evidence as to whether the police had any court document in their possession authorising the search of your home and your arrest raises serious doubts that you were detained in January 2006 as you claim.

- You also claimed in the hearing before this Tribunal that your wife had only been detained on one occasion since you departed the country. However, you had previously claimed in your statutory declaration attached to your protection visa application and the statutory declaration submitted to the first Tribunal on [date] November 2006 that she had been taken twice to the police station and interrogated and detained.

This information is relevant because the discrepancy in your evidence as to the number of times your wife had been detained and interrogated after your departure from Ethiopia raises serious doubts that she has been in fact detained by the police or that you are of any interest to the authorities.

94. The Tribunal received the following response from the applicant [in] April 2009:

Re: Invitation to comment on information pursuant to s 424A of the Migration Act:
[name] - RRT case number 0806155

I have responded below to each of the issues you raise in your letter of [date] February, 2009 which you have identified as a reason for affirming the decision under review.

When the applicant joined the OLF

There are a number of inconsistencies with dates, including dates which are not central to the applicant's claims. It is submitted that a number of inconsistencies in

dates may be attributable to mistakes in translation from the Ethiopian to the Western Calendar, made by the applicant or the interpreter, and may also reflect lapses in concentration which, owing to his mental state, the applicant may have been prone to. The applicant's mental state is described in the Foundation House report dated [date] November 2006 and was clearly disturbed by his traumatic past. A recent report has been provided by the applicant's General Practitioner which describes his ongoing mental health problems (this report is attached).

I submit that in this context little weight should be given to inconsistent dates, and that a better guide to the veracity of the applicant's claims can be found in the consistency of his central claims. The statutory declaration of [date] December 2008 contains a detailed account of his joining the OLF. Earlier accounts omit this detail, but are broadly consistent with the later statement.

Who assisted the applicant to join the OLF.

In the statutory declaration of [date] June 2006 the applicant stated regarding obtaining an OLF membership card that "I posted him [the brother] a photo and he sent me back the card". In his statutory declaration of [date] November 2006, the applicant stated that "[M]y brother [Person 1] was a member and his colleagues in the OLF asked him to ask me to join". In the statutory declaration of [date] December 2008 it is stated that a friend of the applicant's brother, [Person 5], asked the applicant to join the OLF and at the hearing the applicant stated that [Person 5] organised and delivered the membership card. There are minor inconsistencies in these accounts, in particular in relation to who actually organised the procuring of the card, but also a significant consistency - the brother and his friend were both involved with the OLF and involved in the applicant's recruitment.

The applicant's activities as a member of the OLF

In the statutory declaration of [date] December 2008 the applicant stated that the duties of the OLF group he belonged to were "to recruit members, collect money and gather information". In the statutory declaration of [date] November 2006 he stated his duties were to raise money for the OLF and to follow the city media reports. There is no inconsistency here; at most the applicant did not mention the recruiting activity in the earlier statement, but the later statement is with respect to the group rather than himself. The later statutory declaration makes it clear that his primary activity was revenue raising: "At the meetings we decided what each of us should do. It was decided that I would raise money for the organisation" (para 30).

The events surrounding the applicant's arrest in January 2001.

Two points are pertinent with respect to the inconsistency between the account of the applicant's arrest in the statutory declaration of [date] June 2006 and the information provided at the hearing. The first is that the event was occasioned by considerable distress and may not be remembered entirely accurately. The Foundation House report indicates that the applicant finds memories of his traumatic experiences very distressing. Secondly, it is submitted that the detailed account of his detention at paragraph 42-43 of the [date] December 2008 statutory declaration, combined with the psychological evidence of his traumatised state, should weigh heavily in favour of finding that the applicant was in fact detained. Our client instructs that he was kept in the bedroom with the children for a few minutes, then taken outside. He concedes that because he was very distressed at the time his memory for precise details of the event is not good.

The events following the applicant's release from detention in 2001.

At the hearing the applicant neglected to mention the period of recuperation he spent with his family and moves directly to speaking about the business he subsequently established. In both the original statutory declaration and the statutory declaration of [date] December 2008 (para 43) the applicant stated he spent time with his parents to recuperate after the first detention. He instructs that he spent a few weeks in Addis Ababa with his wife and children and then went to Negelle Borena to recuperate with his parents. He instructs that after the stay with his parents, he became involved in his business pursuits.

Whether the applicant paid authorities upon his release after his second detention in July 2004.

The applicant stated that he paid money prior to being released after his second detention in his first statutory declaration (para 33). At the hearing he denied that he had been paid money. Our client instructs that this was a mistake, he did in fact pay money prior to being released, to an amount of about 25,000 birr.

The events following the election in 2005 and the timing of the applicant's arrest.

The statutory declaration of [date] June 2006 indicates that the applicant was arrested on [date] September 2005. At the hearing he states he was arrested in September 2005. When the applicant stated that he was in hiding for 3 weeks with a friend, it does not appear that this period of time was intended to indicate the full length of time between the election and the arrest. He instructs that he attempted to avoid the authorities throughout the post election period. The Tribunal had already indicated that the election was in May and the applicant then said the arrest was in September. With respect to the details of the events that occurred during the arrest, it is again submitted that owing to the traumatic nature of this event, the applicant may not have a precise recollection of what occurred.

Whether the applicant was served with warrants or court papers prior to the applicant's detention in January 2006

The applicant stated in the statutory declaration of [date] June 2006 that the police carried papers when they searched his house in January 2006 but at the hearing responded to the question - did they have "any papers on this occasion?" - by saying "they searched but got no court reports" and "they just pushed and entered". This appears to be an inconsistency. However the applicant made it clear in this statutory declaration that he was not served with papers, and the police would not give him a copy of the papers (para 54), and it is likely at the hearing he was referring to receiving papers. Our client instructs that he did see that the police were carrying court papers, but was not permitted to read them.

The number of times the applicant's wife has been detained since the applicant left Ethiopia.

At the hearing the applicant stated that his wife had been detained for 2 days by the police about a week after he left Ethiopia. He then said in response to the Tribunal's question about how many times she had been detained, that she had never been detained in prison, and then agreed with a further question that she had been detained once. The applicant appears uncertain here as to whether imprisonment or arrest with police custody is being referred to. In the statutory declarations, the applicant did not say his wife was detained twice, rather that she was taken to the police station and

interrogated twice (para 62, [date] June 2006; para 23, [date] November 2006); on one occasion she was detained from Friday to Monday, on the other she was released the same day (para 23, [date] November 2006). It is possible that at the hearing the applicant did not regard the latter arrest as involving his wife being "detained".

