



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/08351/2016

**THE IMMIGRATION ACTS**

Heard at Field House  
on: 20 October 2017

Decision and Reasons Promulgated  
on: 3 January 2018

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE CHANA**

**Between**

**LB**  
(ANONYMITY DIRECTION MADE)

Appellant

**and**

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

Respondent

**Representation:**

For the appellant: Mr T Hodson, of Counsel

For the respondent: Ms Fijiwala, Senior Presenting Officer

**DECISION AND REASONS**

1. The appellant, a national of Guinea, appeals to the Upper Tribunal against the decision of the respondent refusing his claim for asylum and humanitarian

protection in the United Kingdom. First-tier Tribunal Judge R Cooper dismissed the appellant's appeal in a decision promulgated on 24 March 2017.

2. Permission to appeal was at first refused by First-tier Tribunal Judge ID Boyes but subsequently granted by Upper Tribunal Judge Plimmer in a decision dated 20 September 2017 stating that although the decision is detailed and comprehensive, it is arguable for the reasons outlined in the grounds that there are errors of law in the credibility findings including the findings regarding the summons.
3. The First-tier Tribunal Judge in his decision made the following findings, which I summarise. The appellant has been largely consistent as to the core elements of his claim; his membership of the UFDG, his uncle being shot and killed at the demonstration on 13 April 2015, going into hiding in Pita, his arrest and detention from 8 October 2015 until 21 December 2015 and leaving Guinea by aeroplane on 26 December 2015. This is also consistent with the objective evidence that the appellant relies on which confirms the increase in political unrest in the period leading up to the presidential elections on 11 October 2015, demonstrations and clashes between members of the UFDG and Alpha Conde's party which increasingly took on an ethnic dimension. However, the fact that these core elements were consistent does not in itself mean the appellant's account of the extent of the appellant's involvement is true.
4. The Judge found that looking at the totality of the evidence in the round, there are discrepancies and inconsistencies in the details of the appellant's account which undermined the appellant's credibility which cannot be categorised as simply being peripheral or unimportant matters to an otherwise credible claim.
5. In respect of the summons produced by the appellant, it is reasonably likely that these are genuine summons issued by the police commander in 2008 but found that the summons was not for the reasons stated by the appellant. The Judge stated that the summons issued in July 2008 is marked "first" and the August summons is marked "second" from which it can be inferred that it is reasonably likely that there were two separate summonses in relation to the same case. The fact that there are two summonses is consistent with Article 59 of the Code of Criminal Procedure which indicates that the summons can be issued for someone to be questioned who "may have information on [criminal] facts or on seized objects and documents". Therefore, it is reasonably likely that the appellant was summoned twice to give a statement about one incident or crime that had been committed either by him or another individual in 2008. The Judge stated that the appellant in his interview

refers to being arrested about 10 times for his political activities, but sad that this is at odds with his February 2016 statement, which makes no reference to any arrests prior to 8 October 2015, and in which she says that his “ordeal began in earnest in 2010”.

6. The respondent does not accept that the appellant was a member of the UFDG because of the inconsistencies in his interview about the date he joined, in that whether it was 15 August or 15 May 2008. The appellant says that the date recorded in question 6 that it was 15 August must have been a mistake by the interviewing officer as he had always known he joined in May. The appellant has been consistent throughout about the date except in answer to question 6 that he joined the UFDG on 15 May 2008. This is inconsistent with the membership card he produced which records the date of issue as May 2008.
7. The original identity card is printed with a logo of Greentree with a yellow sun and has the membership number stamped in red. It has the name “LB” which appears to be written in a different pen from the remaining information in the membership card. Mr Hodson submitted that a Judge is not a handwriting expert and cannot examine documents forensically. The Judge stated that it is reasonably likely that the appellant was a member of the UFDG and that he joined in May 2008. However, the Judge was not persuaded when looking at the totality of the evidence that the appellant is anything other than an ordinary member in the local branch who has participated in some events for the party and demonstrations.
8. It is reasonably likely that the appellant was seeking to correct the mistake in question 10 of the asylum interview when he was asked to name some political leaders. The appellant’s solicitors corrected the names of two political leaders on 26 July 2016 and explained that the interviewer may not have been able to read the appellant’s handwriting, but the Judge found that the name “Kalemondu Yassaneh) has no resemblance to the name, “Igalwounu yousaueli” as recorded at question 10.
9. There are substantial inconsistencies between the statement which is undated and unsigned before the asylum interview that the appellant now seeks to rely on which he says that he wrote in February 2016. The appellant was represented at the time of the interview and his solicitors corrected the interview record on 26 July 2016, but this statement was not sent to the respondent for her consideration at the time, which is surprising given that he has had the same solicitors throughout and this affects the weight that the Judge said that he can give to the appellant’s statement.

