

0902046 [2009] RRTA 1188 (11 November 2009)

DECISION RECORD

RRT CASE NUMBER: 0902046

DIAC REFERENCE(S): CLF2007/11891 CLF2007/192805

COUNTRY OF REFERENCE: Ethiopia

TRIBUNAL MEMBER: Mary Cameron

DATE: 11 November 2009

PLACE OF DECISION: Melbourne

DECISION: The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act, being a person to whom Australia has protection obligations under the Refugees Convention.

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] December 2006 and applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa [in] January 2007. The delegate decided to refuse to grant the visa [in] April 2007 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] November 2007. The applicant sought review of the Tribunal's decision by the Federal Magistrates Court and [in] May 2008 the Court set aside the decision and remitted the matter to the Tribunal to be determined according to law. The Tribunal, also differently constituted, affirmed the delegate's decision [in] November 2008. The applicant sought a review of that decision by the Federal Magistrates Court and [in] March 2009 the Court set aside the decision and once again remitted that 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 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: s.91R(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. In support of his visa application the applicant provided a copy of his Ethiopian passport, his birth certificate and his Temporary Residence Permit in respect to Cyprus. He also provided a detailed statement of claims.
21. According to the applicant's statement he is an Ethiopian national of Oromo ethnicity. He is the second youngest of eight children. At age 13 his father began to have problems with the Government. In 1999 he recalls the police coming to their house to arrest and detain his father for supporting the Oromo Liberation Front (OLF) politically and financially. According to his statement the applicant recalls the brutality of the Ethiopian police when they came to arrest his father, and then take him away. The applicant's mother visited his father while he was in detention and reported that he was weak, bruised and battered from beatings. Six months after his arrest, in 2000, he was moved to another location and since then his whereabouts are unknown. During his father's detention, their house was searched regularly and his mother had to report to the police weekly and declare her income to prove she was not making financial contributions to the OLF.
22. According to the applicant's statement the Ethiopian government had spread rumours that his father worked against the government. His family was seen as traitors and the applicant suffered abuse as a young student from teachers and students. Some of his siblings moved to other areas to escape the intimidation. One of his sisters moved to live with their aunt. Their aunt also played a significant role in assisting the OLF; while living with her aunt, his sister also became involved in political activities supporting the OLF. The authorities began searching for his sister because of her link to her aunt and involvement in OLF activities. They would go to his mother's house and ask for his sister. His sister eventually escaped to Cyprus and sought asylum but had no response in four years. She then married and was granted permanent residence in Cyprus. Another sister had moved to Cyprus on a working visa in 1998 and continues to live there.
23. According to his statement the applicant learnt of his father's activities and the OLF cause when he was older through a friend of his father and became inspired and committed to the Oromo people's cause. In June 2003 he was approached and recruited by two members of the Oromo student network at the training institute where he was studying. He became part of a larger Oromo student network. The OLF used student networks at that and other colleges and institutes to carry out political activities.

24. According to the applicant's statement, not long after he was recruited, the applicant discovered that his father's friend, [Person 1] who had encouraged and mentored him played a major role in managing the particular network, and had organised his recruitment at the institute he was attending. [Person 1] worked for the OLF and managed several other student networks. Each network had two representatives that reported to [Person 1] directly. The network to which the applicant claims to have belonged operated in secret in order to avoid persecution and therefore it was hard to know how many members belonged to the network. The applicant came to lead and mentor at least 20 students. The way in which the network operated involved the applicant receiving written material from the two representatives of his network about the objectives of the OLF, information relating to the plight of the Oromo people and the strategies used by the government to oppress the Oromo people. The material contained reports of recent cases of Oromo people being persecuted, tortured and detained; teachers dismissed from their work and farmers being uprooted. The applicant's job was to raise the awareness of and recruit other Oromo students to join the struggle. He was also heavily involved in preparing for the Waqefata celebration in Addis Ababa in December 2003 – a celebration for the Oromo people. He was among the members of the student network who assisted the Matcha Tulama Association to organise the event, which has since been banned as an organisation.
25. According to the applicant's statement in January 2004, [Person 1] was arrested and tortured. The applicant was told of this by two individuals who worked with him. They told the applicant that the government took papers from [Person 1]'s house including a list of students who worked with him. The two friends of [Person 1] told the applicant to flee the country. The applicant left the family home and went to stay with his maternal uncle. A week later the applicant found out that the family home had been raided by the government and that his mother had been detained and interrogated for a week. According to the applicant's statement his sister in Cyprus contacted his uncle to find out what was happening. He spoke with his sister who told him she would arrange to get him out of Ethiopia under the guise of a worker for a diplomatic mission in Cyprus. She arranged a visa for him to work as houseboy for [employer deleted: s.431(2)] in Cyprus.
26. The applicant arrived in Cyprus [in] December 2004 but after living there for a time he realised that it was impossible to obtain refugee status in Cyprus, so he decided to travel to Australia. He holds a temporary residence permit in Cyprus which is automatically cancelled once he is no longer employed with [employer deleted: s.431(2)].
27. The applicant refers to circumstances in Ethiopia having deteriorated after the May 2005 elections. He claims that he cannot return to Ethiopia as he has a well founded fear of persecution because of his political involvement with the OLF through the student network.
28. Accompanying the application is a detailed submission from the applicant's representative dated [in] March 2007 which addresses the question of effective protection in a third country, the right to re-enter and reside in a third country and refers to relevant sections of the Act, case law and articles of the Convention. The submission concludes that the applicant does not have a legally enforceable right, for the purposes of s.36(3) of the Act, to re-enter and reside in Cyprus. The submission goes on to argue that the applicant has a well founded fear of persecution, discussing his claims and referring to country information from various sources. The representative's submission attaches and refers to detailed country information in respect to Oromo political organisation in Ethiopia

The first review

29. The Tribunal files in respect to the first review include a letter and its English translation from the applicant's sister in Cyprus addressed to the applicant and dated [in] April 2007. The writer refers to the applicant's father's involvement with the OLF and related events which she has previously refrained from telling the applicant to spare him anxiety. She refers to the applicant's political involvement in Ethiopia and states that he is a target of the government in Ethiopia. She states that she speaks with their mother who has told her that government agents go to the house and to "relative's house" (sic) looking for him and strongly advises the applicant not to return to Ethiopia.
30. The applicant attended a hearing [in] May 2007 and gave oral evidence and presented arguments.
31. Following the hearing the applicant was invited by letter pursuant to s.424A of the Act to comment on information in writing. The applicant's reply through his representative included a submission responding to the information contained in the Tribunal's letter and a number of attachments including a letter from the applicant's mother advising him not to return to Ethiopia as the authorities continue to visit her house and ask about him and his sister; a letter from the applicant's other sister in Cyprus dated [in] 1 August 2007 in which she tells the applicant of the suffering migrants experience in Cyprus and that refugee claims receive no response and the claimants have no right to work; country information and extracts from other sources in support of the submissions and claims.
32. The oral evidence given at the first hearing held [in] May 2007, the information in the s.424A letter dated [in] July 2007 and the reply to it are summarised as follows:
33. The applicant corroborated the essential dates regarding his identity, travel and arrival in Australia. He agreed that he had left Ethiopia legally as the holder of an Ethiopian passport and an entry visa issued in his own name for Cyprus and states that he did not have difficulties obtaining travel documents in his own country.
34. The applicant was asked if he had ever worked as a [Professional A] and replied that he had not done so in Ethiopia. Asked if he thought of going to university he said he thought about it but had no opportunity because he had to leave the country. He stated that after the school holidays in July 2003 he was accepted by a university in September 2003, and was waiting to commence, but did not start in 2003 because he was unable to get his results from his previous studies in time.
35. The applicant agreed that his birth certificate was issued [in] December 2004. He could not give any particular reason for obtaining it. His sister had suggested he might need it, and it might be useful. He claimed his uncle had bribed officials to get a passport. The Tribunal noted that he had not mentioned bribing anyone in his statement. The applicant said it was his uncle who did this, and in any case it is not difficult to get a passport, it is more difficult to obtain a visa to enter another country. The applicant only approached one person in the migration office. He also asked his uncle how much the bribe was but his uncle would not commit an amount to paper.
36. The applicant stated that he got a job at the [employer deleted: s.431(2)] in Cyprus because his sister worked there and she helped him to get the job. There was no interview and no application, his sister did everything, and he only had to send a copy of his passport. The

applicant left Ethiopia through the main airport at Addis Ababa, where the officials checked his documents and let him through.

37. The applicant was asked what he meant by being 'part of' the Oromo student network. He stated that his father's friend told him about Oromo culture. He thought he knew of about 15 to 20 members, they always met in small groups. When asked about the structure of the organisation he first said he knew about the structure, and then that he was not sure about it, and then that there were two people above him who told him what to do and when. He received information, usually in the form of flyers to hand out, and used these to teach and educate others about the cause. He stated that he had a membership card in Ethiopia but did not bring it with him when he left. He did not want to carry documents out of Ethiopia and destroyed them before he left.
38. The applicant stated that his father had had his own business, a furniture shop. His mother continued this business after her husband disappeared but business is not so good now. She has lived in the same house for 8 years and is not in danger. His father's friend, [Person 1], who introduced him to the Omoro Student Network, was not a teacher but the director/principal of the school. He was arrested in January 2004 and replaced by another principal. He heard this from friends of [Person 1], who also warned the applicant. The applicant went into hiding in January 2004 until November 2004 and stayed with an uncle near Addis Ababa. He stated that no one came looking for him.
39. When asked why he did not make claims for refugee status in Cyprus the applicant said that he was told by his sister and some other Africans that the process was very slow. He did not make enquiries himself.
40. When asked why he chose to claim protection in Australia, the applicant said he knew someone in Australia, being a friend with whom he lived for 4 months in [suburb deleted: s431(2)].
41. The review applicant agreed that when he left Ethiopia he had intended to apply for protection status in another country but had not decided where. He was planning to apply when he got to Cyprus but changed his mind when he got there. He was on holidays from his job in Cyprus and informed his employer that he was going to Australia to visit a friend. After he arrived here, he told his sister to inform his employer that he had decided to stay. He stated that he was no longer employed, but he could not tell his employer at the time he planned to come to Australia because he needed the appearance of having a job to get a visa to come to Australia.
42. When asked why he thought he was a refugee, the applicant said it was because of his involvement with the group [Oromo Student Network] and because he was wanted by the government. When asked how he was able to leave Ethiopia so easily through the main airport, he said it was because 'Ethiopia is not well organised'. He said that he fears serious violations by the military in the future as student political activists are exposed to violence. His mother is regularly visited by police. The authorities went to his mother's house looking for him.
43. The Tribunal as it was then constituted informed the applicant that it was not satisfied with his evidence and that it would put matters to him in writing about inconsistent and implausible aspects of his claims.

