

SCOLAG: Immigration and Asylum Update

(July to September 2007)

Veli Tum & Mehmet Dari v Secretary of State for the Home Department, ECJ, C-16/05,

This case is before the House of Lords who have made a referral to the ECJ for a preliminary ruling. The issue is whether failed Turkish asylum seekers who were granted Temporary Admission may rely upon the EEC/Turkish Association Agreement to resist removal. HELD: The United Kingdom had no power to introduce new rules after 1st January 1973 restricting access to Turkish citizens wishing to be self employed in the United Kingdom. The court rejected the argument of the Government that failed asylum seekers should not be allowed to rely on the Association Agreement, since that would be tantamount to endorsing fraud or abuse. But the court said that whilst according to settled case-law, Community law cannot be relied on for abusive or fraudulent ends (Case C-255/02 *Halifax and Others* [2006] ECR I-1609, paragraph 68) and national courts may, case by case, take account – on the basis of objective evidence – of abuse or fraudulent conduct on the part of the persons concerned in order, where appropriate, to deny them the benefit of the provisions of Community law on which they seek to rely. However, it is apparent from the documents sent to the Court by the national court that the courts which gave rulings on the substance of the cases currently pending before the House of Lords that Mr Tum and Mr Dari could not be accused of any fraud and that the protection of a legitimate national interest, such as public policy, public security or public health, was not at issue. Moreover, the Court has been shown no specific evidence to suggest that, in the cases in the main proceedings, the individuals concerned are relying on the application of the ‘standstill’ clause in the Association Agreement with the sole aim of wrongfully benefiting from advantages provided for by Community law. In those circumstances, the fact that Mr Tum and Mr Dari had, prior to their applications for clearance to enter the United Kingdom for the purpose of exercising freedom of establishment, made applications for asylum which were refused by the Home Office and on appeal, cannot be

regarded, in itself, as constituting abuse or fraud. Furthermore, the Agreement does not lay down any restriction as regards its scope, in particular in so far as concerns Turkish nationals to whom those authorities have refused the status of refugees, with the result that the refusal of the asylum applications is of no relevance for the purpose of deciding whether that provision is applicable in the cases in the main proceedings. Having regard to all the foregoing considerations, the answer to the question referred for a preliminary ruling must be that the Association Agreement is to be interpreted as prohibiting the introduction, as from the entry into force of that agreement of any new restrictions on the exercise of freedom of establishment, including those relating to the substantive and/or procedural conditions governing the first admission to the territory of that State, of Turkish nationals intending to establish themselves in business there on their own account. COMMENT: ILPA produced a book some time ago on the Turkish Association Agreement that had a style business plan for a window cleaner at the back. It might be worth getting hold of a copy!!! We now await the final decision from the House of Lords.

H A v. THE SECRETARY OF STATE FOR THE HOME DEPARTMENT [2007] CSIH 65

In this case the Inner House consider the duties upon an Immigration Judge in reaching conclusions as to the credibility of the Appellant's account, and where an Immigration Judge may go wrong. HELD: The Court lays out a useful summary of the errors in law that may occur where an Immigration Judge is considering the Appellant's credibility, and the relevant authorities. This decision should be read by everyone drafting Grounds of Appeal to the Asylum and Immigration Tribunal. The Court said "In the light of the cases cited to us it is convenient at this stage to formulate some propositions about the circumstances in which an immigration judge's decision on a matter of credibility or plausibility may be held to disclose an error of law. The credibility of an asylum-seeker's account is primarily a question of fact, and the determination of that question of fact has been entrusted by Parliament to the immigration judge (*Esen*, paragraph 21). This court may not interfere with the immigration judge's decision on a matter of credibility