10. The Judge considered the documents provided by the appellant to support his claim that he was a prominent member of the UFDG who was wanted by the authorities. The Judge found that the documents cannot be relied upon because the evidence of the appellant to the Tribunal was that the May and June documents had been produced to attest his membership, "to show he was a member of this particular group", but it is not clear why he would need an attestation simply to show that he was a member, when he already had a membership card.
11. The permanent secretary of the UFDG writes in June 2015 that the appellant "was the victim of arrests because of his political involvement and his ethnic origin" but provides no details of any arrest, only his participation in the demonstration and the killing of Souleymane Soudeur. That same witness statement says that the appellant is "actively wanted by the....authorities and the UFDG "were asking him to remain where he is until the political situation in Guinea is resolved" yet the appellant's evidence is that he returned to Conakry in August 2015 in breach of those instructions.
12. The appellant says in his witness statement that his uncle's friend Alpha was given the UFDG documents from May and June 2015 when he was in hiding in Pita in June 2015. No explanation was given for why his uncle's friend Alpha would be given these documents when he was not given the document from 20 November 2015. In oral evidence the appellant said that his uncle's friend Alpha had his UFDG membership card as well, but no explanation has been provided as to why this would be the case given that the appellant claims to have been a member since 2008. Nor is there any evidence from his uncle's friend Alpha to explain how the documents and membership card came into his possession which evidence would have been reasonable for him to produce especially given that Alpha is a businessman and is likely to have had some means of contact, whether by telephone or email.
13. The appellant on his own evidence confirms that he contacted Mr MB in September 2016 asking for help because the respondent did not believe his claim. In response the appellant claims he was sent documents that he claims had been produced in November 2015 but had been held on file by the UFDG apparently replacing the documents of 28 May and 15 June 2015. The documents of 20 November 2015 would have been issued prior to his escape from Kalum prison yet Mr K writes about the appellant's imprisonment in the past tense thereby indicating that the statement was in fact written after the appellant's release.

14. On the appellant's own account, he had not at that time escaped from prison yet the UFDG did not call for his release but simply said that the testimony was "issued to him in order to assert his right". Furthermore, the originals of the 20 November 2015 documents were not produced to the Tribunal. Only M's email of 1 March 2017 was produced despite the appellant confirming that they had been in contact since September 2016. None of their Facebook messages or other email conversations have been produced which might have assisted in assessing the reliability of the evidence.
15. The Judge was not persuaded by the appellant's claim that he did not produce the emails and messages because he could not afford to print them from his computer. The appellant said that the email of 1 March had been forwarded to a solicitor for printing and there was no reason why the other emails and Facebook screenshots could not have also been forwarded and printed by a solicitor in the same way. Furthermore, both the attestation and the letter of testimony produced are on a headed UFDG notepaper on 20 November 2015 bears the same reference number despite being different documents. The background logo of the tree appears in a different form in the two documents despite purportedly having been created on the same day. The logo and the headed notepaper format differs also from the documents produced in May and June 2015
16. The Judge concluded that given the evidence and the documents that were produced are in response to the matters raised in the respondent's reasons for refusal letter and particularly the respondent's conclusion that the appellant's credibility was damaged by the original attestation failing to make mention of his position as a treasurer.
17. In relation to the demonstration which took place on 13 April 2015 the appellant stated in his witness statement and in oral evidence that he was targeted "as a viable activist" by the authorities because he was holding a banner, wearing the UFDG T-shirt and waistband. He claims that he was not shocked because he had managed to run away "helter-skelter". The Judge found that the appellant's claim to have been targeted as an activist is inconsistent with this interview where he said his only role at the demonstration was to be present and chant.
18. The Judge considered the newspaper articles provided by the appellant and stated that in examination in chief the appellant confirmed that his uncle's name was SB which was a name which appeared on the mail online report of 14 April 2015 where it was reported that he was shot and killed. It was submitted on behalf of the appellant that this was a report of the appellant's uncle's killing but the appellant had not even been aware that the newspaper had reported his death. The Judge