95. The adviser claimed in the response that a report from the applicant's General Practitioner was attached to the submission, however no further documentation was appended to either the faxed copy of the submission or the hard copy received by post [in] April 2009. The Tribunal contacted the adviser [in] April 2009 [on two dates] regarding the missing document and [in] April 2009, the Tribunal received a copy of letter from Dr [name deleted: s.431(2)], dated [date deleted: s.431(2)] January 2009.

COUNTRY INFORMATION

Oromo Liberation Front

96. The Human Rights Watch 2005, *Suppressing Dissent: Human Rights Abuses and Political Repression in Ethiopia's Oromia Region*, Vol. 17, No. 7(A), May includes information on the origins of the Oromo Liberation Front (OLF) in Oromia, the largest state in Ethiopia, the OLF's establishment as "the leading voice of Oromo nationalism" and its conflict with the government since 1992. The summary of the report notes that:

Oromia is governed by the Oromo People's Democratic Organization (OPDO), which was formed by the Tigrayan People's Liberation Front (TPLF) in 1990 and integrated into the TPLF-controlled Ethiopian People's Revolutionary Democratic Front (EPRDF) coalition that seized power in and continues to hold power today. The OPDO has dominated politics in Oromia since 1992, when the Oromo Liberation Front (OLF), which had much older and deeper roots in Oromia, withdrew from the transitional political process after clashes with the EPRDF and the OPDO in the run-up to the country's first national elections in 1992. Since then, OLF has waged a generally ineffectual "armed struggle" against the government—and the OPDO, the TPLF's regional surrogate, has governed Oromia as if it were facing a serious military threat. (p. 1)

97. The report refers to the imprisonment since 1992 of "thousands of Oromo on charges of plotting armed insurrection on behalf of the OLF" and includes information on the government's use of arbitrary detention against those accused of supporting or being members of the OLF and "torture and other forms of mistreatment" against "individuals who are arrested on suspicion of OLF-related activities". The report indicates that the OLF "was banned in 1992" and that "In many cases, police officials follow, harass and intimidate former detainees and their families for years after their release." (p. 20)
98. The Human Rights Watch 2007, *World Report 2007 – Ethiopia*, January report refers to authorities in Oromia state continuing "to use exaggerated concerns about armed insurgency and terrorism to justify the torture, imprisonment, and sustained harassment of their critics, including school children. In late 2005 and in 2006 federal and regional police in Oromia engaged in mass arrests, often in night time raids. Those arrested were informally accused of being supporters of the Oromo Liberation Front (OLF), a clandestine armed rebel group, but detainees were also accused of being supporters of the Oromo National Congress (ONC), a registered opposition political party that won seats in the 2005 elections. Most of those arrested were released after having been held for some weeks and forced to sign statements disavowing the ONC as a condition for release." The report also notes that "Leaders of the traditional Oromo self-help organization Mecha Tulama, arrested in 2004 and accused of

supporting the OLF and of organizing a grenade attack at Addis Ababa University, remained incarcerated as of late 2006, their trial yet to begin.”

99. In 2003 DFAT advice included information on whether there was any evidence of members of the Oromo ethnic group being dismissed from public sector employment because of their ethnicity or an imputed political opinion based on an association with the OLF, whether the family of OLF members would be subject to harassment by the authorities, whether this harassment would continue once the OLF member passed away and whether there were any viable relocation options within Ethiopia for someone imputed with an association with the OLF.

ANSWERS: [31/01/03]

A.1 DESPITE ASSERTIONS BY THE ETHIOPIAN GOVERNMENT THAT DISCRIMINATION ON THE BASIS OF ETHNICITY IS PROHIBITED, IN PRACTICE IT IS WIDESPREAD. OROMOS IN PARTICULAR HAVE BEEN THE SUBJECT OF HARASSMENT. THERE ARE MANY DOCUMENTED CASES OF OROMOS SUSPECTED OF LINKS WITH THE OLF BEING DISMISSED FROM EMPLOYMENT. HARASSMENT IN THESE CASES CAN ALSO INCLUDE TORTURE, UNLAWFUL DETENTION AND EXTRA-JUDICIAL KILLINGS.

A.2 OROMOS ARE VERY VULNERABLE TO SUSPICION BY OFFICIALS THAT THEY SUPPORT THE OLF. IF A PERSON IS BELIEVED BY THE AUTHORITIES TO BE ASSOCIATED WITH THE OLF, THAT PERSON'S FAMILY MEMBERS OFTEN ALSO FALL UNDER SUSPICION OF BEING ASSOCIATED WITH THE OLF. AS NOTED ABOVE, THOSE SUSPECTED OF BEING ASSOCIATED WITH THE OLF ARE HARASSED, AND THERE HAVE BEEN INSTANCES OF NON-JUDICIAL KILLING.

HARASSMENT OF FAMILY MEMBERS CAN CONTINUE AFTER THE DEATH OF THE FIRST FAMILY MEMBER SUSPECTED OF ASSOCIATION WITH THE OLF IF THE AUTHORITIES ARE NOT CONVINCED THAT THERE ARE NO LINKS BETWEEN THE OLF AND THE OTHER FAMILY MEMBERS. REMOVING THAT DOUBT HAS OFTEN PROVED TO BE VERY DIFFICULT.

A.3 THE ETHIOPIAN GOVERNMENT DESCRIBES AL'TTIHAD AS A TERRORIST ORGANISATION. AL'TTIHAD SEEKS AN ISLAMIC STATE IN SOMALIA THAT WOULD INCLUDE THE OGADEN REGION OF ETHIOPIA.

WE HAVE NOT FOUND ANY EVIDENCE OF AL'TTIHAD ABDUCTING ETHIOPIAN CIVILIANS IN KAMABOKER, OR MORE GENERALLY IN ETHIOPIA. KAMABOKER HAS IN THE PAST BEEN THE LOCATION OF SOMALI REFUGEES FROM NORTHERN SOMALIA. IT IS SOME DISTANCE FROM OROMIA.

ACCORDINGLY WE HAVE NO INFORMATION ON WHETHER A CIVILIAN ABDUCTED BY AL'TTIHAD WOULD BE IMPUTED WITH AN ANTI-GOVERNMENT POLITICAL OPINION.