simply because on the evidence it would, if it had been the fact-finder, have come to a different conclusion (*Reid*, per Lord Clyde at 41H). But if the immigration judge's decision on credibility discloses an error of law falling within the range identified by Lord Clyde in the passage quoted above from *Reid*, that error is open to correction by this court. If a decision on credibility is one which depends for its validity on the acceptance of other contradictory facts or inference from such facts, it will be erroneous in point of law if the contradictory position is not supported by any, or sufficient, evidence, or is based on conjecture or speculation (*Wani*, paragraph 24, quoted with approval in *HK* at paragraph 30). A bare assertion of incredibility or implausibility may disclose error of law; an immigration judge must give reasons for his decisions on credibility and plausibility (*Esen*, paragraph 21). In reaching conclusions on credibility and plausibility an immigration judge may draw on his common sense and his ability, as a practical and informed person, to identify what is, and what is not, plausible (*Wani*, paragraph 24, page 883L, quoted with approval in *HK* at paragraph 30 and in *Esen* at paragraph 21). Credibility, however, is an issue to be handled with great care and sensitivity to cultural differences (*Esen*, paragraph 21), and reliance on inherent improbability may be dangerous or inappropriate where the conduct in question has taken place in a society whose culture and customs are very different from those in the United Kingdom (*HK* at paragraph 29). There will be cases where actions which may appear implausible if judged by domestic standards may not merit rejection on that ground when considered within the context of the asylum-seeker's social and cultural background (*Wani*, paragraph 24, page 883I, quoted with approval in *HK* at paragraph 30). An immigration judge's decision on credibility or implausibility may, we conclude, disclose an error of law if, on examination of the reasons given for his decision, it appears either that he has failed to take into account the relevant consideration that the probability of the asylum-seeker's narrative may be affected by its cultural context, or has failed to explain the part played in his decision by consideration of that context, or has based his conclusion on speculation or conjecture.”

**EB (Ethiopia) v. The Secretary of State for the Home Department [2007]
EWCA Civ 809**

The independence of Eritrea from Ethiopia in 1993 was followed by mass expulsions of those of Eritrean ethnicity from Ethiopia. The Appellant was the daughter of an Ethiopian mother and Eritrean father who had been a major in the Ethiopian Army. That did not prevent his expulsion, and did not prevent the Appellant from having her identity documents confiscated from her. In 2004 Ethiopia and Eritrea reached an accord that meant that there would no longer be deprivations of citizenship and that those of Eritrean ethnicity in Ethiopia could regain Ethiopian citizenship. The Appellant could not benefit from that as by the time the accord was reached the Appellant was in the United Kingdom seeking asylum and could not meet the accord's residence requirements. The issue was whether the deprivation of citizenship, on grounds of ethnicity gave rise to a right to Refugee status. HELD: If a State by executive action deprives a citizen of citizenship, that does away with that citizen's individual rights which attach to citizenship. One of those most basic rights is to be able freely to leave and freely to re-enter one's country. (There may well be others such as the right to vote.) Different considerations might arise if citizens were deprived of their nationality by duly constituted legislation or proper judicial decision but a deprivation by executive action will almost always be arbitrary and, if EB had in fact been deprived of her citizenship by the removal of her identity documents by state agents, it would certainly have been arbitrary. Once a claimant for refugee status has established that their country of origin has taken away their nationality on the grounds of race, they have established a prima facie case for such status. It is true that the decision maker must ask: would they have a well founded fear of persecution if they were returned today? But in the absence of contrary evidence, someone who has been deprived of nationality because of race would, if returned, be in a near-impossible position – unable to vote, to leave the country or even unable to work. They may well be treated as pariahs precisely because they had their nationality taken away. They have "*lost the right to have rights.*" (Chief Justice Warren's vivid words) and they have already been put in the position that their home state will not let them in – they cannot even go home. In this case there was no rebuttal evidence showing that the appellant would not suffer

from being stateless in the ways identified. COMMENT: It has long been held in other jurisdictions that the removal of nationality from a citizen is an act of serious harm. Where, as here, the deprivation arose as a result of ethnicity or race the Appellant should be entitled to refugee status. The findings in fact are important, as significant elements of the Appellant's claimed history including all claims of physical violence had been rejected as incredible. It is also significant that where an individual establishes a *prima facie* claim for refugee status, the tactical burden of proof switches to the Respondent, to show the position has altered. It is also worthy of note that the court considered that the Appellant, who had had her case considered by the Asylum and Immigration Tribunal on four occasions should not have her case delayed further. The court said "It has gone on long enough. I would hold that, on the materials before the tribunals below and us, the appellant does have refugee status. And that the appeal should be allowed." Also of note is that this is a majority decision with the first and longest Judgement being for remittal, a matter the other 2 Judges disagreed with.