found it unlikely that the appellant who submitted those documents to the respondent in July 2016, shortly after his interview would not have been aware that the article referred to his uncle. The judge further noted that the appellant does not refer to his uncle by his full name in any of the statements, simply referring to him as S. This is even when the appellant solicitors letter of 26 July 2016 corrects the interview record at question 66 to show that his uncle's name is S Rather than Sb but does not give his surname. It was only on the day of the hearing that the appellant claims that his uncle is SB and seeks to correct the name and the UFDG's witness statement of 15 June 2015.

19. The Judge found that even if the newspaper report does report the appellant's uncle's death, the appellant's evidence is still at odds with the newspaper report. The report cites an interview with the director of the clinical confirm that Mr B had been shot at the demonstration which is reported to have begun at 9:30 AM but succumbed to his injuries "in the early evening" yet in his asylum interview the appellant says that his uncle was shot and killed by the security forces and that he saw that in front of his eyes.
20. The appellant's evidence was that a lot of people died that day. The article from Al Jazeera does refer to several people left during "two weeks of clashes in April between anti-government activists and security forces" rather than during the one demonstration of 13 April. The Human Rights Watch report of 12 January 2017 refers to at least 10 people being killed by the security forces in the run-up to the election.
21. No evidence apart from the photograph of a funeral has been produced to support the appellant's claim that his uncle was an activist with the UFDG and that he was targeted and killed because of this. There is no death certificate, or evidence from the hospital nor is there evidence from the UFDG. The statement from Mr K of June 2015 makes no mention of the appellant's uncle's involvement with the party which is perhaps surprising as the appellant claims his uncle was an activist who introduced him to the UFDG. This is all evidence which would have been reasonable and possible to have obtained to substantiate the appellant's claim that he has known since July 2016 that this part of his claim was not accepted. The appellant has been in contact with the party activist M since September 2016 and could have done so.
22. The appellant's claim is that he is a true political activist, but the Judge found that his actions with the UFDG to be inconsistent between his various accounts and his oral evidence such as, in his asylum interview he says he was arrested 10 times yet

provided no details of these arrests in a statement. At his screening interview he says he was “persecuted and arrested for organising demonstrations, but no further details are given in any of the statements. He confirmed in interviews that the April 2015 demonstration was organised by the leaders of the UFDG. In his oral evidence the appellant confirmed he was hiding in Pita from April 2015 until June 2015 but then started to campaign whereas in his interview at question 69, 71 – 72 he gave no indication that he was in hiding, simply that he fled there to get away from the violence of these demonstrations and while in the area he openly “mobilise the youth”.

23. There are also inconsistencies in his account of his imprisonment which undermine his credibility. In his original interview when asked whether he was questioned as to when he was detained the appellant did not respond directly but replied that he was transferred from the police station to present. At question 97 the appellant confirmed he was not questioned in prison, and in his oral evidence the appellant confirmed that he was not questioned and said, “this is not inconsistent”.
24. Although Mr Hodson on the appellant ‘s behalf argued that the appellant had an opportunity to embellish or exaggerate his claim he could have claimed he was tortured and questioned and submits that the appellant’s evidence is consistent with objective evidence that detention was simply used to silence the opposition. The Judge however found that his statements that he was not questioned to be in complete contrast to the February statement which Mr Hodson expressly asks the Tribunal to give weight in which the appellant stated that he “suffered a harsh interrogation by a commander named K”. The appellant says he was beaten whilst in prison and at question 98 confirms he was beaten with truncheons on his shins and was hit with a hot iron on his arm. He claimed to have marks and the interview record indicates that he showed the interviewing officer marks on his arm. However no medical evidence has been provided regarding the injuries the appellant claims that he sustained over 2 ½ month. No medical evidence has been produced from his doctor to confirm his injuries although Mr Hodson submits that a medical report may have been of little assistance and the appellant was not represented earlier but it appears from the interview record that marks were visible in July 2016 more than six months after the appellant left Guinea.
25. About his escape from prison the judge found that the appellant’s various accounts to be inconsistent. In his interview the appellant says he escaped with the help of a guard who contacted his uncle’s friend, gave him a uniform of a prison guard and physically helped him to escape. Although this evidence is consistent with his