A.4 OUR OWN UNDERSTANDING, SUPPORTED BY CREDIBLE SOURCES, IS THAT THE ETHIOPIAN GOVERNMENT HAS THE MOTIVATION AND ABILITY TO LOCATE AND HARRASS THOSE IT BELIEVES TO BE ASSOCIATED WITH THE OLF. ACCORDINGLY THERE ARE NO VIABLE RELOCATION OPTIONS WITHIN ETHIOPIA FOR SOMEONE IMPUTED TO HAVE AN ASSOCIATION WITH THE OLF. (DIMA Country Information Service 2003, *Country Information Report No. 24/03 – Oromo Ethnic Group*, (sourced from DFAT advice of 31 January 2003, 4 February, CX72798)

Coalition for Unity and Democracy (CUD)

100. The Coalition for Unity and Democracy (CUD) was formed in October 2004 and recognized by the National Electoral Board of Ethiopia (NEBE) in November 2004. The member parties to the coalition were the All Ethiopian Unity Party, the Rainbow Ethiopia Movement for

Democracy and Social Justice, the Ethiopian Democratic League and United Ethiopian Democratic Party-Medhin (‘NEBE has not recognized new merger by CUD member parties’ 2005, National Electoral Board of Ethiopia website, 15 October <http://www.electionsethiopia.org/Whats%20New41.htm>).

101. The CUD and the United Ethiopian Democratic Forces (UEDF) coalition were the main opposition to the ruling Ethiopian People’s Revolutionary Democratic Front (EPRDF) coalition in the elections held on 15 May 2005, when Ethiopians voted for members of the House of People’s Representatives, and representatives to the nine Regional State Councils and two City Councils (‘Political Party Coalitions’ (undated), National Election Board of Ethiopia website <http://www.electionsethiopia.org/Political%20Coalitions.html> ; ‘Election Day Countdown’ (undated), National Electoral Board of Ethiopia website <http://www.electionsethiopia.org/Election%20Day%20Countdown.html>).

102. Following the elections, the four member parties of the CUD signed “a pre-merge Declaration Document to express their solemn determination to merge and become one” (Dagnachew Teklu 2005, ‘CUD Members to Become One Party’, *All Africa* , source: The Daily Monitor, 7 July), and on 25 September 2005 the four parties announced their unification as one party (‘Member Parties of CUD Announce Merger’ 2005, *All Africa* , source: The Ethiopian Herald, 26 September). The NEBE announced on 15 October 2005, however, that it had not recognised the merger of the parties, stating that:

Though the four parties have recently announced that they have merged, they have not yet applied for the recognition of the merger nor have they returned the letter of recognition that had been issued to the four individual parties.

The NEBE, therefore, announces that it no longer recognizes the Coalition for Unity and Democracy (CUD) and will communicate only with the four individual parties (‘NEBE has not recognized new merger by CUD member parties’ 2005, National Electoral Board of Ethiopia website, 15 October <http://www.electionsethiopia.org/Whats%20New41.htm> - Accessed 16 November 2006).

103. In April 2006, it was reported that the CUD had announced it had been recognised as a political party:

The [opposition] Coalition for Unity and Democracy (CUD) announced yesterday that it received certificate of legal recognition from the National Electoral Board [NEB].

In a statement it gave here yesterday, CUD provisional coordinating committee said the legal recognition certificate would help it continue its peaceful struggle.

The then programme, statute and logo of the CUD has not been changed for they had been endorsed by the four parties, the committee said.

The coalition formed by All Ethiopian Unity Party (AEUP), All Ethiopian Democratic Party (AEDP)-Medhin, Rainbow Ethiopia: Movement for Democracy and Social Justice and Ethiopian Democratic League were not able to receive legal certificate for certain members of AEDP-Medhin opposed the formation of the coalition, it said.

The failure on the parts of the coalition to submit the necessary document and procedures was the other factor for not getting the certificate of legal recognition, the committee said. [The certificate of recognition issued by NEB would help CUD to form the Addis Ababa administration which it won during the May 2005 election] (‘Ethiopian opposition receives certificate of recognition from electoral board’ 2006, *BBC Monitoring Africa* , source Walta Information Centre website, 25 April).

104. However, the current legal status of the CUD – whether as a coalition or as a single party – remains not entirely clear. On 8 October 2006, it was reported that:

The National Electoral Board of Ethiopia (NEBE) said that CUD that vied in the 2005 elections as a coalition of four parties has lost its legal life with the conclusion of the electoral process, leaving only its name behind. The now active party indentified (sic) with CUD is a new entity, it said.

NEBE deputy head Tesfaye Mengesha said in a press statement that the CUD that contested in the 2005 elections as a coalition of EDUP-Medhin, Rainbow, AEUP and EDL had had a legal life only until the day the election wrapped up.

Soon after the conclusion of the election, the board made it public that the coalition's legal life had come to an end, he said.

After the termination of the coalition's accreditation, the individual parties once again applied for legal recognition, an application discarded when one of the parties deposited its objection, he said.

The other three tried to form a coalition of their own, but to no avail, according to Tesfaye, who the elected ones who joined parliament after it had taken up office came up with the necessary criteria to have been given recognition as a legal body in the selfsame name CUD.

Asked to reconcile his statement with the claims by some MPs in question to have borne the CUD IDs as given them by the board, Tesfaye said bearing IDs does not guarantee eligibility. He further said the board issued its list of the elected members categorized under their respective parties, not the coalition.

The CUD that existed in the pre-election had long taken its exit, he said. “Today’s CUD has borne nothing of the former, but the name” (‘NEBE Says Pre-Election Period Only Leaves CUD’s Name Behind’ 2006, *All Africa*, source: The Ethiopian Herald, 8 October).

May 2005 elections and the treatment of CUD Members

105. The run-up to the elections, the conduct of the elections and the aftermath have been reported widely. In May 2006, Amnesty International reported, in part, as follows:

2.1 The May 2005 elections

Ethiopia’s third general elections under the current government and the Constitution (1995) for the national parliament (the House of People’s Representatives), the Addis Ababa and Dire Dawa City Councils, and the seven Regional State Assemblies, took place in May 2005, though the Somali Region elections were held later in September 2005. These elections were observed by the European Union, the African Union, the US-based Carter Center and some Ethiopian non-governmental organizations (NGOs)... Two opposition coalitions – the Coalition for Unity and Democracy (CUD) and the United Ethiopian Democratic Front (UEDF) – were challenging Prime Minister Meles Zenawi’s ruling Ethiopian People’s Revolutionary Democratic Front (EPRDF) coalition, which is headed by his Tigray People’s Liberation Front (TPLF). The EPRDF has been in power since 1991 when it overthrew the former government of Mengistu Hailemariam, known as the Dergue, after a long armed conflict.

Prior to the 2005 elections and shortly after a visit to the country, Amnesty International had expressed concern at reports of human rights violations against opposition members, particularly the CUD, including several killings, arbitrary detentions, harassment and intimidation by police and local militias...

Immediately after the 15 May poll, the opposition alleged rigging by the government and ruling party. The Prime Minister banned demonstrations and took personal control of the security forces in Addis Ababa...