DS (AFGHANISTAN) v. The Secretary of State for the Home Department [2007] EWCA Civ 774

The Appellant is a Hindu from Afghanistan. The Secretary of State had a policy of granting 4 years Leave to Remain to those from Afghanistan who were unsuccessful in their claim for asylum such as the Appellant. That policy remained in force until 18th February 2002. The Appellant's claim was decided before that date but he was not granted Leave to Remain as the Secretary of State did not accept he was a citizen of Afghanistan. To address that problem the Appellant obtained an Afghan passport from the Afghan Embassy in London. He produced that for the first time at the hearing of his appeal. The question for the Court was whether the Appellant could benefit from the policy that should have been applied to him. HELD: some of the reasoning in the decision letter refusing asylum was heavy-handed and strained, for example in relation to the languages which the appellant spoke or understood but nonetheless, the Home Office had reached a rational and legally permissible decision on the material then in its hands. When further material was supplied it responsibly altered its position and conceded that

the Appellant was an Afghan national. As the (admittedly wrong) decision that the Appellant was not Afghani had a proper foundation the Appellant could not rely upon the error of the Secretary of State as regards his nationality to bring himself within the policy. COMMENT: It is regrettably not unusual for the Secretary of State to reject the claimed nationality where this alone would bring the benefit of protection. In order to benefit from a now defunct policy the Appellant not only needs to show he is of that nationality, but also requires to show that the opposite conclusion was not a reasonable or rational one.

RK (ALGERIA) v SECRETARY OF STATE FOR THE HOME DEPARTMENT
CA (Civ Div) 27/6/2007 unreported

The Asylum and Immigration Tribunal had failed to issue a decision allowing an appeal for a period of almost two-and-a-half years between the hearing and the promulgation of the decision. The Secretary of State submitted that he had "lost confidence in the correctness of the tribunal's determination by virtue of the excessive delay between the hearing and the promulgation of the decision" and that a reconsideration was therefore necessary. HELD: The appeal was not an appeal against the delay but an appeal against the decision and it was therefore incumbent upon the Secretary of State to establish that the decision was unsafe. The Secretary of State failed to do so: he did not argue that the tribunal had not adequately addressed his original submissions, and K's credibility was not in issue. The Secretary of State failed to establish, nor did he purport to establish, a nexus between the delay and the safety of the decision and therefore the decision could not be considered to be unsafe.

JAVAD NASSERI v SECRETARY OF STATE FOR THE HOME DEPARTMENT
(2007) [2007] EWHC 1548 (Admin)

(N) applied for judicial review of the Secretary of State's decision to order his removal to Greece, and sought a declaration that the provisions of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 Sch.3

para.3 were incompatible with the European Convention on Human Rights 1950 Art.3. Schedule 3 para.3 is a deeming provision which provided that the states listed at Sch.3 para.2 should be treated as places where an asylum seeker's life and liberty would not be threatened, and from where he would not be sent to another state in contravention of his human rights or otherwise than in accordance with the Refugee Convention (the so called 'white list'). N was a national of Afghanistan. He had previously claimed asylum in Greece, a country on the list at Sch.3 para.2. Greece accepted responsibility for his asylum claim and removal directions were issued. N was concerned that the Greek authorities would immediately send him back to Afghanistan: the UNHCR had issued a note in 2004 pointing out that asylum seekers who left Greece and subsequently returned might be subject to immediate removal without substantive examination of their claims. In the period before the instant hearing, the Secretary of State adduced new factual material which indicated that the Greek authorities would give N 30 days to appeal against any refusal of his asylum claim, and that he therefore faced no risk of refoulement. The procedures in Greece regarding the return of asylum seekers had been changed in June 2006. The Secretary of State argued that the making of a declaration was academic because N's perceived concerns had been addressed by the Greek authorities, and that the court was dealing not with the issue of whether N could be removed from the UK but with a compatibility challenge to which the deeming provision, on its true construction, did not apply at all. The Secretary of State further argued that there was no evidence that the "protection gap" in Greece had led to refoulement in practice, and in any event the gap had been closed since June 2006. HELD: (1) The distinction sought to be drawn by the Secretary of State between a challenge to removal and an argument as to compatibility was wholly artificial in the context of the present proceedings, since the incompatibility argument only arose in the context of a question relating to the Secretary of State's desire in the first place to remove N from the UK. The Secretary of State's argument was circular and unsustainable. (2) In enacting Sch.3 para.3, Parliament had precluded both the Secretary of State and the court from considering any question as to the law and practice on refoulement in any of the listed countries. When the Secretary of State was faced with a claim to asylum and a claim alleging a potential breach of Art.3 by unlawful refoulement, the deeming provision precluded him making any