witness statement where he says he escaped dressed as a prison guard with the help of a man called G, it is however at odds with this February 2016 statement where he states that it was an agent who asked to dress in uniform and led outside, rather than the penitentiary guard G. There are also discrepancies between his interview where he says he did not know whether there were security points and that the way he was taken was “true there was one whole and it got me to pass through”. In his witness statement however, the appellant says that they went through the kitchen area rather than the main security gate. Mr Hodson submission that the Tribunal should find that the appellant meant it was a “hellhole” is wholly unpersuasive.

26. The appellant left the airport with his own passport bearing his own name carrying his UFDG membership card and two letters from them confirming his identity as a party member, with only minimal disguise in the form of a baseball hat. Although the objective evidence states that corruption is rife in Guinea, the appellant makes no claim that a bribe was paid. All he says is that his passport was French. The Judge was satisfied that it was reasonably likely that the passport would be checked, and this indicated to him that the appellant’s name is not on any list or that he is being sought by the authorities.
27. The appellant provided evidence from Mahmudou Bah to demonstrate that the appellant remains at risk in Guinea. The email of 1 March 2017 says “since you left, plain cloth police came to get you and threatened the family. I am certain if you come back here you will be jailed for life you will be made to vanish like so many Guinean’s. For your own safety stay away”. However, the Judge found that no further details are given and in the absence of the other Facebook messages and emails the appellant was not persuaded that this is a document upon which reliance can be placed for the reasons already given. The Judge further stated that it is of note that Mr Bah has purportedly been in contact with the UFDG and has emailed documents it says were written in November 2015 and there is nothing further from the UFDG confirming that the appellant is still wanted or would be at risk on return.
28. The Judge concluded that he was not satisfied looking at the evidence in the round that it is reasonably likely that the appellant was a member of the UFDG, the main opposition party in Guinea, and that along with many others he did participate in the demonstrations including the one on 13 April 2015 where excessive force was used and during the run-up to the presidential elections won by Alpha in October 2015.
29. The Judge found that the appellant has sought to exaggerate the extent of his involvement with the UFDG and has fabricated a claim with a view to obtaining



asylum in the United Kingdom. The Judge did not find credible that the appellant was a treasurer or held any particular position of prominence in the party or that he was wanted by the authorities account of being a political activist. Nor was the Judge satisfied that the appellant's uncle was shot and killed during the demonstrations on 13 April 2015 and that he had to go into hiding and was wanted by the authorities. The judge also did not find that the appellant was arrested on 8 October 2015 and was detained and beaten for 2 ½ months until December 2015 and escaped from prison with the assistance of a prison guard. He was not satisfied that the appellant was of adverse interest to the authorities and is still wanted by them. The Judge noted that although he accepts that the appellant is a member of the UFDG he does not find that he is a principal organiser or activist or that he would be at real risk of persecution on return on account of his political opinion.

30. The Judge referred to the background evidence especially the Refugees' Documentation Centre report Guinea information on the UFDG party of January 2016 that confirms that despite a dramatic spike in political unrest in October 2015 which had taken on an ethnic dimension by December 2015, President Alpha had pardoned 171 people including the second-in-command of the UFDG who had been living in exile but returned two Guinea from Paris in January 2016.
31. The Human Rights Watch reported an improvement of the situation and said that following the elections reports of human rights violations had declined. The OHCHR in January 2017 confirmed that although there were clashes and demonstrations in 2016 mainly regarding the price of petroleum and living and working conditions, the meeting between the president and the leader of the UFDG in September 2016 "marked the beginning of a period of political calm" and the signing of a comprehensive agreement to bring the crisis to an end. The US State Department report of 2015 states that there was no estimate available of the numbers of political prisoners or detainees but that "observers believe there were less than a dozen".
32. The Judge found that the appellant is not at risk of persecution solely based on his ethnic origin. Although the objective evidence such as the Human Rights Watch certainly discloses evidence of racial or ethnic discrimination and some communal violence as one of the three largest ethnic groups in Guinea, the evidence does not indicate persecutions of those who are Fula. Therefore, the appellant is not entitled to subsidiary protection under the Qualification Regulations that he would be at risk of serious harm or that the respondents decision breaches Articles 2 or 3. The Judge dismissed the appellant's appeal on all grounds.