44. By letter dated [in] July 2007, pursuant to section 424A of the Act, the applicant was invited to comment on and/or respond to information the Tribunal considered would be the reason, or part of the reason, for affirming the decision under review;

The Tribunal put it to you at the hearing that you obtained your birth certificate with the intention of seeking asylum after you left Ethiopia. You stated that before you left Ethiopia you had decided to apply for protection or asylum. However, based on the information contained in the protection visa (or elsewhere) you did not attempt to obtain asylum in Cyprus where you lived and worked for two years. This information is relevant because it casts serious doubts on the bona fides of your claims to have suffered persecution and may lead the Tribunal to affirm the delegate's decision under review.

Reasons for not applying for protection in Cyprus, contained in your statutory declaration and given at the hearing, are based on hearsay by your sister and possibly other Ethiopian nationals, about the length of time taken for processing. Based on the information contained in your protection visa, you appear to have worked for up to two years in Cyprus and made no attempt to claim protection there. This information is relevant because it casts serious doubts on the bona fides of your claim to have suffered persecution and may lead the Tribunal to affirm the delegate's decision under review.

You claimed that the Ethiopian government attempted to find you before you left Ethiopia and you also claimed that you left Ethiopia through the country's principal airport without hindrance. You claimed at the hearing that you were able to depart from Ethiopia through the airport because Ethiopia is not well organised and for that reason you did not fear that you would be apprehended at the airport. This information appears to be inconsistent. This information is relevant because the Tribunal may find that these claims are not credible and it may be unable to accept these claims. This may lead the Tribunal may lead the Tribunal to affirm the delegate's decision under review.

You stated in your application that you left Ethiopia legally and that you did not have difficulties obtaining travel documents in your home country. At the hearing you claimed for the first time that a bribe was paid. However, you are unable to say who was bribed, how much was paid, and to whom it was paid, or why. This information is relevant because it appears to be an inconsistent which may lead the Tribunal to doubt your credibility and may lead the Tribunal to not accept your claims. This may lead the Tribunal to affirm the delegate's decision under review.

You claimed to be 'part of the Oromo Student Network' but stated that this organisation never met in large groups, it was always in two or threes. You claim to be a member although you have no membership card, no examples of the material you claimed to distribute and that you destroyed the written materials in your possession when you left Ethiopia. This information is relevant because in the absence of such evidence, the Tribunal may not accept that you would have departed Ethiopia without such evidence of your membership of this group. In addition the Tribunal may find that you were never a member of such an organisation. As such, the Tribunal may affirm the delegate's decision under review.

In your protection visa application you gave your trade qualification as "[Professional A]" However, the only employment experience claimed by you

is that of houseboy. There is no supporting evidence of your qualifications and no evidence that you were ever employed as a [Professional A]. This information is relevant because it may raise doubts about your credibility which may lead the Tribunal to affirm the delegate's decision under review.

45. After a postponement the applicant responded through his agent [in] October 2007 with a statutory declaration dated [in] September 2007 by the applicant and a submission in support of his application.

46. In the applicant's statutory declaration he agreed that he planned to seek asylum before he left Ethiopia. He never approached the authorities in Cyprus but stated that his knowledge of the refugee processing is first hand because he observed his sister, [Sister 1], who told him that her experience of it was stressful and she had been waiting two years. He stated that he saw asylum seekers being mistreated by the authorities and other asylum seekers told him about their experiences. The applicant's representative drew attention to the Amnesty International Annual Report 2006 which reported instances of beatings and racial abuse of asylum seekers in Cyprus and a report attributed to the Ombudsman, cited in EU Network of Independent Observers on Fundamental Human Rights, Conclusions and recommendations on the situation of fundamental human rights in the European Union and its Member States in 2004:

“there have been instances of unjustified arrests or hasty deportations of foreigners who reported themselves at the police asking for asylum and cases of refusal to accept asylum application [and] cases when the police did not comply either with the provisions of the Refugee Law or with the relevant directions of the director of the Population and Immigration office”.

47. Also quoted was an article in the Cyprus Mail 14 May 2006 in which the Cyprus Interior and Labour Ministers are reported as saying that “99.7 per cent of the political refugee applications made in Cyprus are made by economic migrants who were seeking a land of opportunity”. According to the applicant's representative this attitude has seeped down to all levels of administration, indicating an inability to decide asylum claims fairly and without prejudice.

48. In regard to the claim that the applicant left Ethiopia through the country's principal airport without hindrance because Ethiopia is not well organised, the applicant's statutory declaration relevantly states;

18. I believed I would not be detected at the airport because the officers that issued the passport upon payment of a bribe have links with officers at the airport. Because they have received an illegal financial benefit, if the traveller were apprehended at the airport the passport would be seized and tracked to the officer/s who issued it. They would face serious consequences. It is in their interests to ensure my safe departure from the country.

19. What I said about Ethiopia not being well organised is from the perspective that I was able to obtain my passport through a bribe. Perhaps a better way of describing it is that systems in Ethiopian are corrupt and not well integrated, so it is possible to avoid detection if you pay money. However, there is certainly a degree of fear.

49. The applicant's representative noted that “bribery and corruption is rife in Ethiopia” and refers to material which indicates that the relation between corporations and public officials are often not transparent. The agent also noted that “Ethiopians travelling abroad must have a

valid work permit; however, false documents are easily obtained and low level collusion between traffickers and government officials has led to weak enforcement.”

50. In regard to the claim that the applicant left Ethiopia legally (not illegally as the previous statutory declaration stated at paragraph 20) and did not have difficulties in obtaining travel documents in his home country, the applicant’s statutory declaration states:

21. In relation to this I wish to state that when I was completing the form asking about whether I had difficulties obtaining travel documents from my home country I said no. However, I again make it clear that my uncle paid a bribe for my travel documents and this was not too difficult to facilitate because it is a common practice in Ethiopia.

23. I recently rang [my uncle] and told him that I was seeking protection in Australia and that the Tribunal wanted to know information about how much he paid, who he paid and why it has become an important issue. I therefore asked if he could put it in writing so that I could present it to the Tribunal. [His uncle refused].

51. In regard to the claim that the applicant was a ‘part of the Oromo Student Network’ the applicant’s statutory declaration states:

25. I wish to emphasise that we could not meet in larger groups for fear of being discovered. We are not a legal body and we were unable to meet in larger groups because it would have become obvious that we were having a meeting and that would have caused the authorities to become suspicious and we would have been easily identified and persecuted. In relation to the lack of materials I must state that there is absolutely no way I could have taken any materials with me.

52. The applicant’s representative further noted the applicant’s “carrying of materials which would associate him with a clandestine political organisation (which is what the Oromo Liberation Front is) would be extremely foolish”.

53. In regard to the claim that the applicant was a [Professional A] the applicant’s statutory declaration states:

27. I wish to state that I am a qualified [Professional A]. I did a one and half month placement at the [agency]. I received a nominal amount of money for that placement. [Attached to the statutory declaration was a certificate to the effect that the applicant was selected by the training authority and placed in the [agency] and has been trained in [Profession A] for 1 ½ months. The certificate was issued on 22 August 2003.]

54. The applicant stated that he was unable to obtain a certificate of results from his education provider until January 2004 because of delays caused by a backlog of work at the education authority issuing the certificates. He was advised in January 2004 that the certificate was available but he chose not to collect it, because the police were looking for him.

55. The applicant stated that his mother remained on the family property because if “my mother were to sell her property the Government would know that she was selling and would follow her wherever she went”. By letter [in] November 2007 the applicant made minor corrections to his statutory declaration.

56. The Tribunal as it was then constituted affirmed the delegate’s decision [in] November 2007.

The second review

57. Following the Court's order, the Tribunal (differently constituted) invited the applicant to attend a hearing scheduled [in] July 2008. The oral evidence given at the second hearing, the information in the s.424A letter dated [in] September 2008 and the reply to it are summarised as follows.
58. The applicant appeared before the Tribunal [in] July 2008 to give oral evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Amharic (Ethiopian) and English languages. The applicant's authorised representative attended the hearing. His evidence at the second hearing is summarised as follows;
59. The applicant gave oral evidence that both his parents are of Oromo ethnicity and were born in [location deleted: s431(2)], Ethiopia. The applicant stated that he completed year 10 of high school and attended two years studying [Profession A]. He confirmed that he was one of the top achievers and was selected from 30 applicants for a placement with the [agency] in Ethiopia.
60. The applicant gave an account, as follows, of his siblings in Ethiopia and two who reside in Cyprus. His elder brother lives in Addis Ababa, is married with two children and owns and operates a business involving a fleet of hire cars. One of his sisters works at the [employer deleted: s431(2)] in Addis Ababa, she is single and has moved from her mother's house and lives alone. Another of his sisters qualified in mechanical engineering and chemistry and now teaches chemistry. She is married to an Oromo man who also works as a teacher, and they live in Addis Ababa. Another sister is single, lives alone in Addis Ababa and works in a bank as an accountant. Two of his sisters live in Cyprus and are now permanent residents of Cyprus. One travelled to Cyprus in 1998 to work at the [employer deleted: s.431(2)]. She married an Italian national and was granted permanent residence in Cyprus. The other travelled to Cyprus in 2002-03. She was involved in political activities with her aunt in Ethiopia used a work visa to work for the [employer deleted: s.431(2)] to leave Ethiopia. She applied for a protection visa in Cyprus and as a result of that application she was only permitted to work on farms in Cyprus. The application for a protection visa took too long, meanwhile she met and married a man in Cyprus and was granted permanent residency.
61. The applicant stated that he was 13 or 14 when he last saw his father, it was in 1999. The Tribunal asked why his father was arrested. He said that initially he did not know the reason. His mother and sisters did not tell him because he was too young. He later learnt the reason from a friend of his father.
62. The applicant stated that he applied for his Ethiopian passport in person at the immigration office a week or so before it was issued. The Tribunal asked if he collected it, he said he did not. He said his uncle contacted some people and when it was ready they gave it to his uncle.
63. The Tribunal asked the applicant if he was required to provide a certificate of police clearance from the Ethiopian Police for the purpose of his work visa in Cyprus. He said he did not. Asked what he was required to provide to Ethiopian immigration as evidence of his work permit/visa in Cyprus, he said the paper which was sent to his uncle's place. The applicant was asked how his work permit in Cyprus was arranged; he said his sister arranged it. He travelled to Cyprus in December 2004 and worked at the [employer deleted: s.431(2)] until December 2006. He said he provided only a copy of his passport to his sister to arrange the Cyprus work visa. The visa was sent from Cyprus to his uncle's place in Ethiopia (where he claims to have been staying at the time).

