

2022

International Migration and Refugee Law Moot Court

Case

**Omar Sharif**

**vs**

**The Minister of Home Affairs of the People's  
Republic of Kalakuta**

Migration Law Research Group

Ghent University



**FRAGOMEN**

## Introduction to the case

On 15 March 2020, Omar Sharif, a Syrian national, arrives by boat from Turkey to the People's Republic of Kalakuta. Upon his arrival in Kalakuta, he applies for international protection.

## General information on the People's Republic of Kalakuta

The People's Republic of Kalakuta is an independent island in the Mediterranean Sea, belonging to the African continent. The country was previously part of a European State. That European nation's king bought the island in 1899 as private property. The island of Kalukta became an overseas territory of the European nation in 1905. Following an independence movement and the European nation's break-up into multiple countries, Kalakuta became independent in 1948. The country has been a constitutional monarchy since then. King Gè Kuol Makosi has been ruling the country for the past 4 decades; he shares the legislative power with the Kalakuta's Parliament, that exists out of 56 elected members. Elections take place every 6 years and Kalakuta is a member of the African Union. Since a very young age, King Gè Kuol Makosi has been practicing the Mami Wata religion. One of his first acts as a ruling king was to make the Mami Wata religion Kalakuta's only official religion. Practicing other religions is allowed but all national holidays are linked to the worship of the water spirit Mami Wata.

Kalakuta has 4.5 million inhabitants. The country has a very young population with 72% of its nationals being younger than 25 years old. The education level of its young (and older) population is high and education is mandatory until the age of 21. Kalakuta has 6 universities, of which two ranked in the top 500 of the World University Rankings in the last 5 years. Given its very young population and a well-functioning health care system, Kalakuta has to date only seen a limited impact of the COVID-19 pandemic. The country had decided by Ministerial Decree to close all its borders as of March 2020 and only reopened borders for a limited numbers of crossings on 30 September 2021. These reasons include, but are not limited to, returns of nationals to visit families, business trips and travels by medical professions. The latter is linked to Kalakuta's excellent education for doctors and nurses, a world-wide recognized expertise. Many medical professionals were sent out to different parts around the globe during the pandemic, to support countries whose health care systems were most fragile and in need of additional medical staff. Kalakuta is currently negotiating the purchase of vaccines for its entire population with the pharmaceutical companies Pfizer as well as Johnson & Johnson. By the end of September 2021 less than 5% of Kalakuta's population had received a vaccine. The distributed vaccines were mostly delivered via COVAX, the global program led by the World Health Organisation (WHO). However, the WHO has informed Kalakuta that low-income countries will be prioritized from the fall of 2021 onwards.

The national language of Kalakuta is Kalakutese. While it is the only official language, in certain regions local dialects of indigenous peoples are recognized and can be used for administrative handlings with the local authorities. The official language in the educational system and legal system is Kalakutese. However, for civil legal proceedings English can be chosen in case the person is not familiar with the national language. Kalakuta's national holiday is on 17 March, commemorating the country's

independence. On its national holiday, there is always a military parade in Makosi City, the capital. On this day, the inhabitants of Kalakuta traditionally dress in the colors of the national flag: yellow, green and red. The national holiday is further characterized by eating the national dish, a fish soup containing 12 different species, and local dance parties until the late hours. The World Bank has listed Kalakuta as a middle-income country. Most economic profit comes from its extensive export of fish. The territorial waters of the Kalakuta host a very tasty and unique species that is very rich in protein and currently in fashion as a 'super food'. Kalakuta exports the fish to 132 countries and this economic sector provides a livelihood to 30% of its working population.

Kalakuta started limiting the numbers of migrants and refugees present on its territory over the last decade. During the 1990s, many people came from neighboring countries to study medicine, as universities are almost free of costs, or to find work as a fisherman. To ensure that the country could keep up delivering the highest standard of education, it was decided to limit the number of foreign students to 5% in 2012. In order to work as a fisherman, a visa was introduced for foreigners in 2013. The visa can be requested at each of the 25 embassies of Kalakuta abroad, prior to arriving in the country. During 2019, approximately a hundred and twenty visas were granted, out of seven thousand applications. Since the start of the global pandemic, there has been a visa stop. In the same year – following an increased anti-migrant rhetoric – Kalakuta has further strengthened its coast guard. Inspired by Western countries, Kalakuta has also broadcasted a commercial on the national television of its neighboring countries discouraging people from coming and making Kalakuta their future home.