33. At the hearing Mr Hodson relied on the renewed grounds of appeal which in summary set out the following. The Judge has found it reasonably likely that the appellant was a member of the UFDG, the main opposition party in Guinea and that he had joined in May 2008. The Judge accepted that the appellant has been largely consistent as the core of his claim. Notwithstanding, the Judge stated "I find there to be discrepancies and inconsistencies in the details of this appellant's account that undermine his credibility rather than simply being peripheral or unimportant to an otherwise credible claim".

#### **Findings on whether there is an error of law**

34. I have given anxious scrutiny to the decision of First-tier Tribunal Judge's decision and have taken into account the grounds of appeal and the submissions of the parties at the error of law hearing. The main complaint made against the Judge is that having found that the core of the appellant's claim is believed and that he was a member of the UFDG and had joined in May 2008 and having found that he had participated in demonstrations during the run up to the presidential election in October 2015 where excessive force was used, and accepted that the appellant has been largely consistent as to the core elements of his claim then went on to find that the appellant was not credible on certain important matters which he said were not peripheral.

35. There is no inherent contradiction in the findings the Judge made in having found that the core of the appellant's claim was believable in that he was a member of the UFDG and had participated in the demonstration in 2015 and at the same time finding that the appellant's activities did not amount to being, an activist within the party who would be at risk on his return to Guinea. The central question for the Judge to answer was whether the appellant would be at risk from the authorities on his return to Guinea because of his past involvement in the opposition party.

36. The Judge found on the evidence and in a detailed decision that the appellant was using his membership of an opposition political party in Guinea and was exaggerating his political involvement to claim asylum in this country. The Judge on the evidence did not find credible that the appellant was a treasurer of the party or had held any position of prominence in the party or that he was wanted by the authorities on account of being a political activist.

37. The Judge found many inconsistencies in the appellant's evidence and found that the appellant was not credible about the extent of his involvement with the UFDG

which he claims to put him at risk on his return. The Judge set out many cogent reasons for his findings in his decision.

38. The Judge gave many examples of inconsistencies in the appellant's evidence in his decision. The appellant's evidence of the authorities past interest in him and the evidence of his arrest, detention and escape to be inconsistent for many reasons. He noted that at his interview the appellant's said that he escaped from prison with the help of a prison guard who physically helped him to escape. The Judge found that this evidence was consistent with his witness statement where he says he escaped dressed as a prison guard with the help of a man called G. The Judge found however that this evidence was at odds with the appellant's February 2016 statement where he states that it was an agent who asked him to dress in uniform and who led him outside, rather than the penitentiary guard G. The Judge also found discrepancies in the evidence about how he escaped from prison because at his asylum interview he had said that he did not know whether there were security points and that was the way taken to escape and said that he was taken "though there was one hole and it got me to pass through". The judge said that this also contradicted his evidence in his witness statement in which he said that they went through the kitchen area rather than the main security gate. The Judge was entitled to find that the discrepancies in the evidence about his escape went to his credibility into the credibility of his claim that he was arrested detained and that he escaped.
39. The Judge also found that there were inconsistencies in his account as to whether he was questioned when he was detained. At his asylum interview the appellant did not respond directly to this question as to whether he was questioned but replied that he was transferred from the police station to prison. The appellant confirmed that he was not questioned in prison and in his oral evidence the appellant said that "this is not inconsistent". The Judge however found that the appellant's evidence that he was not questioned to be in complete contrast to his February 2016 statement where he stated, "he suffered a harsh interrogation by a commander named K."
40. The Judge pointed out in his decision that the appellant had stated that he was beaten whilst in prison and at question 98 of his asylum interview confirmed that he was beaten with truncheons on his shins and was hit with a hot iron on his arm and stated that he had marks from these beatings and also showed the interviewing officer physical marks on his arm as proof.
41. The Judge noted that no medical evidence has been provided regarding the injuries the appellant claims that he sustained even though they were sustained only over the 2 ½ period that he claims he was detained. The Judge did not find Mr Hodson

submission persuasive that a medical report would have been of little assistance and the appellant was not represented earlier. The Judge however was entitled to find that as at the date of the interview in July 2016, the physical marks were visible which was more than six months after the appellant left Guinea. The Judge was entitled to find that although the appellant saw his GP to whom he told about his experiences and injuries when he was first registered, no medical evidence was provided. This also went to the appellant's credibility into the credibility of claim that he was beaten whilst in detention.