64. The Tribunal indicated that information obtained from the Cyprus Government Website indicates that it is a requirement for Ethiopian nationals to provide a police clearance certificate with an application for a visa to Cyprus. The applicant said he provided a police clearance certificate to the Australian High Commission in connection with his visitor visa application to Australia which was provided by the Cyprus Police but he was not required to provide such a certificate to Cyprus immigration for his work visa to Cyprus. [Information deleted: s.431(2)].
65. The Tribunal discussed with the applicant the reasons contained in the Court order. In particular, the issue regarding the claimed Oromo Student Network and that research by the Tribunal in the course of the previous review found no reference to such an organisation. The Tribunal explained the relevance that in the absence of any supporting evidence of his membership to the claimed network, his oral evidence having indicated little and vague knowledge of the structure and work of the claimed network and the research revealing no reference to the claimed network, doubt arose about his claimed involvement. He was invited to comment.
66. The applicant stated in reply that what he was trying to say was that the Oromo Student Network was not an organised group because that is not allowed by the government of Ethiopia. He said that the network is directly connected and involved with, and is answerable to, the OLF. The OLF is a banned organisation by the Ethiopian government. The OLF employs different ways to reach people and that is how he became involved.
67. The Tribunal noted to the applicant that his claim that he had a membership card to identify him as a member of the network would suggest that the network had an organised structure; however research undertaken by the Tribunal has found no reference to such a group. The applicant said no information on the internet would be found in Ethiopia on the organisation. The Tribunal noted that the point is that international research in Australia – outside Ethiopia – has found no reference to the Oromo Student Network. The applicant replied that he is not surprised that no information was found because the work of the Oromo Student Network is kept secret. The Tribunal observed to the applicant that he has claimed that the police in Ethiopia were looking for him because of his involvement with the Oromo Student Network, so this would indicate that the police in Ethiopia had knowledge of the organisation.
68. The applicant's representative submitted that the police simply know of and target student activists and their strategy is to extract information from members of organisations. The Tribunal noted that the claim in respect to the review involves a network with a specific structure, directly connected with the OLF (not unaffiliated student activists).
69. The Tribunal asked the applicant the reason for the membership card of the claimed Oromo Student Network which he stated he held. He replied it was so he could identify himself as a member of the organisation to those he sought to explain the struggle and to encourage them to join.
70. The Tribunal asked the applicant how many members belonged to the claimed organisation; he said he is not sure; he met with different people at different times. He was asked how meeting times and locations were communicated to members. He stated that he saw two people.
71. The Tribunal asked the applicant why he was of interest to the authorities in Ethiopia. He stated that it is because he was spreading messages against the government. The police had

arrested [Person 1] and seized a list which he had with the applicant's name on it. Until then the organisation was kept secret. The applicant said he had not seen the list. The police found out that [Person 1] was connected with the OLF and found the list. He said people warned him that the police were looking for him.

72. The Tribunal asked the applicant who had warned him. He said it was two friends of his father who knew people who worked with [Person 1]. The Tribunal asked him how these people came to know that the applicant's name was on a list seized from [Person 1]. He said they were trying to help other people, he does not know how they came to know, but he was warned and ran away.
73. The Tribunal asked the applicant if he had any trouble with the police in Ethiopia. The applicant said he has never had trouble with the police. He was asked if he had any difficulty or trouble when he personally applied for a passport, and he replied that he had no trouble. The Tribunal asked if he had any difficulty when he departed Ethiopia at the airport. He said he had no trouble and added that those who gave him the passport are immigration officers and it was in their interest to make sure he would have no difficulty leaving the airport.
74. The Tribunal indicated to the applicant that a report from the Australia Department of Foreign Affairs and Trade (DFAT) indicates that persons of interest to the authorities would likely face difficulty departing the airport.
75. The Tribunal asked the applicant whether the police went to look for him at his house or his uncle's or any of his siblings in Addis Ababa. He said they looked for him at his mother's house, his brother's house and his sisters' houses but not at his uncle's. They went to his uncle's to look for him only after he left Ethiopia. He stated that it may have just been chance.
76. The Tribunal asked the applicant if his brother or any of his sisters in Ethiopia have had any trouble with the police. He said they have no problems with the police. The Tribunal stated to the applicant that some information about Ethiopia indicates that people of Oromo ethnicity with suspected connections with the OLF suffer harassment by security forces and students of Oromo ethnicity suffer discrimination in education and are often reported to suffer being excluded from universities. The applicant stated that his sister achieved good marks so she was able to go to university. He also said that his siblings are not involved in political activity; they care about their own lives. He stated that some Oromo people work for the government and kill other Oromo people. He stated that some of his siblings are like that but he is different; and he cares about what his father did.
77. The applicant's representative then indicated that the applicant had new claims to make.
78. The applicant stated that two persons who arranged his passport (the immigration officers) recently visited his mother. They were aware that his work visa in Cyprus would soon expire and were concerned that if he were to return to Ethiopia, they may be in trouble because the police may find out of their involvement in arranging his passport. Asked how he became aware of those two persons' visit to his mother's house, the applicant said she told him in a phone conversation recently.
79. The Tribunal noted that the applicant had stated that his mother is under constant police surveillance; and that he had stated that he had put his uncle's life at risk by asking him to provide information about the claimed bribe he paid to the immigration officers. It would be

unusual therefore that his mother would talk about such an issue in a phone conversation or that the two immigration officers would visit her at her home. The applicant said maybe the police do not have the capacity or knowledge to monitor everyone.

80. The applicant was asked how his possible return to Ethiopia would identify the two immigration officers having arranged his passport. He stated that if he were to return he may tell the police under torture. The Tribunal noted to him that he had indicated he does not know the immigration officers, that his uncle arranged and collected the passport. He replied that he may divulge that his uncle was involved and then in turn his uncle might identify the two persons. The Tribunal observed that if the police had an interest in him, they might have made their own enquiries about the way in which he obtained a passport. He said the immigration officers might have their own way of hiding the information and that is why they went to see his mother.
81. The applicant's representative submitted to the Tribunal that in relation to the applicant's conversation with his mother; she had put to him about a week prior to the hearing that the question of whether the police have been to his mother's place asking for him would invariably be asked by the Tribunal. The only opportunity he had was to call his mother to ask her. He had indicated to his representative that he does not like talking freely to his mother. Similarly during the first review he was asked to provide evidence of the bribe he claimed was paid to arrange his passport, he was concerned and afraid to call his uncle but decided he needed the evidence.
82. The applicant's representative then suggested that the Tribunal ask the applicant about his activities in Australia. The applicant then stated that he is a member of the Oromo community in Australia and he attends meetings. He stated that he is trying to tell the world (about the Oromo issues) and he wants to continue to do so in the future. The Tribunal asked the applicant what he does to tell the world. He said he cannot say exactly, that he attends meetings and tries to tell the Australian government and the world. Asked to provide an example of the activities by which he achieves his objective, the applicant said he is new in this country and hopes to do more once he is accustomed to the way things are done in Australia. Asked if he might be able to provide any example of his efforts, he said there are people who are better educated than he is but he hopes to do something in the future. Asked if he knows of the Oromo cause, he said he does but cannot say because he lacks English. He added that they may (members of the Australian Oromo community) have put a petition to the Australian government but he has not done anything big or significant.
83. In answer to further questions from the Tribunal the applicant stated that the Oromo People are a majority in Ethiopia but they face problems and do not have freedom. The objective of the OLF is to liberate Oromo people and establish an independent Oromia. He stated that the OLF was established in 1977 and outlawed 17 years ago. He stated that they operate out of Germany and the United States of America. He stated that they have their own army, mostly located in Eritrea. Asked if he knew names of the leadership, he provided a name of the general secretary and the vice secretary and added that was until recently but maybe they have changed. He also provided names of a coordinator and assistant of the Oromo community in Australia. Asked how often the community holds meetings, he said there are no set times; every two weeks or a month. Asked how he finds out about meetings, he said "we just tell each other by email". He stated that he attends as much as he is able – about once a month.

84. [In] August 2008, the Tribunal as it was then constituted received a submission from the applicant's representative of the same date. The representative referred to the hearing and stated that in addition to the claims previously made and the submissions previously provided the Tribunal must turn its mind to the principles in the High Court decision in *Appellant S395/2002 v Minister for Immigration and Multicultural Affairs* HCA 71 (2003) 216 CLR 473 ("S395"). The submission to the claims in the case of S395 and its relevance to evidence the applicant provided of his activities in Australia and continued dedication to the Oromo cause. The representative concluded by submitting that it would not be possible for the applicant to openly attend meetings, sign petitions and express his views in Ethiopia.
85. [In] August 2008 the Tribunal received a submission from the applicant's representative which referred to two attachments: an undated letter from the Australian Oromo Community Association of Victoria, signed by [Senior Official A]. It stated that the applicant had been a member since February 2007. A document was attached to the letter described in the agent's covering letter as "a petition signed by the applicant and sent to Minister Evans on behalf of the Australian Oromo Community Association". That document was in the form of a letter addressed to the Hon. Chris Evans, Minister for Immigration and Citizenship, dated [in] June 2008 and signed by [Senior Official A]. The letter provides information regarding the "Plight of Oromo People in Ethiopia" It discusses the treatment of Oromo people; the expulsion of Oromo students from schools, colleges and universities; the abuse of Oromo political prisoners; attacks on Oromo refugees and makes a set of recommendations. The submission also contained a pamphlet which may have been an attachment to the letter to the Minister. The pamphlet is a message from the Australian Oromo Community Association in Victoria addressed to the Australia authorities and public.
86. By letter dated [in] September 2008, the Tribunal invited the applicant to comment and/or respond to information in accordance with s424A of the Act. The main text of the letter follows:

You are invited to comment on or respond to information that the Tribunal considers would, subject to any comments or response you make, be the reason, or a part of the reason, for affirming the decision that is under review.