2.2 Killings of demonstrators and mass arrests

In early June 2005 preliminary results were released by the National Election Board giving the EPRDF a narrow lead. CUD supporters subsequently demonstrated in Addis Ababa, accusing the government and EPRDF of fraud, and the National Election Board of bias towards the EPRDF. Peaceful demonstrations led to violent confrontations with the security forces. A special army unit, known as *Agaazi*, reportedly shot dead at least 36 protesters and wounded many others in Addis Ababa on 8 June. Some 9,000 CUD supporters including 2,000 university students, and six Ethiopian Human Rights Council officials (who were not members of any political party), were detained by police but were provisionally released on bond by the end of July 2005 without being charged with any crime. The CUD supporters had in most cases been arbitrarily arrested and were not brought before a court within the 48-hour limit prescribed by Ethiopian law. Many were allegedly beaten or ill-treated.

The CUD leadership decided to boycott the new parliament in protest at the final official election results and because the outgoing EPRDF-dominated parliament had changed procedures making it virtually impossible for opposition MPs to initiate a debate. The UEDF, independent MPs, a section of the Ethiopian Democratic Unity Party-Medhin party which had left the CUD coalition, and eventually several of the CUD MPs-elect who had not been detained, took up their seats in the new parliament. They criticized repression of the CUD and the detention of its leading MPs-elect, as well as arrests and harassment of UEDF coalition members from the Oromo National Congress... and the Oromo Federal Democratic Movement. The new Addis Ababa City Council, similarly boycotted by many new CUD members-elect (some 30 of whom are also believed to be detained and may face treason and other charges in separate cases), has not to date convened. The Prime Minister has proposed to establish a caretaker administration if the boycott continues and there is insufficient attendance.

In a second series of pro-CUD demonstrations in early November 2005, police shot dead at least 42 protesters in Addis Ababa, wounded some 200 others and detained most of the CUD leadership, which had called for non-violent demonstrations. The protests, which started peacefully with drivers honking their horns and a workers' stay-home strike, led to violence with widespread police shootings, seven police officers being killed by protesters and considerable damage to government property. The security forces arrested over 10,000 CUD officials and supporters in Addis Ababa, the Amhara Region and some other regions, including many who had been arrested in June and photographed for police records. There were further pro-CUD protests starting in late December 2005, and continuing into early 2006. Students boycotted school and college classes, resulting in widespread school closures, and there were widespread arrests and beating of students and teachers suspected of instigating the boycotts... Many of these detainees have since been released provisionally on bond but several thousands reportedly remain in detention. Details of the arrests have not been disclosed to detainees' families or the public, and most detainees have not been brought before a court.

The detained CUD leaders and others held with them went on hunger strike in November 2005 in protest at their detentions, until mid-December. That month, charges were brought against 131 detained CUD leaders and others, as described below. The court refused to grant bail, citing the seriousness of the charges. The CUD leaders denied calling for violent demonstrations.

Most CUD offices are now closed as a result of arrests and intimidation of officials. Its four constituent parties are listed as defendants in the trial.

After the November 2005 demonstrations, Prime Minister Meles Zenawi publicly accused the CUD of treason and of organizing a violent uprising aimed at overthrowing the government. Shortly before the elections the Prime Minister had accused the CUD of fomenting strife and

ethnic hatred which he said could lead to a “Rwanda-type genocide”... He has refused to release the detainees despite appeals by the European Union and others. Prime Minister Meles Zenawi has also told members of the international community, who had pressed for a political reconciliation between the government and opposition parties to resolve the post-election crisis, that the detainees will not be released but will receive a fair trial, which will be prompt, rapid and transparent.

On 25 April 2006 the EPRDF-controlled parliament set up a commission of inquiry into the post-election violence of June and November 2005. It will reportedly seek to establish the number of people killed, property destroyed, and whether there were human and constitutional rights violations... To date, no details are available on its composition, full terms of reference or working methods. Previous parliamentary inquiries into incidents such as this where the security forces have killed unarmed civilians were not independent or impartial ...

...As a consequence of these widespread human rights violations against opposition party members since the elections, including mass arbitrary arrests, torture and ill-treatment, extrajudicial executions and unfair trials, a new flow of Ethiopian refugees to neighbouring countries and other parts of the world, consisting of CUD members and supporters, as well as human rights defenders and journalists is starting.

Amnesty International believes that CUD activists and suspected activists at national or local level, as well as civil society activists and journalists who had criticized the government, who have fled the country on account of experienced or threatened human rights violations, would be those who are at risk of arbitrary and indefinite detention, possible torture or ill-treatment, unfair trial or even extrajudicial execution, if forcibly returned to Ethiopia (Amnesty International 2006, *Ethiopia: Prisoners of conscience on trial for treason: opposition party leaders, human rights defenders and journalist*, AFR 25/013/2006, 2 May [\\melsrv1\melref\Amnesty\AFRICA\2006\250132006.afr.pdf](http://melsrv1/melref/Amnesty/AFRICA/2006/250132006.afr.pdf)).

106. The US State Department report released on 8 March 2006 made many references to the CUD and the treatment of its members, including the following:

...During the year paramilitary groups committed unlawful killings, including political killings. The Ethiopian Human Rights Council (EHRCO) reported that from January to March armed militia killed several members of the opposition All-Ethiopia Unity Party/Coalition for Unity and Democracy (AEUP/CUD) in the Amhara Region.

...The CUD reported that on September 11 armed militia beat CUD member Asefa Getahun and that he died of his injuries the following day. On October 1, local militia shot and killed CUD member Girma Biru, of Sultulta Wereda, Mulo Town. The CUD stated that local administrators and armed militia were responsible for the October 11 extrajudicial killing of Mosse Wasse, in Shoga District, west Gojjam/Jiga, Amhara Region; and the October 16 extrajudicial killing of Tila Tsega, at Lay Gaynt/Nefas Mewucha, North Gonder.

...In September the government arrested more than one thousand members of the CUD and UEDF opposition coalitions, following their announcement of plans to hold demonstrations on October 2.

...In November authorities re-arrested CUD member and mayor of Addis Ababa Dr. Berhanu Nega and Professor Mesfin Woldemariam, two prominent academics and human rights activists, for participating in planning antigovernment protests aimed at the removal of the government. At year's end they remained in confinement on charges of treason and genocide, along with several members of NGOs active in civic education, and independent journalists. Other prominent CUD leaders arrested included: CUD president Hailu Shawel; Dr. Yacob

Hailemariam, a former prosecutor for the UN International Criminal Tribunal for Rwanda; and CUD vice-president Ms. Birtukan Mideksa, a former judge. Their prison conditions were reported to be adequate, especially those of the CUD leaders, who had separate cells. However, access to legal counsel was sporadic, and there were serious concerns about access to adequate medical care.