42. The appellant's evidence was that he attended an illegal meeting of the UFDG in 2008 which became the catalyst for the authorities' interest in him, to be vague and confused. Judge first found that there is freedom of assembly in Guinea and therefore the meeting could not have been illegal. Secondly that the appellant's answers about the reasons for the alleged meeting were not credible. He set out the appellant's evidence at question 7 of his asylum interview that "I held a meeting regarding the upcoming meeting in 2010. We were about to sell the party manifesto to the party. What the party believes in and the aims and objectives of the party". The appellant further confirmed that he was not a speaker or chairperson. The judge was entitled to find not credible that having just only joined the party in May 2008, the appellant would be the one to hold a meeting to discuss the manifesto for the UFDG or that he would be holding a meeting about another meeting due to be held in two years' time.
43. The appellant provided summons issued in 2008 to show that he was of interest to authorities in Guinea. The Judge found that it is reasonably likely that these are genuine summons issued by the police commander in 2008. The Judge however found that the summons was for reasons other than that stated by the appellant. The Judge noted that the July 2008 summons is marked "first" and the August summons is marked "second" and found that it can be inferred that it is reasonably likely that there were two separate summonses in relation to the same case. The Judge was entitled to find that the two summonses is consistent with Article 59 of the Code of Criminal Procedure which indicates that the summons can be issued for someone to be questioned who "may have information on [criminal] facts or on seized objects and documents". He stated that therefore it is reasonably likely that the appellant was summoned twice to give a statement about one incident or crime that had been committed either by him or another individual in 2008. The Judge's finding in this regard is consistent with the appellant's inconsistent evidence at his asylum interview and in his February 2016 statement. At his Asylum interview the appellant refers to being arrested about 10 times for his political activities but this was at odds

with his February 2016 statement, which makes no reference to any arrests prior to 8 October 2015, and in which she says that his “ordeal began in earnest in 2010”. Therefore, the Judge was entitled not to place any reliance on the summons issued in 2008 to prove that the authorities have an interest in him.

44. The Judge found that the originals of the 20 November 2015 documents were not produced to the Tribunal. He was entitled to find that no credible reason had been given for why these were not forwarded before 1 March 2017 even though the appellant had confirmed that he had been in contact with Mr MB since September 2016 and therefore the originals could also have been sent by Mr MB. The Judge was entitled to find not credible that none of the Facebook and other email conversations with Mr B had been produced which might have assisted in assessing the reliability of the evidence. The Judge did not find credible the appellant’s explanation for not printing them which was that that he could not afford to print them. The Judge noted that the appellant had forwarded other material to the solicitor who had printed it for him.
45. The Judge also did not find credible the appellant’s evidence in relation to the demonstration which took place on 13 April 2015. He noted that the appellant had stated in his witness statement and in his oral evidence that he was targeted “as a viable activist” by the authorities because he was holding a banner, wearing the UFDG T-shirt and waistband. He claims that he had managed to run away “helter-skelter”. The Judge was entitled to find that the appellant’s claim to have been targeted as an activist to me inconsistent with what he said at his asylum interview that his only role at the demonstration was to be present and chant. Therefore, the Judge was entitled to find not credible the appellant that he was targeted as an activist that he was exaggerating his involvement.
46. The Judge also did not find credible the appellant’s evidence in respect of his uncle’s killing on the day of the demonstration. First, the Judge did not believe that the person named in the newspaper report was the appellant’s uncle because of the inconsistent evidence as to his uncle’s name. Next, the Judge found that even if he was his uncle in the newspaper report, the appellant’s evidence about his uncle’s death is still at odds with the newspaper report provided. This was because the newspaper report cites an interview with the Director of the clinic two confirmed that his uncle had been shot at the demonstration which is reported to have begun at 9:30 AM but succumbed to his injuries “in the early evening.” The appellant’s evidence at question 67 of his asylum interview was inconsistent when he said that his uncle was shot and killed by the security forces in front of his eyes. This was also