The particulars of the information:

- During the Tribunal hearing, the Member indicated to you that for a person such as you to obtain a working visa to travel to Cyprus, according to the immigration requirements indicated on the Cyprus government website, an applicant for a visa must provide a police certificate from their home country. The Member asked you if you had provided such a police certificate to the Cyprus authorities in your application for the work visa which you were granted. You replied that you did not as you were not required to provide it; you added that this was perhaps because your employer was the [employer deleted: s.431(2)] and they may have been exempted.
- Following the hearing, the Tribunal sought a report on these questions from the Australian Department of Foreign Affairs and Trade (DFAT). DFAT has provided a report containing responses to the questions from the Cyprus government regarding requirements for applications from Ethiopian nationals for visas to Cyprus. The report indicates that all Ethiopian nationals must provide from the Ethiopian police a "clean criminal record certificate".

This information is relevant to the review because, subject to your comments, the information now provided to the Tribunal from the Cyprus government indicates that as you were successful in securing a visa to travel and work in Cyprus, you had to have provided a

certificate from the Ethiopian police indicating that you had a clean criminal record. Central to your claims to the Tribunal is that you were evading the police as you feared persecution if the police in Ethiopia were to locate you. If the Tribunal relies on the information in the DFAT report, it may not accept your evidence that you have any cause to fear the police in Ethiopia as you would have obtained a certificate of a clean criminal record from the police in order to be granted the visa to Cyprus. This may lead the Tribunal to not accept your claim that you have a well founded fear of persecution for Convention reasons and may affirm the decision under review.

87. [In] September 2008, the Tribunal received a submission in reply to its letter [in] September 2008 including a statutory declaration from the applicant. The applicant stated that he was not asked to provide a police clearance certificate for the purposes of his work visa or work at the [employer deleted: s.431(2)] in Cyprus. He noted that the DFAT report indicated that it could not confirm whether in the applicant's case the police clearance certificate was waived. The applicant added that the Tribunal could contact the [employer deleted: s.431(2)] in Cyprus to make further enquiries however; he is concerned that such enquiries may cause difficulty to others as there is a new Italian ambassador to Cyprus.
88. The Tribunal made further enquiries with DFAT and was advised that the requirement of a police clearance certificate by the Cypriot authorities first came into effect in April 2008. Accordingly, while it appeared to be a relevant consideration to the review when the Tribunal became aware of the information from the Cyprus Government Website and from the first DFAT report, in light of the additional information from DFAT, the Tribunal has concluded that it has no relevance to the present case and the Tribunal has drawn no adverse inference from the lack of a police certificate as there was no such requirement at the time the applicant obtained his visa to Cyprus.
89. The Tribunal as it was then constituted affirmed the delegate's decision [in] November 2008.

The present review

90. Following the Court's Order in respect to the second review the Tribunal as presently constituted invited the applicant to appear before it [in] May 2009 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Amharic and English languages.
91. The applicant was represented in relation to the review. The representative attended the Tribunal hearing.
92. The applicant confirmed that he was born on the [date deleted: s431(2)] in Addis Ababa and that he is the second youngest of eight siblings. He stated that all but two of his siblings live in Ethiopia and that his mother lives in Ethiopia. His father was taken away by the Ethiopian authorities when the applicant was a child. Two of his sisters are residents of Cyprus.
93. The Tribunal asked the applicant why he feared returning to Ethiopia. The applicant stated that his father had problems, as did the applicant and his brother. The Tribunal asked the applicant to describe these problems. The applicant stated that because of his political involvement, and during his schooling time, he fears he will be captured and even executed if he returns to Ethiopia. The Tribunal asked the applicant if he meant that he was politically involved in the struggle of the Oromo people in Ethiopia, and the applicant responded that this was correct and that while he was at technical and vocational school he was involved in Oromo politics, and particularly with the "Oromo student network."

94. The Tribunal noted that, in country information before the Tribunal, no reference could be found to the Oromo “student network” that the applicant claimed he had been involved in. The applicant said that he was not surprised by this because the network was an underground network associated with the OLF. The applicant stated that the network’s lack of an official status did not mean that people were not dying because of their involvement, and that he knew people who had died as a result of their involvement in Oromo student politics. The applicant drew a diagram depicting the structure of the network and showed it to the Tribunal.
95. The Tribunal asked the applicant what college he had attended in Ethiopia. He stated that it was the [educational institute deleted: s431(2)]. The Tribunal queried whether that institute is where most people in Addis Ababa study [Profession A], and the applicant said that this was not so; that there were lots of technical and vocational institutions. The Tribunal asked him whether he has a qualification, and the applicant responded that he has completed all of his studies and was meant to go and graduate, but because he was wanted by the authorities at that time he was concerned that he may be found.
96. The Tribunal asked the applicant when he had first become interested in the struggle of the Oromo people. The applicant stated that he could not remember a date, but that it was a long time ago and it was because of his father’s involvement and a friend of his father with whom he had been meeting. The Tribunal asked the applicant how old he had been when his father was taken by the authorities. The applicant said he had been 13 or 14. The Tribunal asked the applicant whether it was his father being taken away by the authorities that was the trigger for his own involvement. The applicant said his father was taken and abused in front of his eyes and that it was an awful time. He stated that he knew his father’s dream and that he had come to take his father’s views.
97. The Tribunal noted that the applicant had claimed that the problems started in 1999 for his father and asked him what had happened at that time. The applicant stated that people came with guns to take his father; that they hit him and abused him; and that the family members were crying. The applicant stated that they put all of them in one room and that it was awful. The Tribunal asked the applicant if he had known of his father’s political involvement before his arrest or whether his arrest had come as a complete surprise. The applicant stated that he was young, but he had talked to many people about the freedom of the Oromo people and that this was his aim. He stated that he had not paid a lot of attention to what his father said because he had been young.
98. The Tribunal asked the applicant what his father’s job had been. The applicant said his father had worked in a private organisation and was a sole trader involved in fixing office equipment and buying and selling office equipment. The Tribunal asked the applicant where his father had been taken when he was arrested. The applicant stated that his father was imprisoned for six months near their home and that his mother had visited him, but after six months she was told that he had died. The Tribunal asked the applicant what he thought had happened to his father. The applicant stated that he cannot figure out exactly what happened because there was no official information. He stated that he had seen something on the internet regarding what might have happened to his father. He stated that in Addis Ababa there had been construction involving a bulldozer smashing many buildings and that the applicant believed that they may have found mass graves where people had been buried. The Tribunal asked the applicant whether his mother had tried to find out what had happened to her husband. The applicant stated that she was told he would never return. They tried to find

him through the Red Cross, but they couldn't find him. He stated that it has now been nine years and they have no clue.

99. The Tribunal asked the applicant whether anything had happened to other members of his family while his father was in detention. The applicant stated that after his father's imprisonment all of the family had to leave the area and go far away and that the family has been separated except for him and his younger sister. The Tribunal asked the applicant why he had to go far away. The applicant stated that it was because the authorities were suspicious of them and thought that his mother might also be helping the Oromo. He stated that his mother had been compelled to provide financial statements to show that she was not supporting the OLF. The Tribunal queried whether financial statements would actually show whether a person was donating to a political party. The applicant stated that the authorities would know whether political donations were affecting her income. The Tribunal asked the applicant how his mother had survived financially after his father had been put in prison. The applicant stated that she had tried to continue his father's business, but she was unable to do so and it closed.
100. The applicant told the Tribunal that his father was considered to have been doing bad things in the local area by the Ethiopian authorities and that his family had had to go away because they didn't want to become victims as well. The applicant stated that the government has a bad impression of the OLF and also has the wrong propaganda, which they have spread to everybody. The applicant told the Tribunal that before his father's arrest everyone had lived at home except for one married brother and one older sister who had gone to Cyprus – this was [Sister 2]. He stated that his older brother and his brother's wife were nearby. He stated that there were seven other kids plus his mother in the family and that while his father was in detention the others left.
101. The Tribunal asked the applicant whether his father had actually been a member of the OLF, and the applicant confirmed that he had. The Tribunal asked him what activities his father had been engaged in, and the applicant responded that the main reason for his imprisonment was the belief that his father was supporting the OLF with money and it was also clear that he was a member. The applicant stated it was also clear that his father was involved in the Metcha Tulema association. The applicant told the Tribunal that his father was one of the people who had a main role in speaking publicly to many people. The Tribunal asked the applicant whether he was saying that his father spoke out against the Ethiopian government publicly. The applicant said yes, that his father was speaking in public, especially for Metcha Tulema and many people came to hear him.
102. The Tribunal noted that the applicant had claimed that rumours were spread that his father was working against the country and asked him to explain this. The applicant stated that the current government used the media to say that the OLF are bad and that the OLF are killers and consequently the party is given a bad name. The applicant stated that people get the idea that the OLF is a bad party and that people would, therefore, think that his father is the same – that he is bad. He stated that people are convinced by incorrect political propaganda. The Tribunal noted that the applicant had stated that as a young boy he was insulted by students, teachers and hooligans. The Tribunal asked him to explain further. The applicant stated that people like him, when they were young, did not always realise what they were saying. People said things about him being an Oromo and things about his father's activities. The applicant told the Tribunal that the authorities came to his family home after his father had been arrested; that they looked for documents that his father might have used; and they kept coming to do the same things repeatedly. The Tribunal queried why the authorities would do

this if his father was already in detention. The applicant stated that he did not know why, but he thought that they were probably looking for material that his father may have hidden.