...While the law stipulates that all suspects be arraigned before a court within 48 hours, the leaders of the CUD, civil society, and journalists were held without access to courts, counsel, and family for many days. Human rights groups and political parties (such as the CUD, UEDF, and OFDM) reported that police and local militia detained thousands of persons in police stations and detention camps for several days in order to conduct interrogations.

...The opposition CUD and UEDF parties reported that in September local officials prohibited public meetings the parties had organized in various towns. The UEDF reported that it had to cancel a general assembly of its members planned for September 29 because the government directed hotel proprietors in Addis Ababa not to rent their assembly halls to the UEDF or other opposition parties. The CUD reported that the Addis Ababa city administration imposed extraregulatory restrictions that prevented a mass rally planned for October 2. The government prevented the CUD from meeting after charges were brought on December 21.

Opposition political parties reported that during the year their supporters were targets of frequent and systematic violence by ruling party supporters, often after leaving meetings ... EHRCO reported that regional governments, including the Addis Ababa regional administration, infringed on the right of peaceful assembly and association. For example, authorities cancelled public meetings planned for September 4 by the CUD in Addis Ababa, Gondar, Bahir Dar, Awasa, and Dessie. Police arbitrarily arrested several CUD members in various towns where public meetings were scheduled to be held. Most obtained their release after several days of detention.

... Registered political parties must receive permission from regional governments to open local offices. Opposition parties, such as the CUD, the UEDF, and the OFDM, claimed that the pattern of widespread intimidation and violence directed against members of opposition political parties by local government officials continued throughout the year. Opposition parties and the press reported hundreds of such cases, including killings, beatings, arrests, house burnings, and property confiscation (US Department of State 2006, *Country Reports on Human Rights Practices for 2005 – Ethiopia*, March).

107. With particular reference to rural areas of Ethiopia, Human Rights Watch reported on 13 January 2006 that:

The Ethiopian government is using intimidation, arbitrary detentions and excessive force in rural areas of Ethiopia to suppress post-election protests and all potential dissent, Human Rights Watch said today after a research trip to Addis Ababa and the Oromia and Amhara regions.

“The Ethiopian government is violently suppressing any form of protest and punishing suspected opposition supporters,” said Peter Takirambudde, director of Human Rights Watch’s Africa Division. “Donor governments should insist on an independent, credible investigation into abuses by federal police and local officials in rural as well as urban areas.”

In the wake of the May 15 parliamentary elections, in which opposition parties won an unprecedented number of seats amidst massive controversy over the election results, federal police in the Oromia and Amhara regions have threatened, beaten and detained opposition supporters, students and people with no political affiliation, often in nighttime raids. Alongside local government officials and members of local government-backed militias, the federal police have taken the lead in intimidating and coercing opposition supporters.

...“The government is deepening its crackdown in Ethiopia’s rural areas, far from the eyes and ears of international observers in Addis Ababa,” Takirambudde said. “People are being terrorized by federal police working hand-in-glove with local officials and militias.”

Several recently released detainees from different locations in rural Ethiopia said that police and other officials forced them to sign statements disavowing support to political opposition groups and pledging support to the local ruling party affiliate before being released (Human Rights Watch 2006, *Ethiopia: Hidden crackdown in rural areas* , 13 January).

108. The recently released parliamentary report on the aftermath of the elections has been met with accusations of bias. An article dated 31 October 2006 reported that:

Ethiopian opposition groups on Monday blasted as biased and unfair a delayed report into deadly post-election violence last year that concludes excessive force was not used.

...The final report, expected to be adopted by parliament this week, says 199 people, 193 civilians and six police, died in Addis Ababa and other cities during two explosions of unrest after the disputed May 15, 2005, polls.

...Although the death toll is more than three times the original official number of 54, the report absolves the government of blame for anything more than minor shortcomings, according to a copy distributed to reporters.

“The action taken by the security forces to control the violence was a legal and necessary step to protect the nascent system of government and to stop the country from descending into a worse crisis and possibly never-ending violence upheaval,” it says.

...The Ethiopian government has blamed the violence on the CUD, which authorities accuse of trying to foment a coup through election protests.

Nearly the entire CUD leadership is currently on trial on charges ranging from treason to genocide and conspiracy for calling for nationwide protests against the results of the polls that they allege were rigged (‘Ethiopian opposition blasts parliamentary report into post-poll bloodshed’ 2006, *Agence France Presse* , 31 October).

FINDINGS AND REASONS

109. The applicant travelled to Australia on a valid Ethiopian passport and he states that he is a national of Ethiopia Therefore for the purposes of the Convention the Tribunal has assessed his claims against Ethiopia as his country of nationality.
110. The Tribunal accepts that the applicant is an ethnic Oromo. However the Tribunal does not accept the applicant’s claim that he was a member of the Oromo Liberation Front (OLF) or that he was actively opposed to the suppression of Oromos in Ethiopia.
111. The Tribunal does not accept that the applicant ever joined the OLF based on his inconsistent evidence as to when he joined the party and who was responsible for joining him up. The Tribunal notes that the applicant had consistently claimed that he had joined the OLF in 1996, however in his statutory declaration which was submitted to the Tribunal [in] December 2008 three days prior to the hearing, as well as during the hearing, he claimed that he joined the party at the age of 19. The Tribunal has taken into consideration the applicant’s response to the Tribunal’s s424A letter received [in] April 2009. The Tribunal does not accept that the discrepancy in the applicant’s evidence can be attributed to an error in translation from the Ethiopian calendar to the Western calendar. The Tribunal again notes that the applicant consistently claimed in two documents, his statutory declaration attached to his protection visa application dated [date deleted: s.431(2)] June 2006 and in his statutory declaration dated

[date deleted: s.431(2)] November 2006, that he had joined the OLF in 1996. The applicant's membership of the OLF in 1996 was also discussed by the applicant's various legal advisers in their submissions. The Tribunal also notes that the applicant confirmed in the hearing that the statutory declarations made by him were read to him before he signed them as being true. The Tribunal does not accept the applicant's contention made in the hearing that there were errors in these documents but he signed them anyway because the interpreters were professionals and he had no choice. The Tribunal refers to a submission made by the applicant's second legal adviser [in] August 2006 drawing attention to a mistake made in his statutory declaration made [in] June 2006 at paragraph 55 and rectifying the error. The Tribunal therefore does not accept that if the inclusion of 1996 as the year in which the applicant joined the OLF was an error, this would not have been picked up until some 2 years later and after several more statutory declarations and submissions.