such enquiry at the point of removal. Even if he was faced with clear and compelling evidence of such refoulement in an individual case, he was directed by Sch.3 para.3 to deem the third country safe and to ignore the evidence to the contrary. UNHCR had suggested that, in view of the potential protection gap in Greece, states could, consistently with the Dublin Convention, assume responsibility for asylum claimants who might be prejudiced by it. No relevant breach of the Dublin Convention would arise if a country adopted that suggestion. A state could not in any event rely upon arrangements such as the Dublin Convention as providing automatic exoneration from obligations under the 1950 Convention. The terms of the 2004 Act compelled a breach of Art.3, since unlawful refoulement was a breach of Art.3. Failure to conduct an adequate investigation into the risks of loss of life or torture or inhuman and degrading treatment was a breach of Art.3 but it was that investigation that the deeming provision precluded. The deeming provision could only work to prevent an investigation of a potential breach of Art.3. Therefore it was incompatible with a Convention right and it was appropriate to grant a declaration to that effect. COMMENT: No more 3rd country cases (until this is overturned) and no more 3rd country cases to the European Country with the lowest refugee recognition rate (ever)??

AG and others (Policies; executive discretions; Tribunal's powers) Kosovo [2007] UKAIT 00082

This is a significant decision where there is or at least may be a policy outside the Immigration Rules relevant to the issue of whether the Appellant should be granted Leave to Remain. HELD: (1) Where Human Rights are argued in addition to policy considerations, the Human Rights element of the appeal should be determined first because if removal breaches Human Rights the Appellant has a right to remain in the United Kingdom. (2) Where there is a relevant policy that would benefit the Appellant that may be relevant to the issue of the proportionality of removal. (3) If there is a relevant policy, that has not been considered by the Secretary of State the appeal should be allowed as not in accordance with the law, and the case should go back to the Secretary of State to consider that policy. (4) Where an Appellant has been refused the benefit of a policy because the Secretary of State

considered it did not apply, but on appeal the Appellant establishes the facts needed (both in respect of the terms of the policy and his personal circumstances) to bring him within the policy, the appeal should be allowed with a direction that Leave to Remain be granted. (5) Where the benefit of the policy depends upon an exercise of discretion outside the Immigration Rules the Asylum and Immigration Tribunal cannot exercise its discretion. COMMENT: This is a useful exposition of the law in respect of the application of policies before the Asylum and Immigration Tribunal. It makes several disparaging comments on those cases that deal with “near misses”. In so doing it is wrong. The Asylum and Immigration Tribunal assert that if an Appellant is (just) outside policy it is simply not applicable to him when consideration is given to proportionality, but that conclusion is premised on the basis of proportionality being determined on the basis of ‘bright lines’. That a case involves a ‘near miss’ to a policy, but is outside the policy, may be relevant to the weight to be given to that factor but it does not make the policy irrelevant. The error of the Asylum and Immigration Tribunal is dealing with proportionality as a question of law, when in fact it is a mixed question of fact and law.

SA (Section 82(2)(d): interpretation and effect) Pakistan [2007] UKAIT 00083

In this decision of the Asylum and Immigration Tribunal they deal with a somewhat complex procedural aspect of their jurisdiction, that will no doubt lead to substantial injustice. A person applying for an extension of Leave to Remain in the United Kingdom may only appeal against that decision to the Asylum and Immigration Tribunal where they had Leave to Remain when the application was made and where the decision issued means that they have no Leave to Remain left. What of the situation where an application is decided before the existing Leave to Remain expires and it is not curtailed? HELD: There is no right of appeal. COMMENT: There is a lesson (and warning) for all representatives here. If an application is made significantly before Leave to Remain expires and is decided whilst the Leave to Remain continues to have effect the applicant will have no right of appeal. This is best illustrated

by an example. In the present case the applicant sought Indefinite Leave to Remain as a victim of domestic violence. Her Leave to Remain as a spouse was due to expire on 3rd February 2007. On 11th January 2007 her application was refused by the Secretary of State and she lodged an appeal against that decision. The Secretary of State had not curtailed her Leave to Remain as a spouse and therefore at the date of decision she had 3 weeks Leave to Remain left to run. As she still had Leave to Remain she could not appeal against the refusal of the domestic violence application, and she could only have repeated the same application (at substantial cost) in order to give herself a right of appeal. The consequences of this are ludicrous. If the Secretary of State decides to refuse an application on a Friday, with Leave to Remain expiring subsequently e.g. on the Saturday the applicant has no right of appeal. This decision (when looked at in light of the now enormous costs of applying for an extension of Leave to Remain) has the effect of encouraging literally last minute applications. It also has the effect, on those who have perfectly good appeal issues, of denying the opportunity to pursue their appeal depending upon when the Secretary of State takes his decision, regardless of when the decision is notified to the applicant. The Asylum and Immigration Tribunal describe the relevant statutory provisions as “unhappily worded”. They should therefore have interpreted them appropriately, rather than as in this case, as a means of denying justice.