103. The Tribunal noted that the applicant claimed he also had an aunt who was involved in assisting the OLF and asked him what had happened to his aunt. The applicant stated that his aunt (his mother's sister) was a teacher, and she supported the OLF. He stated that she produced a music album and persuaded people through song. The Tribunal asked the applicant what his aunt's name had been, and he said her name was [Person 2] The Tribunal asked the applicant whether his aunt distributed her musical recordings commercially. The applicant stated that she did so through small distributors and publishers, but that after a while they shut the shops. He stated that his aunt was also a member of Metcha Tulema and she tried to sell her tapes to them. The Tribunal asked the applicant at what time or period his aunt had been involved in the production of musical recordings. The applicant responded that could not remember as he had been young.
104. The Tribunal asked the applicant what had happened to his aunt. The applicant stated that she was wanted by the government and she left her teaching job for a period of time for that reason. He stated that she moved from place to place for a long period. He stated that she went into hospital, and they found out that she was injected with a substance and died in hospital. The Tribunal asked the applicant why his aunt had been admitted to hospital and he stated that it was because she had pneumonia. The Tribunal asked him how he knew that his aunt had been injected with a substance that killed her. The applicant stated that the patient next to her had informed them. The Tribunal asked the applicant how this had come about, and queried whether he had attended the hospital where his aunt had been. The applicant stated that some of his family members went to that patient and found out what had happened
105. The Tribunal asked the applicant who he thought had killed his aunt. The applicant stated that it is difficult for him to explain, but that her activities and her role were important, and he believed that the government had done this. The Tribunal observed that it seemed an extreme act to murder someone in their bed in a public hospital ward. The applicant stated that they have done worse things, and that this is not so extreme for the Ethiopian authorities The Tribunal asked the applicant when his aunt had died. He stated that she died around 2002 according to the European calendar and that he had heard this from his family
106. The Tribunal noted that the applicant had said one of his sisters had lived with his aunt. The applicant agreed that his sister [Sister 1] had lived with her, but between 1999 and 2000 they often needed to stay away from the family home. The applicant stated that his sister was keen politically and was provoked by hearing about the party and chose to live with his aunt. The applicant told the Tribunal that the authorities had been looking for [Sister 1] and that she had had documents in relation to her support for the OLF, which is considered to be like a crime in Ethiopia. He stated that [Sister 1] and his aunt moved from place to place so they never stayed in one place for very long. The applicant then stated that [Sister 1] had been away from home for a long time.
107. The Tribunal asked the applicant what had happened to [Sister 1]. The applicant stated that she was wanted by the authorities and she managed to go to Cyprus The Tribunal asked him how. The applicant stated that this was also something of a question for him, but that Ethiopia is corrupt and that money can do anything. The Tribunal asked him if he was saying that [Sister 1] had bribed the authorities to get a passport. The applicant said yes, that it's easy to get a passport with money. The applicant stated that his sister had married in Cyprus in 2002.

108. The Tribunal asked the applicant whether he had known about his father's political activities before he contacted his father's friend, [Person 1], after the death of his father. The applicant stated that his mother had never really told him anything about his father so his father's friend [Person 1] told him things about his father. The Tribunal asked the applicant whether he had met [Person 1] before his father's detention, and the applicant agreed that he had known him since his childhood. The applicant stated that he had known some things, but that he didn't give it much attention until he was older. He stated that [Person 1] had believed that if he told the applicant about his pro-Oromo political activities, the applicant might have told other people and that the activities were illegal.
109. The Tribunal asked the applicant about the relationship between his father and [Person 1]. The applicant stated that they had grown up together. He stated that they came together from the same village, and they were friends until his father's detention. The applicant stated that because [Person 1] was very close to his family he then supported the applicant's mother. The applicant stated that [Person 1] has a wife and family of his own. The applicant told the Tribunal that before [Person 1] himself had been imprisoned, he was a director at the school where the applicant studied [Profession A]. The applicant described to the Tribunal how he and [Person 1] became friends. He stated that they went out together and [Person 1] talked to him about the party; about his father's political involvement; and about his disappearance. He stated that they discussed many things together, including politics and the applicant's father.
110. The Tribunal questioned the applicant about his claim that he had not known that [Person 1] was a director of the institute at which the applicant was studying. The applicant stated that he knew that he was a director at the institute, but did not know he was involved in the Oromo Student Network at the time. The applicant stated that it was only after he was approached by two students who were involved in the Oromo Student Network that he realised that [Person 1] was also involved. He stated that he hadn't told the applicant about his role in the Student Network because he was a director at the institute where the applicant studied and he might have thought it was a conflict of interest, and also because the applicant was very young.
111. The Tribunal asked the applicant to explain his claim that [Person 1] trained the applicant to play a role in the future struggle of the Oromo people. The applicant stated that [Person 1] had told him that the current government treat the Oromo badly and abuse the Oromo people. He stated that they insult the Oromo and Oromia and their race. The applicant stated that convincing other people that the Oromo are bad was part of the government's strategy and that they had tried to destroy the Oromo community. The applicant stated that it is hard for Oromos living with hatred and discrimination and that his mentor told him about his vision for the OLF and told him that the OLF is a party that stands for the Oromo people and will become stronger, and also told him about the members and about the current situation in Ethiopia. The applicant stated that training from [Person 1] made him feel very strong in his years and made him understand and not change his mind. He stated that he was affected by the struggle and his memory of his father and that his views have not changed since he has come to Australia, and that he remains connected with the Oromo cause here.
112. The Tribunal asked the applicant about his claim that there was daily intimidation of his mother by the federal police. The applicant stated that this was correct and that his mother was imprisoned after the applicant's disappearance. He stated that she doesn't have a normal life as she has to report to the Ethiopian authorities. The Tribunal queried that she would have to report daily to the Ethiopian authorities. The applicant stated that he had not meant

that his mother had to report daily, but rather that she had to report very frequently. He stated that the authorities came to his mother's house often and intimidated and insulted her. The Tribunal asked why they would do this, and the applicant stated that they believed that she shared the same beliefs as the applicant's father. He stated that it was federal police rather than local authorities who harassed his mother.

113. The Tribunal asked the applicant about his recruitment into the Oromo Student Network and asked him how he was recruited. The applicant said that two people who were students, and whom he named, approached him at his institution. He stated that he had known them before the recruitment process, and he used to meet with them and they described to him the recruitment in which they were involved. The applicant stated that these people approached him, and he believed that they were sent by [Person 1] and that this happened in around early 2003.
114. The Tribunal asked the applicant about the timing of his technical studies, and he stated that it was a two year course running from July or August 2001 until around July 2003. He stated that he could not be precise about the dates because of the differences between the Ethiopian calendar and the Australian calendar. The applicant stated that he knew that he was recruited a few months before he finished his course.
115. The Tribunal indicated that it seemed curious that the applicant would be recruited by the Oromo Student Network almost at the end of his course of study, rather than at the beginning. The applicant stated that he had been involved in some activities prior to his recruitment, but that his official recruitment into the network was at the end of studies, as he had indicated. The Tribunal asked him what the difference was in his political involvement as a result of this official recruitment. The applicant stated that the difference was that beforehand his activity was not official although he did speak to other people. He stated that after his official recruitment he got an identity card which helped with trust. The Tribunal queried who produced the identity card. The applicant stated that he received it from the two students who approached him to join the network, who had themselves received it from [Person 1].
116. The Tribunal queried how [Person 1] could be both a director of a college and a leader in the Oromo Student Network. The applicant stated the students at the college generally did not know that [Person 1] was involved in the Oromo Student Network, and that only people involved in that network knew of his role.
117. The Tribunal noted that the applicant had claimed that [Person 1] worked for the OLF. The applicant stated that this was correct. The Tribunal asked him what [Person 1]'s role was with the OLF. The applicant stated his role was as a member of the Oromo Student Network, and that he was the link between the students and the OLF. The Tribunal asked the applicant whether he had ever been a member of the OLF and he stated that he had not. The Tribunal asked the applicant about his claims to have distributed printed materials for the Oromo Student Network. The applicant stated that this was correct. He had distributed pamphlets and papers published by the OLF. The Tribunal asked him where he had stored these materials. He stated that he stored them at his house. The Tribunal asked him how he could have done this if his house was, as claimed, being searched from time to time by the Ethiopian authorities. The applicant stated that he had no other choice, although he was scared.
118. The Tribunal asked the applicant to tell the Tribunal a little about the activities of the Oromo Student Network. The applicant stated that he had known [Person 1] earlier and he helped the applicant understand about the student network. The applicant stated that their aim was to

recruit Oromo people who were living and studying around that area. He stated that [Person 1] used to tell him about how Oromos had suffered under previous Ethiopian regimes, and how badly they are treated. He stated that [Person 1] directed him about these things, and explained the Oromo history. The applicant stated that they did not discuss the activities of the Oromo Student Network, but talked about OLF strategies and activities and aims and objectives. The applicant stated that after he heard about these things it influenced his thinking and understanding, and he wanted to stand up for the Oromo people and recruit other people to the cause. The applicant stated that he wanted to impart knowledge and wanted people to be proud to be Oromo. The applicant told the Tribunal that the Oromo Student network had a number of functions and that the main one was to make people good Oromos like the applicant's mentor was, and that was why the applicant want to recruit other Oromos and impart knowledge to them, and hope that they too will share his objectives.

119. The Tribunal asked the applicant what his objectives were, and he responded that his main objectives were to bring change and justice in terms of past and current governments of Ethiopia. He stated that the mistreatment of his people needs to be revealed. The Tribunal asked the applicant whether he had ever been involved in any protests or demonstrations and he stated that he had not, as they were not allowed to by the government. He stated that nobody can get together in support of the OLF. The Tribunal asked the applicant whether he had been aware of any student protests in and around Addis Ababa. He responded that there was not permission for such activities in Addis Ababa at the time.
120. The Tribunal asked the applicant whether he could name any of the pro-Oromo opposition parties in Ethiopia. He named the OPDO, the 'Oromo Liberation United Front' and 'Oromo Freedom'. The Tribunal asked him why he had not supported one of these parties rather than the officially sanctioned OLF. The applicant stated that he did not believe that the registered parties really supported the Oromo movement and that they did what they are told. The Tribunal asked the applicant whether he could tell the Tribunal anything about the Coalition for Unity and Democracy Party (CUDP). The applicant stated that this was the party that won the election in 2005. He stated they have been sabotaged by the current government and many have been imprisoned.
121. The Tribunal asked the applicant about his claim that he had helped to organise the Waqefata celebration. The applicant stated that the celebration has been going on for many years in the country. He stated that it takes place every year and that he tried to bring it from the country into the city. He said that this is a cultural celebration and that in Oromia they celebrate with cultural dress and food. He stated that he attempted to allow the celebration to take place in Addis Ababa, and although he could not remember the month he thinks it was in around July or August 2003. The Tribunal asked the applicant if there were any problems associated with the festival, and he responded that there were no problems at that time, but still everybody had a feeling that it was time to organise and show people about crowd feeling in the Oromo culture.
122. The Tribunal noted that there seemed to be an inconsistency between the applicant's claims regarding the secretiveness of the student network that he was involved in and his participation in a very public festival. The applicant stated that they never used the name of Oromo Student Network and that the festival was organised by the Metcha Tulema Association.
123. The Tribunal asked the applicant about his claim that [Person 1] was arrested. The applicant stated that this happened at the beginning of 2004. The applicant stated that all he knew was

that [Person 1] had been imprisoned because the applicant was told by two of his friends. The Tribunal asked who these friends were, and the applicant said that they were friends of his mother and his father. The Tribunal asked him how he knew that the authorities had extracted information from [Person 1] by torture. The applicant stated he couldn't remember whether he asked his friends, but that after he heard he didn't have any chance to ask them any other questions. He stated that all he knew was that [Person 1] had gone to prison. The Tribunal asked the applicant how he could, therefore, say that the authorities had been to [Person 1]'s house and took a list of papers, including the names of students that he worked with. The applicant stated that he realised this after he heard from these people. He stated that they came to him because he was [Person 1]'s friend and they suspected that this was the case. The Tribunal asked the applicant if he was saying he didn't know that there was a list of [Person 1]'s associates, but merely suspected it. The applicant stated that the people knew that [Person 1] had had documents confiscated.