112. The Tribunal also does not accept that the applicant's mental health explains the discrepancy in the applicant's evidence. The Tribunal notes that the letter from Foundation House ,dated [date deleted: s.431(2)] November 2006, discusses the applicant's difficulty in discussing his experiences but does not suggest that the applicant has difficulty in recalling his experiences. The Tribunal finds that the numerous statutory declarations made by the applicant at various stages of the process demonstrates that he is able to recount his story in detail. The Tribunal has also taken into consideration the more recent medical certificate from the applicant's GP, which was submitted with the applicant's response to the Tribunal's s424A letter, and finds that this does not support the adviser's contention.
113. The Tribunal has also considered the applicant's adviser's submission that the veracity of the applicant's claims can be found in the consistency of his central claim and that his statutory declaration received [in] December 2008 was a more detailed account of his joining the OLF and was broadly consistent with earlier statements. The Tribunal accepts that the basic elements of the applicant's claims that he allegedly joined the OLF and subsequently had problems as a result of his alleged political opinion has been consistent. However, the Tribunal does not accept that the inconsistencies that have emerged in regard to when and how the applicant actually came to join the OLF can be ignored given they are so significant and undermine the applicant's overall credibility. The Tribunal finds that the applicant's statutory declaration received [in] December 2008, which included a significantly more detailed account of how he joined the OLF, his involvement in the party and his knowledge of the OLF was provided to bolster his claims and to fill in the gaps and deficiencies in his case which had been identified by the delegate.
114. Similarly, the Tribunal finds it implausible that if the applicant had been joined to the OLF by [Person 5], instead of his brother as he had previously claimed in his statutory declarations, he would not have mentioned this earlier or would at the very least have made some reference to his dealing with [Person 5] prior to this very late stage in the process. The Tribunal does not accept the applicant's adviser's contention that the applicant has provided consistent evidence in that both his brother and his friend were both involved in the applicant's recruitment to the party. The Tribunal notes that the applicant specifically stated in his original statutory declaration that the OLF approached him through his brother to join the OLF and his brother arranged his membership card after he posted his photo to him. He subsequently expanded on this in his statutory declaration dated [date deleted: s.431(2)] November 2006, stating that his brother's colleagues asked his brother to ask him to join the party. However, in the statutory declaration received [in] December 2008, the applicant claimed for the first time that he joined the OLF through a friend of his brother's called

[Person 5]. He discussed how [Person 5] collected photos from him and the other 4 people he recruited and had them fill out OLF membership forms, and then [Person 5] took their photos and forms to the Kenyan border where the OLF administration was located. Based on the applicant's evidence in the hearing regarding the significant role [Person 5] held not only in recruiting him to the OLF but also in relation to his activities fundraising, gathering information and recruiting other members, the Tribunal does not accept that the applicant would have failed to mention [Person 5] at all in any of the previous evidence he had submitted detailing his activities as an OLF member if his claims in relation to [Person 5] were credible. Given the apparent inconsistency in the applicant's account of his recruitment to the OLF and the delay in which the applicant raised the existence of [Person 5], the Tribunal does not accept that the applicant ever joined the OLF or was active in the party. The Tribunal does not accept that the applicant had any association with the OLF or with a person named [Person 5]. Nor does the Tribunal accept that the applicant's brother was a member of the OLF as he claimed, based on the findings in relation to the overall credibility of the applicant and his claims regarding his membership of the OLF.

115. The Tribunal has had regard to the letter provided by the Oromo community in support of the applicant to the first Tribunal but places little weight on this evidence given that this organisation is based in Australia and has relied on the applicant's reports of his experiences in Ethiopia as the foundation for their supporting letter. Similarly, the Tribunal places little weight on the statutory declaration provided by [name deleted: s.431(2)], who had last had contact with the applicant when they were in school together, prior to meeting him in Australia, and who relies on information provided to him by the applicant and third parties during his visit to Ethiopia in 2000 regarding the applicant's experiences in Ethiopia.
116. As the Tribunal does not accept that the applicant was a member of the OLF, it follows that the Tribunal does not accept that the applicant was an active member of the party. The Tribunal does not accept that the applicant participated in any activities as part of a group which was formed when [Person 5] recruited him and 4 of his Oromo friends. The Tribunal does not accept that the applicant raised money for the OLF, gathered information or recruited new members to the party. The Tribunal notes that the applicant's level of involvement with the OLF gradually increased from his statutory declaration submitted with his application which stated that his activities were limited to providing material and financial assistance, to the statutory declaration dated [date deleted: s.431(2)] November 2006, which provided that the activities he engaged in for the OLF was to raise money and follow city media reports about the OLF's struggle and pass the information on, and finally the statutory declaration submitted to the Tribunal [in] December 2008 and the hearing, where he claimed he was also responsible for recruiting members. The Tribunal finds that the applicant's claim to have recruited new members to the OLF in his statutory declaration submitted to the Tribunal [in] December 2008 was raised in an effort to strengthen his alleged profile as an active member of the OLF. Further, the Tribunal does not accept that the applicant was involved in recruiting people to the OLF given his vague and confusing evidence regarding this aspect of his alleged responsibility.
117. Given that the Tribunal does not accept that the applicant was a member of the OLF or that he was politically active as he claimed, the Tribunal does not accept that the applicant was ever detained in either January 2001 or July 2004. The Tribunal also does not accept that the applicant was detained in January 2006, however, the Tribunal will discuss this particular arrest in relation to the applicant's claimed involvement with the Coalition for Unity and Democracy (CUD). The Tribunal further finds that the applicant was not arrested in January

2001 due to the inconsistency in his evidence regarding this particular incident. The Tribunal notes that the applicant had consistently claimed that when the authorities came to his home in January 2001 he was locked in one bedroom with his children and a guard while they searched his home and after he was released from 6 months detention on 20 June 2001, he was subjected to reporting conditions. However, in the hearing with the Tribunal he claimed that he was kept out on the verandah while his home was searched and after he was released from detention he did not have to go back to the police station. The applicant also provided inconsistent evidence in relation to what he did after he was released from detention. He had claimed in his statutory declaration attached to his application, as well as his statutory declaration received by the Tribunal [in] December 2008, that after his release he went to Negelle Borena and spent a few months with his family to try and recover from what happened to him during his period of alleged detention. However, in the hearing with the Tribunal he claimed that after he was released he stayed in Addis Ababa and started his small business. The Tribunal has taken into consideration the applicant's adviser's submissions in response to the Tribunal's s424A letter, however, the Tribunal does not accept that the number of discrepancies in the applicant's evidence in the hearing in relation to basic aspects of his claims is adequately explained by the applicant's reluctance in talking about his experiences, especially when he had repeatedly conveyed these aspects of his claims in his statutory declarations and to the Department and first Tribunal. As the Tribunal has noted above, the medical reports and certificates provided by Foundation House, and more recently by the applicant's GP, do not state that the applicant is unable to recall his experiences in Ethiopia. The Tribunal therefore does not accept that the discrepancies identified by the Tribunal in the applicant's evidence provided in the hearing is adequately explained by the applicant's feelings of depression and stress as a result of his separation and isolation from his family and uncertainty of his migration situation.