Kalakuta has been a member of the UN since 1970, but highly values its sovereignty as a nation. Kalakuta is committed to human rights and has a National Human Rights Commission that closely monitors whether legal frameworks and practices comply with Kalakuta's obligations under international law as well as under its Constitution. Kalakuta has signed and ratified the following international treaties, which are directly applicable: the Vienna Convention on the Law of Treaties; the United Nations Framework Convention on Climate Change; the Convention on the Rights of the Child and its three Optional Protocols; the Convention relating to the Status of Refugees and its 1967 Protocol; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the ILO Convention No. 169 on Indigenous and Tribal Peoples; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; and the Geneva Convention relative to the Protection of Civilian Persons in Time of War. Kalakuta has further signed but not ratified the Mine Ban Treaty; the Convention on the Rights of Persons with Disabilities; and the International Convention for the Protection of All Persons from Enforced Disappearance. The annual reports on the implementation of fundamental rights in Kalauka from the National Human Rights Commission are not publicly accessible. Nevertheless, King Gè Kuol Makosi stated in his last speech before the UN General Assembly that his country is heading the league of UN Member States that respect human rights. King Gè Kuol Makosi further highlighted in his speech the need for urgent action by the international community to fight climate change, as 20% of his nation's territory is at risk of disappearing following an increased sea-level during the coming 25 years.

## The handling of the request for international protection in the People's Republic of Kalakuta

On 15 March 2020, Omar Sharif arrived in the evening at small harbour 10 km from Makosi City. He presented the documents he carried with him at the office of the coast guard and asked how he “can become a refugee”. After quickly skimming through the documents, the coast guard’s officer informs Omar Sharif in broken English that he will be returned immediately on the first flight possible to Turkey the next morning . The officer instructs Omar Sharif to wait in his office while he leaves for a daily evening walk around the harbor. Omar Sharif fears that he will be forcibly returned and decides to run to Turkey, so he decides to run away. He walks most of the night and arrives before daylight at a small city where he quickly finds the police station. He enters the police station and asks again to become a refugee. Omar Sharif lodges his request for international protection with the police officer, who provides him with all information about the procedure, as well as the details about the center for asylum seekers in Makosi City.

After a couple of months in the centre for asylum seekers in Makosi City, Omar Sharif receives an invitation for an interview with the Commissioner for International Protection (CIP) on 30 July 2021. The invitation clarifies that Omar Sharif can be accompanied by his guardian and lawyer, and that after the interview, the CIP will determine whether Omar Sharif qualifies for international protection. The decision will be made on the basis of international law, as Kalakuka does not have a national asylum law.

## Interview

### Notes of the personal interview

File number	2020/58/B
Date of application	16.03.2020
Surname, First name	SHARIF Omar
Date of Birth	11.12.2003
Nationality	Syrian
Asylum Officer	Dorotha Nokioulio
Interpreter	YES
Number interpreter	569
Language of interview	Arabic
Accompanied by	Obi Aburaki (lawyer)

Date personal interview: 30.07.2021

Start: 09:15

The personal interview is adapted to the age needs of the asylum seeker and is executed by a specialized asylum officer of the Commissioner for International Protection (CIP).

**Hi Omar, welcome to the Commissioner for International Protection. We are here today because you have applied for asylum in Kalakuta. Today we will discuss the reasons why you left your country and came here. Is that okay with you?**

Yes.

**As you have noticed, we do not speak the same language. This is why we are assisted by an interpreter. She will only translate what you and I say, and she does not have any impact on your application. If you do not understand a question, do not hesitate to tell me. I will then reformulate the question. Also, if you do not know the answer to a question, it's not a problem. Just tell me that you don't know, but please tell me the truth.**

**We will have one break but please let me know if you need an additional break at any point.**

**Your lawyer is also present today to ensure that everything goes well. He can only intervene at the end of the interview to make some remarks, if he wishes to do so.**

**I would also like to tell you that everyone present today has an obligation to keep your declarations confidential. This means that nothing you tell us will be transmitted to anyone else, and especially not to the authorities of your country of origin.**

**Finally, as you have noticed, I will take notes of everything we say today which I will add to your file. If you want, you can ask for a copy of these notes so you can verify them afterwards and let me know if you have any remarks concerning them. You will have 7 days after receiving the notes to make the remarks. Would you like a copy of the notes?**

Euhm...

*Lawyer intervenes:* Yes, we would like to have a copy.

**Okay, that's noted. Omar, do you have any questions about what I explained so far?**

No I don't think so. Can I tell you why I left Syria now?

**We'll get to that later. But before that, do you still stay at the center for asylum seekers in Makosi City?**

Yes

**Good. The decision will be sent to this address, so it is very important that you inform us if you move and send us your new address.**

Okay

**Very well, let's start the interview then.**

**Do you understand the interpreter so far?**

Yes.

**Great! Let's first take a look at the documents that you have provided to support your asylum claim. Did you bring any documents that you'd want to give to me today?**

No, I already gave everything I have to the policeman who helped me to apply for asylum...