124. The Tribunal asked the applicant why, given the secretiveness of the network, [Person 1] would keep a list of names in writing. The applicant stated that it is very hard for him to stand in his shoes and say how he does things, but that he thinks that this is what happened. The Tribunal asked the applicant what eventually happened to [Person 1]. The applicant stated that after he left home he does not know what happened to him. The Tribunal asked him whether he had asked anyone else or otherwise tried to find out. The applicant stated that he tried to ask his mother, but she wasn't keen to tell him anything. He stated that he tried to gather other information about what was going on from Oromo people, but that he was sensitive about asking people questions about these things.
125. The Tribunal asked the applicant what he did after this. He stated that he took his belongings and went to his uncle's house in another part of Ethiopia. The Tribunal asked him for how long he stayed with his uncle. The applicant stated that it was his uncle's place where he mainly stayed, but he stayed at some other places as well and that this happened for a large part of 2004.
126. The Tribunal asked the applicant about his claim that his family home had been raided. The applicant stated that he heard that the house where his mother lived was raided and that she was taken to prison. He stated that his uncle had told him that she had been detained for about a week. The Tribunal asked the applicant whether he had spoken to his mother about this. The applicant stated that she doesn't want him to be worried as he is her beloved son. He stated that she tries to protect him.
127. The Tribunal asked the applicant how he had arranged to go to Cyprus. He stated that his sister [Sister 2] realised that she needed to get the applicant out of Ethiopia. He stated that [Sister 2] herself had gone to Cyprus for work and stayed for along time. The Tribunal asked the applicant if he had a passport, and he said that he did and that it was issued [in] October 2004. The Tribunal asked him why he waited until then to obtain a passport, and he responded that it wasn't easy for him to organise the passport. The Tribunal asked him whether he had any difficulty in leaving the country, and he responded that it wasn't easy to travel through the airport and that he was scared. He stated that people helped him and that he needed to get out of the country. The Tribunal questioned the applicant regarding a lack of clarity in his evidence about the payment of a bribe to leave Ethiopia. The applicant stated that he had described this in a previous hearing, and he didn't know the exact identity of the person to whom the bribe was paid. He stated that his uncle feared putting anything in writing.

128. The Tribunal asked the applicant for how long he lived in Cyprus, and he stated that he stayed there for about two years. He confirmed that he worked at the [employer deleted: s.431(2)] in Cyprus. He stated that he did labouring and cleaning work.
129. The Tribunal asked the applicant why he did not stay in Cyprus. The applicant described difficulties that his sisters had experienced in seeking asylum in Cyprus and indicated that he did not want to stay there for these reasons. The applicant explained that he had been able to get work at the [employer deleted: s.431(2)] in Cyprus without any police or security clearance from Ethiopia because his sister was close to the [executive position deleted: s.431(2)], and she explained his situation and there were no problems. The Tribunal asked the applicant whether he had engaged in any political activity regarding Oromo rights while he was in Cyprus, and he stated that he had not. The Tribunal asked the applicant why he came to Australia, and he stated that his sister had an acquaintance living in Australia who had been in a similar situation to him and got asylum in Australia. The applicant stated that he did not know anyone else in Australia.
130. The Tribunal noted that the applicant had made comments about a lot happening to his mother and asked him to elaborate. The applicant stated that he only knew what had happened from talking to his sisters and that he understood his mother had been imprisoned because of the applicant. He stated that his mother has passed through much hardship since his father's disappearance.
131. The Tribunal asked the applicant whether his siblings had experienced any problems with the Ethiopian authorities. The applicant stated that as Oromo individuals they have had some difficulties, but not because of their political views. He stated that it is common in Ethiopia for Oromos to be abused.
132. The Tribunal noted that at a hearing [in] November 2008, before the Tribunal differently constituted, he had raised some new claims. The Tribunal noted that the applicant had said that some people who had arranged his passport had been to visit his mother. The applicant stated that this was correct; that the people who helped him, who were workers in immigration, had been to visit his mother. The Tribunal asked the applicant why these people had visited his mother, and the applicant stated that they knew that the applicant had a four year visa to Cyprus and that if he came back after four years they were afraid that they might be questioned about how he got his passport. He stated that they were afraid that someone would find out the role that they had played. The Tribunal asked him how these people could be aware of the potential expiry of his visa in Cyprus. The applicant stated that at the time he had had an old passport and he had to show it to someone to get his current passport. He stated that it was a difficult time to get a passport. The applicant stated that he got a sponsorship from his sister in Cyprus enabling him to get a four year visa to that country, but then had to renew his passport. The applicant stated that they therefore knew that he was going for four years.
133. The Tribunal asked the applicant when these officials had approached his mother, and he responded that he did not remember, but that he thought it was at the end of 2005. The Tribunal asked the applicant what they had said to her. The applicant stated that they came to ask about where the applicant was and asked his mother to tell him not to come back or they could be in trouble because of the passport.
134. The Tribunal noted that it is several years since the applicant has been in Ethiopia and asked him why he now feared returning there. The applicant stated that he was wanted when he left

Ethiopia. He stated that if he goes back he will be putting people at risk. The Tribunal asked him how he knew that he was wanted, and he stated that it is clear that his mother has been questioned about the whereabouts of both him and his sisters.

135. The Tribunal asked the applicant about his observation that the situation in Ethiopia has deteriorated since the 2005 election. The applicant stated that the government treats people brutally. He stated that other political party people have been imprisoned and tortured. The Tribunal asked the applicant whether he has been engaged in any political activity relating to the rights of Ethiopian Oromo while he has been in Australia. The applicant stated that he is not a member of anything, but remains a supporter of the OLF. He stated that he also attends meetings and gatherings and the last one was two weeks ago and that it was a meeting for OLF members and supporters. He stated that a person from Washington had spoken at this gathering. The applicant stated that as a member of the Oromo community he has also attended other activities. The applicant stated that he is a good acquaintance of OLF members in the Australian community and that they meet and talk from time to time.
136. The Tribunal asked the applicant some further questions regarding what he was able to tell the Tribunal about student protests in Addis Ababa during 2001, 2002 and 2003. The applicant stated that the student movement in and around Addis Ababa was the only way to denounce the government by going out and demonstrating. He stated that this activity was especially around Addis Ababa University, but also at various state institutions including schools. The applicant stated that the problem is that the government doesn't allow any demonstrating so many students are killed or arrested and imprisoned or disappear. He stated that people with a profile like his own are wanted by the government. The Tribunal noted that the applicant has brothers who are living and working without any difficulty in Ethiopia. The applicant stated that this was correct because they were not members of any party. He stated that it is hard to explain about his siblings, but that they are not involved in any activity associated with politics. He stated that people who work for the Oromo people who still live in Ethiopia have difficulties.
137. The applicant's representative provided the Tribunal with a copy of a letter from [doctor's name and health service deleted: s431(2)]. The letter states that [doctor's name deleted: s431(2)] has interviewed the applicant on three occasions between February and May 2009 and has reviewed his medical records. According to the letter the applicant presented with a history of depressed mood of several months duration, thoughts of hopelessness and uncertainty and impaired concentration. He reported distressing nightmares including recurrent dreams about the suffering of his family. He presented however as reserved in his expression of emotional distress. The letter restates the substance of the applicant's claims. It states that the applicant's presentation is consistent with Adjustment disorder with depressed mood, and that he has been prescribed antidepressant medication.
138. By letter dated [in] August 2009 the applicant's representative wrote to the Tribunal stating that she had spoken to two of the applicant's sisters, [Sister 2] and [Sister 1], in Cyprus, and that both corroborated the applicant's claims in some detail. The representative requested that the Tribunal contact [Sister 2] and [Sister 1] and noted that the applicant was willing to attend another hearing. According to the applicant's representative, the applicant had listened to the recordings of the Tribunal hearing [in] May and believed that it some respects his claims had not been accurately conveyed by the interpreter.
139. The Tribunal invited the applicant to attend a further hearing [in] September 2009 to provide further evidence and to enable the Tribunal to hear the evidence of [Sister 2] and [Sister 1].

The Tribunal hearing was conducted with the assistance of an interpreter in the Amharic and English languages, who was specifically requested by the applicant.

140. The applicant was represented in relation to the review. The representative attended the Tribunal hearing.
141. The Tribunal asked the applicant to re-iterate for the Tribunal the reasons why he fears persecution should he return to Ethiopia. The applicant provided a detailed response in terms consistent with his evidence at the previous hearing. He restated the circumstances of his various family members, his relationship with [Person 1], his involvement with the Oromo student network, and his fear of being apprehended by the Ethiopian authorities after the arrest and detention of [Person 1]. The applicant described his flight from Ethiopia to Cyprus and his work for the [employer deleted: s.431(2)] in Cyprus. The Tribunal questioned the applicant about why he had not applied for protection in Cyprus. The applicant stated that if he had lodged a protection application in Cyprus he would not have been entitled to work there. He stated that his expectation at the time was that, should the situation change in Ethiopia, he would have been able to return to his own country after four years in Cyprus. He had thought that if this not eventuate, he would seek asylum in a third country which is what he has done.
142. The Tribunal asked the applicant whether he has heard any information regarding [Person 1]. The applicant stated that he had heard from the Oromo community that [Person 1] had been transferred to a detention centre in the desert. The Tribunal asked him whether he had any contact with [Person 1]'s wife and children. The applicant stated that he had not and he did not want to because he does not know what activities they might be involved in or the potential consequences of contacting them. The Tribunal asked the applicant whether he believed the telephone system in Ethiopia was under the surveillance of the Ethiopian authorities. The applicant stated that he was not sure that the authorities had technological capacity to do this when he left the country, but he believed that they might be able to do so now. He stated that it was for this reason that he makes little contact with anyone in Ethiopia by telephone.
143. The Tribunal heard evidence from [Sister 1] by telephone from Cyprus.
144. The witness confirmed that she had travelled to Cyprus from Ethiopia in 2002, and that she had fled Ethiopia because of her political activities in Ethiopia. The witness confirmed that she had assisted her aunt who was a musician with her work in mobilising the Oromo population. She stated that she had been involved with the work of the OLF and had herself written poetry which was political in character.
145. The Tribunal asked the witness when the review applicant had travelled from Ethiopia to Cyprus and she confirmed that this had happened around 2004. She stated that the review applicant had been involved in the Oromo student network and had needed to leave Ethiopia. The Tribunal asked the witness to describe the nature of the review applicant's political involvement. She stated that their political beliefs came from their father, and their beliefs are "in us". She stated that the review applicant's political involvement had been associated with his studies and he had joined a pro-Oromo student network which was associated with the OLF.
146. The Tribunal asked the witness whether the applicant had any reason to fear returning to Ethiopia. She stated that he did. The witness stated that the applicant had left Ethiopia

because the family had feared that he would be arrested and detained by the Ethiopian authorities. She stated that he was in hiding before he left Ethiopia and that if he returns he could be arrested and could even be killed.