LP (LTTE area- Tamils- Colombo- risk?) Sri Lanka CG [2007] UKAIT 00076

It is with real sadness that I report this case. This is the first country guidance case for many years relating to the position of Sri Lankan Tamils who may be associated with the LTTE (Tamil Tigers). The long gap in the issuing of a Sri Lankan country guidance case is reflective of the peace process in that country. The fact that this case is required reflects the breakdown in that process. HELD: (1) Tamils are not per se at risk of serious harm from the Sri Lankan authorities in Colombo. A number of factors may increase the risk, including but not limited to: a previous record as a suspected or actual LTTE member; a previous criminal record and/or outstanding arrest warrant; bail jumping and/or escaping from custody; having signed a confession or similar document; having been asked by the

security forces to become an informer; the presence of scarring; return from London or other centre of LTTE fundraising; illegal departure from Sri Lanka; lack of an ID card or other documentation; having made an asylum claim abroad; having relatives in the LTTE. In every case, those factors and the weight to be ascribed to them, individually and cumulatively, must be considered in the light of the facts of each case but they are not intended to be a check list. (2) If a person is actively wanted by the police and/or named on a Watched or Wanted list held at Colombo airport, they may be at risk of detention at the airport. (3) Otherwise, the majority of returning failed asylum seekers are processed relatively quickly and with no difficulty beyond some possible harassment. (4) Tamils in Colombo are at increased risk of being stopped at checkpoints, in a cordon and search operation, or of being the subject of a raid on a Lodge where they are staying. In general, the risk again is no more than harassment and should not cause any lasting difficulty, but Tamils who have recently returned to Sri Lanka and have not yet renewed their Sri Lankan identity documents will be subject to more investigation and the factors listed above may then come into play. (5) Returning Tamils should be able to establish the fact of their recent return during the short period necessary for new identity documents to be procured. (6) A person who cannot establish that he is at real risk of persecution in his home area is not a refugee; but his appeal may succeed under article 3 of the ECHR, or he may be entitled to humanitarian protection if he can establish he would be at risk in the part of the country to which he will be returned. (7) The weight to be given to expert evidence (individual or country) and country background evidence is dependent upon the quality of the raw data from which it is drawn and the quality of the filtering process to which that data has been subjected. Sources should be given whenever possible.

RD (Cessation - burden of proof - procedure) Algeria [2007] UKAIT 00066

Where a refugee obtains a new passport from his country of origin this may give rise to the cessation of his refugee status, and the revoking of his Leave to Remain. The Asylum and Immigration Tribunal here consider who needs

to prove what where that has occurred. HELD: (1) If an appellant challenges a decision of the Secretary of State to revoke a refugee's indefinite leave to remain because he has ceased to be a refugee for one of the reasons given in section 76(3) of the Nationality, Immigration and Asylum Act 2002 then the Secretary of State must prove that such a reason existed and in so doing must rely only on an action that took place after the section came into force on 10 February 2003. (2) If an appellant seeks to argue that the action relied on by the Secretary of State did not have its presumed or likely effect the Immigration Judge is entitled to look at evidence tending to illuminate the appellant's conduct, including evidence of actions before the section came into force. (3) An appellant can rely on a ground of appeal alleging that he is in fact a refugee when the Immigration Judge hears an appeal even if the respondent establishes that the appellant had ceased to be a refugee. COMMENT: There are a number of issues arising in this determination. Firstly it simply fails to engage with the findings of the High Court in England in *NM (Afghanistan) v. The Secretary of State for the Home Department* [2007] EWHC 214 (Admin), on the effect of obtaining a passport and that this did not bring about a legal bar on his obtaining refugee protection (see the previous Immigration law update). It also permits a decision to be taken that a person ceased in the past to be a refugee but is now one again (because of changes that have occurred since the passport was obtained including that the Appellant has changed their mind about re-availing themselves of state protection). Perhaps the real problem in this case is that there was 9 months between the hearing and the decision and NM came out in the interim. One is left to wonder why, in light of that, this hearing wasn't reconvened.