118. As the Tribunal does not accept that the applicant was an active OLF member or that he was arrested in January 2001 as he claimed, the Tribunal does not accept that after he was allegedly released from detention in 2001, he was under surveillance and followed by the authorities for the next few years. The Tribunal finds the applicant's claims made in the hearing that he continued to engage in OLF activities more powerfully after his release and to have recruited more people to the OLF to be implausible when considered against his claim that he was under surveillance by the authorities after his release because of a suspected association with the OLF. The Tribunal does not accept that if the applicant was a suspected OLF member who was being monitored by the government to the extent that he claimed, he would have been able to participate in political activities to the extent that he claimed upon his release from detention in 2001 and not be detained by the authorities again for another 3 years. The Tribunal finds the applicant's explanation that the police did not arrest him again until 2004 despite monitoring him because they did not have any documents or information on him to be implausible in light of the country information cited above which details how the authorities pursue OLF members.
119. As discussed above, the Tribunal does not accept that the applicant was arrested and detained in July 2004. The Tribunal is further satisfied that the applicant was not detained on this occasion given that he provided inconsistent evidence in relation to the payment of a significant amount of money to facilitate his release. In his statutory declaration attached to his protection visa application, the applicant claimed that after payment of 25,000birr he was released from detention. However, in the hearing with the Tribunal he stated that he did not have to pay any money prior to his release from detention. In the response to the Tribunal's s424A letter it was stated that the applicant had made a mistake in the hearing and that he did

in fact pay 25,000birr prior to being released. The Tribunal finds that the applicant's repeated omission of a number of basic aspects of his claims such as the payment of this money to facilitate his release is further evidence that the claims made by the applicant in relation to his OLF activities and the interest in him from the authorities are not credible.

120. Given the Tribunal does not accept the applicant's claims regarding his association with the OLF and his periods of detention, the Tribunal does not accept that the applicant suffered any interference with his business activities because of any political opinion, real or imputed. The Tribunal does not accept the applicant's unsuccessful tenders for two government contracts were due to him being on a blacklist because of an alleged political opinion or any other Convention reason. The Tribunal does not accept that if the applicant was blacklisted by the authorities he would be then granted his annual registration certificate [in] January 2006 issued by the Ethiopian Ministry of Infrastructure. The Tribunal is satisfied that if the authorities believed the applicant was a member of the OLF and working against them, they would not automatically issue his building registration which allows him to work both in the public and private sector, just to receive the VAT. The Tribunal is satisfied that the applicant was not an OLF member and nor was he imputed to be a supporter of the OLF.
121. The Tribunal does not accept that the applicant became a member of the CUD and supported their campaign in the elections in May 2005. The Tribunal has serious concerns about the overall credibility of the applicant based on the number of discrepancies and inconsistencies in his evidence. However, the Tribunal also finds the applicant's knowledge of CUD to be lacking and his evidence regarding his activities and experiences during the 2005 election to be vague and perplexing. The applicant was not aware of the four existing parties which made up the CUD party which was formed in October 2004 or the leader of the party, stating that it was Dr Mara Gudina who was the leader, as opposed to Dr Hailu Shawul. His explanation of changes CUD proposed to introduce if they came into power and their campaign promises was simplistic and lacking in detail for someone with his claimed profile. The Tribunal finds that if the applicant was campaigning as he claimed, he would have a better understanding of the policies of the party he was supporting. The Tribunal also found the applicant's evidence of the activities he engaged in during the 2005 election to be confusing. When asked about where he took people when he transported them during this period, the applicant was unable to articulate exactly the purpose of his role.
122. Similarly, the Tribunal found the applicant's evidence regarding the difficulties he claimed he and his family experienced around the time of the election to be vague and confusing. When asked about the intimidation and verbal abuse he and his family received in relation to his CUD activities, the applicant was unable to provide any detail of what they experienced, instead referring to the alleged incident when the police came to his home to detain him. The Tribunal notes that it asked the applicant numerous times about his experiences in 2005 and he was unable to present further information. Although the applicant's adviser submitted that the applicant was not trying to fabricate or avoid answering but was not understanding the question, the Tribunal finds that its repeated inquiry as to the nature of the intimidation and verbal abuse he claimed he and his family experienced during the election in 2005 was not a difficult question to comprehend.
123. As the Tribunal does not accept that the applicant was a member of CUD or active in supporting the CUD or any other party during the election in 2005, the Tribunal does not accept that the applicant was arrested again in September 2005. The Tribunal also notes that the applicant claimed in the hearing that following the election he went into hiding for 3 weeks with a friend as soon as the election was finished and then he went back home.

However, in his statutory declaration [of] June 2006 the applicant had indicated he was in hiding for a much longer period, staying with friends and moving from house to house, and occasionally going back secretly to see his family, such as the one occasion [in] September 2005 when he was arrested. The Tribunal notes that the difference in the applicant's evidence as to the length of time he was actually in hiding may be due to the fact that in the hearing with the Tribunal, the applicant claimed that the election was in September 2005 rather than May 2005. Therefore the timing of his arrest as provided in the hearing was consistent with when he claimed the election took place. The Tribunal does not accept the applicant's response to the Tribunal's s424A letter that when the applicant stated that he was in hiding for 3 weeks with a friend, this period of time was not intended to indicate the full length of time between the election and the arrest. The Tribunal does not accept that the applicant's inability to recollect details of these events was due to any trauma he experienced as a result of this alleged event. Further, the Tribunal finds it implausible, in light of the country information cited above regarding the treatment of CUD members following the election, that if the applicant was suspected of being a member of the OLF and CUD and of plotting against the government, he would have been released after 3 weeks and after he had been arrested on previous occasions in relation to his alleged political activities. The Tribunal is satisfied that the applicant was not arrested in September 2005.