147. The Tribunal asked the witness what had happened to her aunt, [Person 2]. The witness stated that [Person 2] had helped to mobilise society through her music. She stated that [Person 2] had to be hospitalised with pneumonia, and had died in hospital. The witness stated that when she was told that [Person 2] had died she went to the hospital and asked the woman who had occupied the next bed what had happened, and was told that she had died as a result of an injection.
148. The Tribunal heard evidence from [Sister 2] by telephone from Cyprus. The Tribunal asked the witness whether she had played any role in the applicant's departure from Ethiopia. [Sister 2] stated that she had done so. She stated that she assisted the applicant by sending him money and also by giving him ideas. The witness stated that it was her uncle who had first given her the idea that she must try to get the applicant out of Ethiopia. She stated that her uncle had told her the nature of the problems confronting the applicant and said that she should make whatever sacrifices were necessary. She stated that her uncle had also assisted the applicant with money and obtaining documents. The Tribunal asked the witness what documents she referred to, and she stated that she meant travel documents and medical papers. She stated that to obtain the applicant's travel documents the family had to pay bribes.
149. The Tribunal asked the applicant who had to be bribed to obtain the applicant's passport and she stated that she did not know to whom the bribe was paid but that she had sent money for the purpose to their uncle, who is their mother's brother.
150. The witness gave evidence that she had assisted the applicant to obtain a job as a houseboy at the [employer deleted: s.431(2)] in Cyprus where she also worked. The witness stated that although she did not tell her bosses the exact nature of her concerns about her brother they nevertheless helped her. The Tribunal asked her whether it was because of her work at the [employer deleted: s.431(2)] that her brother did not have to provide police or security clearances. The witness stated that this was likely to be the case, and that her employers thought very well of her and her work and were therefore willing to help her by employing the applicant.
151. The Tribunal asked the witness why the applicant had not remained with his sisters in Cyprus and the witness gave evidence in terms consistent with that of the review applicant in regard to this issue. The witness also told the Tribunal that she and her sister had been through the experience of [Sister 1] applying for protection in Cyprus and receiving no response at all over a long period of time, leading them to conclude that this course of action would not assist the review applicant. She stated that she had supported her brother in seeking protection in a third country.
152. In concluding the hearing the Tribunal again raised with the review applicant its concerns in regard to the scant evidence before it about the existence or activities of the Oromo student network. The applicant stated that the Oromo student network is not a formal entity known by a particular name but a network that operates in schools and colleges in Oromia and also in Addis Ababa, and is a loosely connected movement committed to raising awareness about issues affecting Oromo people. The applicant told the Tribunal that although there had been significant student protests in Addis Ababa he had chosen not to attend such demonstrations because he was concerned that he could make things worse for his mother who was already

under surveillance by the authorities. He stated that he contributed to the Oromo student movement in more covert ways.

153. The applicant volunteered to try to provide the Tribunal with a recording of his aunt [Person 2]'s protest music, which he considered may be available within the Oromo community in Melbourne. After discussing the nature of the recorded material the Tribunal indicated that the provision of the material would not assist the Tribunal, and thanked the applicant, nevertheless, for the suggestion.

Country Information

154. According to the official OLF website; the Oromo comprise the largest ethnic group in Ethiopia comprising up to 40% of Ethiopia's population and Oromia is the largest of Ethiopia's 9 states. Oromo leaders and activists argue that the repression of the Oromo population constitutes a form of state terrorism such that;

They do not have personal and public safety in their homes and communities. They are exposed to massive political violence, human right violations and absolute poverty. Because of the magnitude of the Oromo problem, it is impossible to provide a numerical face to the devastating effects of violence, poverty, hunger, suffering, malnutrition, disease, ignorance, alienation, and hopelessness. Since the Meles regime is weak and lacks legitimacy, accountability, and professionalism, it could not and cannot solve these massive and complex problems...State terrorism is a systematic governmental policy in which massive violence is practiced on a given population group with the goal of eliminating any behaviour which promotes political struggle or resistance by members of that group.

155. The same writer also makes the claim that the wider OLF has become almost synonymous with the Oromo people, with the regime's actions consistent with the destruction of both;

With the increasing intensity of the Oromo national movement, the Tigrayan authoritarian-terrorist regime is determined to increase the level of mass killings and terrorism. The regime is concerned with the existence of the OLF and the support and sympathy this organization enjoys from the majority of the Oromo people...What bothers the regime is that the more it terrorizes the Oromo people by killing or imprisoning thousands of them by claiming that they are the supporters of the OLF, the more the Oromo are determined to embrace Oromo nationalism and the OLF. As a result, the Oromo and the OLF have almost become synonymous. Therefore, it is impossible to destroy the OLF without destroying the Oromo people. (Jalata, A, "The impacts of Ethiopian state terrorism and globalization of the Oromo national movement" 2005, Oromo Liberation Front website, <http://www.omoliberationfront.org/Publications/Publications.htm> - Accessed 8 May 2008

156. Human Rights Watch reported prior to the recent elections that;

A dominant theme in the EPRDF's political discourse on Oromia is the need to combat the activities of the outlawed Oromo Liberation Front (OLF), which has been fighting a low-level insurrection against the government for years with Eritrean backing. Across much of Oromia, local officials have routinely and for many years used unproven allegations of links to the OLF as a pretext to subject law-abiding government critics to arbitrary detention, torture, extrajudicial killing, and other forms of human rights abuse.

Local officials in Oromia have also made extensive use of the kebele system, along with smaller cells called gott and garee, to keep residents under constant surveillance for signs of government criticism. The overwhelming majority of local and regional authorities in Oromia

belong to the Oromo People's Democratic Organization (OPDO), which is the regional arm of the EPRDF.

Ethiopia's last elections were parliamentary polls in 2005. The run-up to the elections saw signs of openness in some areas, though in most constituencies the same patterns of repression documented above prevailed. Following the elections, opposition efforts to contest the results sparked a heavy-handed government crackdown that saw several hundred people gunned down in the streets of Addis Ababa, mass arrests of perceived opposition supporters, and several prominent opposition leaders jailed on charges of treason that were ultimately dropped. ("Repression sets stage for non-competitive elections" 2008, Human Rights Watch, 10 April, <http://allafrica.com/stories/200804110930.html?viewall=1> – Accessed 6 May 2008

157. A 2008 report of the Department of Foreign Affairs and Trade in respect to an Oromo applicant states that;

There have also been reports of Oromo Liberation Front (OLF) members (as well as Oromos who are generally accused of being OLF sympathisers) being seriously harassed by the authorities. While not prepared to comment on the specifics of this case, they noted that in general it is clear that serious human rights violations are committed against those perceived to be a real threat to the government (such as the OLF).

158. A number of reports refer to the adverse treatment of individuals suspected of having links with the Oromo Liberation Front. According to Human Rights Watch;

In Oromia, Ethiopia's most populous state, government authorities have used the fact of a long-standing insurgency by the Oromo Liberation Front (OLF) to imprison, harass, and physically abuse critics, including school children. Victims are informally accused of supporting the OLF, an outlawed rebel group, but supporters of the Oromo National Congress (ONC) and the Oromo Federalist Democratic Movement (OFDM), registered opposition political parties, suffer similar treatment. In early January, more than thirty students were arrested and at least one, a tenth-grader, died as a result of police beatings in Dembi Dollo, western Oromia. Other students were severely injured and hospitalized. Also in January, local police and militia members in Ghimbi shot two high school students dead, one as he and others were walking peacefully along, the other as he covered the body of the first with his own in order to protect him from further harm. In March security officials allegedly executed 19 men and a 14-year-old girl near Mieso in northeastern Oromia. Starting in August, federal and state security forces arrested well over 200 people in western Oromia, including three members of the executive committee of the Nekemte chapter of the Ethiopian Human Rights Council and OFDM members, on suspicion of links to the OLF. Some, including the EHRCO officials, were released under court order after the police failed to provide evidence against them but most were still detained as of early November. At least 25 were being held in defiance of court orders to release them (Human Rights Watch 2008, *World Report 2008 – Ethiopia*

159. The Ethiopian Human Rights Council provides regular reports on human rights throughout Ethiopia. In its most recent report the Council provides the list of members or supporters of OFDM who were purportedly being detained at the Addis Ababa Central Crime Investigation Department and elsewhere since August 2007 "for allegedly having links with the Oromo Liberation Front". Forty names are listed. (Ethiopian Human Rights Council 2008, '29th Regular Report', January, EHRCO website <http://www.ehrco.org/> - Accessed 6 May 2008

160. Earlier reports record similar events of illegal detention, including Sewnet Sequarere:

He is a father of one living in the CMC locality in Addis Ababa. On 30 May 2007, armed policemen arrested him without a warrant on suspicion of links to the Oromo Liberation Front (OLF). The policemen took him to the Central Crime Investigation Department (*Maikelawi*) and detained him there. He was taken to court on 2 June 2007. His family told EHRCO that Sewnet had his cloths [sic] torn up and he was also limping on the day he was brought to court and they suspect that he was assaulted in *Maikelawi*.

...