EO (Deportation appeals: scope and process) Turkey [2007] UKAIT 00062

As the Home Office run scared of the Daily Mail and other such august organs in respect of foreign criminals the Asylum and Immigration Tribunal have produced the first proper guidance in respect of the new deport provisions contained in Immigration Rule 364. HELD: (1) The new form of Immigration Rule 364 introduced a substantive change, not merely a change of emphasis or clarity, into paragraph 364 of the Immigration Rules. (2) Deportation decisions made before 20 July 2006 are made under, and on

appeal are to be reviewed in accordance with, the 'old' version of paragraph 364; deportation decisions made on or after 20 July 2006 are made under, and are to be reviewed in accordance with, the 'new' version. (3) Decisions to make deportation orders and decisions to issue removal directions under s10 now need to be carefully distinguished. (4) In determining an appeal against a deportation decision made on 'conducive' grounds on or after 20 July 2006 the Tribunal should first confirm that the appellant is liable to deportation (either because the sentencing judge recommended deportation or because the Secretary of State has deemed deportation to be conducive to the public good); if so, secondly consider whether deportation would breach the appellant's rights under the Refugee Convention or the ECHR; if not, thirdly consider paragraph 364. (5) Paragraph 364 is only in issue if the appellant fails to establish a claim under either Convention; and if an appeal is to be allowed under paragraph 364 the Tribunal must identify the reasons, state why they amount to "exceptional circumstances", and state why they are so strong that the appellant is able to establish that his own circumstances displace the public interest. (6) Removal decisions under s 10 (as distinct from deportation decisions) carry a wider right of appeal on the ground that the discretion should have been exercised differently, but, given the terms of s 92, that right can by no means always be exercised from within the UK. (7) In determining an appeal against a decision (whether before or after 20 July 2006) to give directions under s 10 (as distinct from directions for removal of an illegal entrant) the Tribunal should first consider whether the decision shows, by its terms, that the decision-maker took into account the factors set out in paragraph 395C and exercised a discretion on the basis of them. If it does not, the appeal should be allowed on the basis that it was not in accordance with the law and that the appellant awaits a lawful decision by the Secretary of State. If the decision was made properly, the Tribunal should secondly consider whether the removal of the appellant would breach his rights under the Refugee Convention or the ECHR, and, if not, thirdly whether the discretion under paragraph 395C should be exercised differently, bearing in mind that paragraph 395C does not have the restrictions contained in the 'new' paragraph 364. The process is somewhat similar to that under the 'old' paragraph 364. COMMENT: The task therefore is to decide the date of the decision that is under challenge (before or after 20th June 2006), decide whether the Appellant is liable to deportation (as a result of a court

recommendation or a Secretary of State's decision that deportation is conducive to the public good), decide whether the Appellant is a refugee or his removal is prevented by Human Rights considerations and finally look at whether his deportation is prevented by Immigration Rule 364.

The Secretary of State (Dr. Reid) did not cover himself in glory in the conduct of this appeal. Mr Ockelton did not miss him and hit the wall. He said "Both rules and statements of principle have to be made in words. Sometimes words are used with one intention, but a subsequent judicial or other decision holds them to bear a meaning different from that which was intended. But here, the change in meaning comes from the user of the words himself. The Secretary of State says that the words he used in the rule, and the words he used in explaining it, have a meaning different from that which he previously asserted that they bore. It looks as though he knew neither what he was doing, nor what he meant to do. More seriously, it is somewhat alarming if the Secretary of State can effect a policy change by changing nothing except his own view of the meaning of his own words." The Secretary of State neither knowing what he was doing or what he meant to do. Surely some mistake.

GB (Family visitor - "half brother" included) Ethiopia [2007] UKAIT 00063

HELD: In the Immigration Appeals (Family Visitor) Regulations 2003 the terms "brother" and "sister" includes half brothers and half sisters – those who share one parent. COMMENT: Isn't it sad that the Secretary of State should consider it appropriate to pursue the argument that half brothers and half sisters are not relatives and cause the expenditure of public funds on litigation as petty as this.

Alan Caskie

[murray stable](#)