inconsistent with the appellant's oral evidence before the Tribunal that his uncle was standing right next to him when his uncle was shot, and that the appellant managed to escape "helter-skelter". This evidence is also inconsistent in the appellant's February 2016 statement in which he states that his uncle was shot dead by Gendarmes right before him. The Judge was entitled to find that this impacts the appellant's credibility and the credibility of his claim.

47. The Judge noted that the appellant's statement made no reference to any arrest before October 2015 yet in his oral evidence the appellant said that he was arrested 10 times. The Judge also found that the February 2016 statement provided a great deal of detail in his involvement with the UFDG including why he joined, his role in organising the youth and fundraising events, the difficulties in the 2010 and 2013 elections, the deaths of his comrades and so on. The Judge was entitled to find that this was in stark contrast with the appellant's answers at his asylum interview which were generalised and at times vague. The Judge was entitled to find that this subsequent statement was intended to bolster a claim that was not true about his role in the opposition party.
48. The Judge found that the appellant left the airport with his own passport bearing his own name carrying his UFDG membership card and two letters from them confirming his identity as a party member, with only minimal disguise in the form of a baseball hat. Although the objective evidence states that corruption is rife in Guinea, the appellant makes no claim that a bribe was paid. All he says is that his passport was French. The Judge was satisfied that it was reasonably likely that the passport would be checked, and this indicated to him that the appellant's name is not on any list or that he is being sought by the authorities. The Judge was entitled to find that the appellant left the country without incident and therefore no one had any interest in him.
49. The Judge considered the background evidence and stated that the Human Rights Watch reported an improvement of the situation and said that following the elections reports of human rights violations had declined. The OHCHR in January 2017 confirmed that although there were clashes and demonstrations in 2016 mainly regarding the price of petroleum and living and working conditions, the meeting between the president and the leader of the UFDG in September 2016 "marked the beginning of a period of political calm" and the signing of a comprehensive agreement to bring the crisis to an end. The US State Department report of 2015 states that there was no estimate available of the numbers of political prisoners or detainees but that "observers believe there were less than a dozen".

50. The Judge found that the appellant is not at risk of persecution solely based on his ethnic origin. Although the objective evidence such as the Human Rights Watch certainly discloses evidence of racial or ethnic discrimination and some communal violence as one of the three largest ethnic groups in Guinea, the evidence does not indicate persecutions of those who are Fula. This is a sustainable conclusion.
51. It is completely evident on the reading of the entire decision, that the Judge took into account all the evidence in the appeal and came to a sustainable conclusion. I find that the Judge was entitled and required to reach his conclusions based on his consideration and evaluation of the evidence, including the background evidence. There is no perversity to the conclusions reached by the Judge. I find no other differently constituted Tribunal would come to a different conclusion on the evidence in this appeal.
52. In **R (Iran) v Secretary of State for the Home Department [2005] EWCA Civ 982** Brooke LJ commented on that analysis as follows:

15. It will be noticed that the Master of the Rolls used the words "vital" and "critical" as synonyms of the word "material" which we have used above. The whole of his judgment warrants attention, because it reveals the anxiety of an appellate court not to overturn a judgment at first instance unless it really cannot understand the original judge's thought processes when he/she was making material findings.

53. I find that I have no difficulty in understanding the reasoning in the Judge's decision for why he reached his conclusions and I find that the grounds of appeal and no more than a disagreement with the Judge's findings of fact and the conclusions that he drew from such findings.
54. I find that no material error of law has been established in First-tier Tribunal Judge's decision. I find that the Judge was entitled to conclude that the appellant is not entitled to be recognised as a refugee or to be granted humanitarian protection in this country. I uphold his decision.

## **DECISION**

Appeal dismissed

Signed by  
Deputy Judge of the Upper Tribunal  
.....  
Ms S Chana

Dated this 31<sup>st</sup> day of December 2017