124. The Tribunal also does not accept that the applicant received any further visits from the police after this alleged incident or that he was subsequently arrested again [in] January 2006. The Tribunal notes in the applicant's statutory declaration dated [date deleted: s.431(2)] June 2006 the applicant claimed that the police came to his home and they had documentation which they showed him very briefly, which he saw the name of the High Court on. He also claimed the police told him that the Court had authorised his arrest and search of his house. In the hearing the Tribunal asked the applicant specifically if the police had a search warrant or papers from the Court when they came to his home and he stated no. It was suggested by the applicant's adviser in the response to the Tribunal's s424A letter that it was likely at the hearing that the applicant was referring to receiving papers. The Tribunal does not accept this explanation given that the question asked of the applicant was clear and unequivocal and the Tribunal is not satisfied that the applicant misunderstood what he was being asked.
125. The Tribunal has considered whether the applicant would face persecution for reason of his Oromo ethnicity if he returned to Ethiopia, now or in the reasonably foreseeable future. The Tribunal accepts that the applicant may have been insulted, teased, verbally abused and bullied by non-Oromo students and teachers when he was at school because he was an Oromo. However, the Tribunal does not accept such harassment constitutes persecution within the meaning of the Convention or serious harm within s.91R(1) of the Migration Act. The Tribunal has also taken into consideration the decision made by a differently constituted Tribunal in March 2003 (V01/13154) which was raised by the applicant's previous adviser in a submission provided to the first Tribunal in support of the contention that as an Oromo the applicant would be targeted if he returned to Ethiopia. The Tribunal notes that in this particular decision the Tribunal found that the applicant had been detained and tortured on the basis of medical and psychiatric evidence provided and that the reason he had been detained was because he had fallen under suspicion of being an OLF member. Although the Tribunal also found that the applicant's Oromo ethnicity was a relevant factor in why he had been targeted, this was tied with the suspicion of him having links to the OLF. This Tribunal does not accept that the applicant's ethnicity alone was the significant and essential reason the Tribunal in V01/13154 found that the applicant had a well-founded fear of persecution if he returned to Ethiopia. This is further supported by the findings made by the Tribunal that

Oromos made up half the population of Ethiopia and many lived outside the region of OLF/government clashes. Many of these were in Addis Ababa and seemingly were able to live their lives relatively free of discrimination and harassment. The Tribunal does not accept that the applicant's circumstances in V01/13154 are analogous to the applicant in the present case. The Tribunal notes that in V01/13154 the Tribunal was satisfied that the applicant was a supporter of the OLF, whereas the Tribunal in the present case does not accept that the applicant has supported the OLF in the past. The Tribunal also does not accept that the applicant's former adviser's contention that the applicant's profile is more pronounced than that of the applicant in V01/13154 based on the findings that it has made above in regard to his own and his family's lack of involvement in the OLF.

126. The Tribunal has considered whether the applicant faces a real chance of persecution for reason of his membership of his family. Although the Tribunal accepts that the applicant's family may constitute a particular social group, the Tribunal does not accept that the applicant would be targeted for reason of his membership of his family. The Tribunal accepts that the applicant's father may have been a [public official] who advocated for the freedom of Oromo people and that he may have been imprisoned in the past due to his beliefs. The Tribunal notes that the applicant's father is deceased and the applicant has made no claims that either he or his family were targeted because of his father's actions either whilst his father was alive or since his father's death. The Tribunal therefore does not accept that the applicant faces a real chance of persecution if he returned to Ethiopia because of his father's stance against the oppression of the Oromo people. The Tribunal has considered whether the applicant's brother's claimed involvement in the OLF alone may result in the applicant being imputed as being a supporter of OLF or may result in him being targeted by the authorities. Given the Tribunal's concerns regarding the applicant's overall credibility and its finding that the applicant's brother is not a member of the OLF, the Tribunal does not accept that the applicant has experienced any difficulties in the past because of any familial connection with the OLF. The Tribunal does not accept that the applicant's brothers lost their jobs because of either his or his brother's alleged association with the OLF. On the basis of the country information cited above, the Tribunal accepts that family members of people suspected of having links to the OLF may fall under suspicion and be harassed by the authorities, however, the Tribunal finds that neither the applicant or his family have any association with the OLF and therefore there applicant does not face a real chance of being targeted by the authorities because of any familial connection to the OLF or because of his membership of a particular social group, this being his family, if he returned to Ethiopia now or in the reasonably foreseeable future.
127. The applicant has also claimed that as a wealthy Oromo businessman it would be more likely he would be suspected of supporting the OLF. The Tribunal finds this claim to be purely speculative. The Tribunal has considered the country information referred to above and cited by the applicant's various advisers and does not accept that there is any evidence to substantiate this contention. The Tribunal has discussed above how there is independent evidence regarding family members of OLF members who are harassed for this reason. However, the Tribunal does not accept that successful Oromo business people or wealthy Oromos are suspected of being OLF because of their status. The Tribunal therefore does not accept that the applicant faces a real chance of persecution for reason of his membership of a particular social group of "wealthy Oromo's" or "wealthy Oromo businessmen".
128. Given the findings above, the Tribunal does not accept that the applicant has been of any interest to the authorities in Ethiopia because of his political opinion, imputed or real. The

Tribunal does not accept that the applicant was on any police hit list or that he was required to obtain his passport illegally for this reason. The Tribunal accepts that the applicant may have spent 10,000 birr in order to get his passport through a contact within Immigration but that he did not do this because he was of any interest to the authorities but rather so that his passport could be issued more expeditiously. Similarly, the Tribunal does not accept that the applicant required the assistance of his friend who worked at the airport to enable his departure from the country as the Tribunal does not accept that the applicant was on any police hit list. The Tribunal also does not accept that the applicant's wife had been detained or imprisoned since he departed the country. As the Tribunal has found that the applicant had never been detained in the past, the Tribunal does not accept that the applicant's absence from the country would be of any interest to the authorities. The Tribunal notes that the applicant claimed in the hearing that his wife was allegedly taken in for questioning a week after he left Ethiopia during May 2006 and that she had decided to remove herself from the country and go to Kenya. However, nearly 3 years later she was still residing in Ethiopia. The Tribunal finds the applicant's wife's continued residence in Ethiopia despite her intention to flee is further evidence that neither she or the applicant were of interest to the authorities in Ethiopia.

129. In conclusion, the Tribunal does not accept that the applicant has ever been a member of the OLF, the CUD or any other political party in Ethiopia. The Tribunal does not accept that any members of the applicant's family have had an association with the OLF and as a result his family have been harassed or persecuted. Nor does the Tribunal accept that the applicant's Oromo ethnicity has made him a target for persecution in the past. The Tribunal finds that the applicant has never been of interest to the authorities in Ethiopia either for reasons of his political opinion, real or imputed, or his ethnicity. Taking into consideration all the applicant's circumstances and the country information, the Tribunal is satisfied that if the applicant returns to Ethiopia now or in the reasonably foreseeable future, he does not face a real chance of persecution for reason of a real or imputed political opinion, his Oromo ethnicity, his membership of a particular social group, 'his family' or 'wealthy Oromo businessmen' or any other Convention ground. The Tribunal is satisfied that the applicant's fear of persecution is not well-founded.

CONCLUSIONS

130. The Tribunal is not satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicant does not satisfy the criterion set out in s.36(2)(a) for a protection visa.

DECISION

131. The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

I certify that this decision contains no information which might identify the applicant or any relative or dependant of the applicant or that is the subject of a direction pursuant to section 440 of the *Migration Act 1958*.

Sealing Officer's I.D. prrt44