[Likewise] Tarekegn Bersosa. He is a college student living in Addis Ababa Sholla locality. On 26 May 2007 armed policemen arrested him without a warrant in Fincha town of the Oromia Region on suspicion of having links with the Oromo Liberation Front (OLF). He was brought to Addis Ababa and has been detained at the Central Crime Investigation Department (*Maikelawi*) since then. (Ethiopian Human Rights Council 2008, '28th Regular Report', 20 September, EHRCO website <http://www.ehrco.org/> - Accessed 8 May 2008

161. The Oromo Support Group also provides regular reports on human rights, its most recent being for 2006-2007 and it includes a description of an unexplained death of an Oromo pharmacy student at Addis Ababa University in April 2007 which resulted in a demonstration at the end of that month.

Against Oromo cultural norms and without permission from the student's parents, internal organs, including his eyes, were removed and the body was severely disfigured. The outrage was intensified by the university President, Dr Endrias Eshete, who made derogatory comments to the young man's father and student representatives, when they complained. Government special riot police, the 'Agazi', dispersed the rally on the campus, using force, injuring and imprisoning an unknown number of students. (Oromo Support Group undated, OSG Press Release No. 43, July 2006-2007 <http://www.oromo.org/osg/pr43.htm> - Accessed 7 May 2008

162. The US Department of State has reported that

Security forces arrested without warrant hundreds of persons during the year, particularly prior to the Ethiopian New Year on September 11. Security forces began arresting individuals throughout the Oromiya Region on the grounds that they were involved with the OLF and possibly planning terrorist activity. Many of those arrested were members of the opposition UEDF or OFDM parties. Approximately 450 cases of arrest were reported to opposition party offices in Addis Ababa. (US Department of State 2008, *Country Reports on Human Rights Practices 2007 – Ethiopia* 11 March (Section 1d)

163. In a presentation to a sub-committee of the Irish Parliament in respect to the situation in Ethiopia it was stated that;

Any person who expresses sympathy for the opposition is systematically accused of having OLF sympathies and becomes a military target, following which he or she is subjected to harassment, arbitrary arrest and so on. In addition, the Government looks to provoke tensions between communities to prevent unification of the opposition, justify further reparations and provoke mass arrests, the purpose of which is to target

specific persons such as high profile opponents and leaders of the community. (Joint Committee on Foreign Affairs Sub-Committee on Human Rights, 'Human Rights and Political Situation in Ethiopia: Presentation' 2006, National Parliament of Ireland (Oireachtas) website, <http://debates.oireachtas.ie/DDebate.aspx?F=FOH20061206.xml&Node=H2> – Accessed 8 May 2008

FINDINGS AND REASONS

164. The applicant travelled to Australia on a valid Ethiopian passport and states that he is a national of Ethiopia. He has provided evidence of his background in Ethiopia. The Tribunal finds that he is a national of Ethiopia and therefore for the purposes of the Convention the Tribunal has assessed his claims against Ethiopia as his country of nationality.
165. In determining whether an applicant is entitled to protection in Australia, the Tribunal must first make findings on the claims the applicant has made. This may involve an assessment of the applicant's credibility. In assessing credibility, it is important to be sensitive to the difficulties often faced by asylum seekers. The benefit of the doubt should be given to asylum seekers who are generally credible but unable to substantiate all of their claims. That said, the Tribunal is not required to accept uncritically any or all allegations made by the applicant. In addition, the Tribunal is not required to have rebutting evidence available to it before it can find that a particular factual assertion by an applicant has not been made out. Moreover the Tribunal is not obliged to accept claims that are inconsistent with the independent evidence regarding the situation in the applicant's country of nationality. See *Randhawa v MILGEA* (1994) 52 FCR 437 at 451, per Beaumont J: *Selvaduri v MIEA & Anor* (1994) 34 ALD 347 at 348 per Heerey J and *Kopalapillai v MIMA* (1998) 86 FCR 547. If the Tribunal makes an adverse finding with confidence in relation to a material claim made by an applicant, but is unable to make a finding with confidence, it must proceed to assess the claim on the basis that the claim might possibly be true.
166. The Tribunal has considered the applicant's claims to fear persecution for reason of his political opinion and activities in support of the Oromo people in Ethiopia and the OLF; his imputed political opinion for reason that his father, sister and aunt were politically active OLF members; and his Oromo ethnicity.
167. As the Tribunal discussed with the applicant at hearing, the applicant has been unable to substantiate his claims with corroborative material regarding his and his family members' political activities or any consequent adverse interest in him by the Ethiopian authorities. However in the course of his review application the applicant has attended four Tribunal hearings over the course of two years during which he has provided evidence which has remained consistent in its detail. It has also been consistent with his original statement of claims, and consistent with independent country information before the Tribunal in respect to the treatment of Oromo people in Ethiopia who are suspected of political sympathy for the Oromo Liberation Front and other groups opposed to the Ethiopian government.
168. The Tribunal has also had the benefit of hearing the evidence of the witnesses [Sister 2] and [Sister 1] who are the applicant's sisters. Both of those witnesses provided detailed and credible evidence which was consistent with the applicant's claims. In particular [Sister 1] provided the Tribunal with details regarding her aunt, [Person 2], including details of her political activities, her relationship with the applicant's family and the circumstances of her death which were wholly consistent with the applicant's claims in respect to this matter. This

witness also provided evidence regarding her own political beliefs and activities, her fear of the Ethiopian authorities and her flight from Ethiopia in terms consistent with the applicant's evidence. She and her sister [Sister 2] provided evidence regarding the review applicant's political activities, his departure from Ethiopia for Cyprus, the role of their uncle in facilitating his departure and the reasons for the review applicant's decision not to seek protection in Cyprus. Their evidence in respect to these matters was consistent with the applicant's evidence.

169. Both the applicant and sisters have provided evidence that, although the applicant is not a member of a political party, he has been active in the student movement, specifically in his promotion of Oromo rights and independence, and has been involved in meetings, the organising of events and the distribution of literature. Both the applicant and his sisters have provided detailed evidence in respect to their shared family history, which is consistent with the independent country information set out above, and in respect to the arrest and detention of the applicant's father and aunt, and the subsequent death in hospital of the latter. The applicant and his sisters have provided the Tribunal with consistent evidence in respect to the applicant coming to the adverse attention of the Ethiopian authorities as a result of his association with his father's friend [Person 1], and the applicant's subsequent flight to Cyprus with the assistance of his sisters and his uncle. The Tribunal accepts the applicant's evidence in respect to these matters.
170. The applicant has given evidence that his mother's activities and her home are monitored by the Ethiopian authorities. The applicant's evidence in respect to this claim is consistent with the independent country information before the Tribunal which is set out above. The Tribunal accepts the applicant's evidence in respect to this matter.
171. The applicant does not claim to have personally experienced serious harm for a Convention reason in the past in Ethiopia, but rather to fear serious harm should he return there. It is established law that an applicant does not have to show past persecution in order to demonstrate a well-founded fear of being persecuted (*Abebe v The Commonwealth* (1999) 197 CLR 611). The Tribunal found the applicant to be a credible witness who has described in detail the circumstances and events which have given rise to his fear of persecution should he return to Ethiopia. His evidence is supported by the evidence of two of his sisters. The Tribunal accepts that the applicant fears persecution in Ethiopia for a Convention reason, being his ethnicity and his actual and imputed political opinion in support of Oromo rights in Ethiopia.
172. The Tribunal accepts on the evidence before it that the applicant is fearful of persecution for reasons of his ethnicity and political opinion if he returns to Ethiopia. In considering whether that fear is well founded, the Tribunal must be satisfied that his fear is based upon a real chance of persecution.
173. The Tribunal finds that the harm which the applicant fears should he return to Ethiopia, being arrest, detention, interrogation, physical abuse and possible death amounts to persecution within the meaning of the Convention definition. The incidence of that harm provides a basis for determining the probability of harm in the future (*Minister for Immigration and Ethnic Affairs v Guo* (1997) 191 CLR 559). In assessing the chance of future harm, the Tribunal takes into account the country of origin information referred to above that Oromo people who are perceived to be members of, or supporters of pro-Oromo political parties, in particular the OLF, or are active in their support of Oromo rights, are subject to repression by the authorities.

174. The Tribunal takes into account the evidence of the applicant that, because of his father's political involvement and his own involvement in student politics, his family has come under the ongoing surveillance of the Ethiopian police. The Tribunal further takes into account the evidence of the applicant and his sister that the applicant has been politically motivated and active in promoting the rights of Oromos for several years, and would continue that involvement should he return to Ethiopia. The applicant's ongoing involvement in pro-Oromo activities since his arrival in Australia is supported by statement of [Senior Official A], of the Australian Oromo Community Association of Victoria which is before the Tribunal. The Tribunal is satisfied on the evidence before it that the applicant, in involving himself with pro-Oromo activities in Australia, was engaging in conduct otherwise than for the purposes of strengthening his claim to be a refugee for the purposes of 91R(3)(b). Accordingly, the Tribunal has taken the applicant's conduct into account. The Tribunal acknowledges that the applicant ceased his political activity in the period during which he was living in Cyprus, but accepts that the applicant was attempting to avoid adverse attention during that period, and was reliant on his job at the [employer deleted: s.431(2) and did not wish to jeopardize his chance of obtaining protection in a third country.
175. Given the Tribunal's findings in respect to the applicant's claims and in the context of the country information before Tribunal as set out above, there is a real chance of the applicant experiencing serious harm for a Convention reason should he return to Ethiopia now or in the reasonably foreseeable future. On the basis of the evidence before it and independent country information, the Tribunal is satisfied that the applicant's ethnicity and his actual and imputed political opinion are the essential and significant reasons for the applicant's fear of persecution and that the persecution feared, including arrest, detention and physical abuse by the Ethiopian authorities would involve serious harm to the applicant and would amount to systematic and discriminatory conduct.
176. Since the Ethiopian government is responsible for the persecution which the applicant fears, it follows that the applicant cannot seek state protection in Ethiopia. Because the persecution is not localised, the Tribunal considers that there is no part of Ethiopia to which the applicant could reasonably be expected to relocate where he would be safe from persecution. There is nothing in the evidence to suggest that he has a legally enforceable right to enter and reside in any other country apart from his country of nationality. The applicant is therefore not excluded from Australia's protection by s.36(3) of the Act. It follows that the Tribunal is satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention.

CONCLUSIONS

177. The Tribunal is satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicant satisfies the criterion set out in s.36(2)(a) for a protection visa.

DECISION

178. The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act, being a person to whom Australia has protection obligations under the Refugees Convention.

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