**No problem. Let's discuss the documents then. What is this document?**

It's the paper of my family

**What do you mean?**

Well, it has the name of my mother and father, and then the names of my brothers and sisters

**Does it mention anything else?**

I don't know, I never really looked at it... Maybe when my parents got married?

**And what do you want to prove with this?**

It's just about my family so you know who they are

**Okay, then there is this small document. Can you explain to me what it is?**

It's a little paper that you receive when you leave the Syrian territory. It proves that you have left the country. It says the date, and your name, and the place where you crossed the border. We had to pay 500 pounds to get it, my mother told me

**And on which date did you leave Syria?**

With my family? I think in December 2012... Or what does the paper say?

*Officer asks the interpreter to read which date is mentioned on the document*

**Interpreter:** Here it says the 08.12.2011

Oh yeah, 2011... I'm sorry, my mind is very confused with everything... I don't remember very well anymore

**Officer: that's okay... Just try to tell me everything you know. And if you need a break, just tell me.**

OK

**Is your name mentioned on the document?**

Not my name but my father's name because he was head of the family

**And how did you get this document?**

My mother sent it to me

**Why don't you have a passport or national identity card?**

I never had a passport...

**You never had any identity documents from Syria?**

Well, I had a Syrian identity card before

**And why didn't you show it when you arrived in Kalakuta?**

I lost it on the way here... It was all in my backpack, together with my phone and some clothes, but when we were in the boat, the waves were so big, and I couldn't keep hold of my bag, so I lost everything... It was very difficult to get back in contact with my family afterwards...

*Asylum seeker starts crying.*

**I understand this memory is difficult for you, so please take your time and let me know if you want a break.**

No, it's fine

**Let's look at your personal details now. Your full name is Omar Sharif?**

Yes

**You have the Syrian nationality?**

Yes

**Do you have any other nationality?**

No

**What's your ethnic origin?**

I'm Syrian

**Yes, but are you Arabic, Kurdish, Dom...?**

I'm Syrian from Jisr al-Shughour, not Kurdish. I don't know the other thing you said



**Good, and are you religious?**

Yes

**Which religion?**

Muslim

**And Sunni or shia?**

Sunni

**Do you practice your religion?**

I try to... I follow the Ramadan, and I do my prayers when I can. But I don't go to the mosque here because it's very far away from the center where I am staying now

**Did you use to go to the mosque in Syria?**

Yes with my family

**What was the name of the mosque?**

I don't remember very well because I was so young when I left Syria... But I remember it was just next to our house, and I would always walk there with my father.

*Asylum seekers is silent for a long time.*

Ah wait! I think it's something like Amie Alkarim mosque...

**Where were you born?**

In Jisr al-Shughour

**And which governate is that?**

I think I've heard it's in Idlib

**Do you know your date of birth?**

No, I'm sorry

**Do you know how old you are?**

You mean here or in Syria?

**Both, if you think there is a difference...**

My mother always told me that now I am 16, but when I arrived here they didn't believe me, so I had to go to the hospital, and they did some tests and they said that, actually, I am 17

**Which languages do you speak?**

Arabic, and in the centre I'm learning a bit of Kalakutese

**And do you like it?**

Yes, but it's very difficult to learn

**Are you married?**

Not yet, but I have a fiancée

**What's her name?**

Sulthaneh Aldankar. Our parents have already decided many years ago that we will get married when we're old enough. She's very beautiful!

**Is she still in Syria?**

Yes

**Where in Syria?**

In my hometown, in Jisr al-Shughour

**Does she still live with her parents?**

Yes

**And are you still in contact?**

Yes, we talk on the phone when she has internet

**Have you been to school?**

Yes, a bit

**Until when did you go to school?**

In Syria I went to school maybe one year but then the war started and we had to flee to Turkey... And afterwards, when we were in the camp in Kilis sometimes there would be a teacher who would gather the children of the camp and give us some lessons.

**What was the name of your school in Syria?**

It's a very long time ago... I don't remember very well. I think my mother said it was called Ali bin, euhm Ali Bin Abi Talib or something like that

**Do you know how to write and/or read?**

A little bit... In the training camp of Jabhat Fath al-Sham I learnt to read the Coran a bit

**What was your last address in Syria?**

I always lived at the same address in Jisr al-Shughour, next to the Amie Alkarim mosque

**With whom did you live there?**

With my whole family

**Do you use any social media?**

Only Facebook and TikTok

**What's your name on Facebook?**

Omar Sharif

**Okay, I think I found your Facebook profile. Is it okay if I look at it?**

If you want to... But I don't use it very much

**Your mother is called Bnaniya and your father Khaled, is that correct?**

Yes

**They're both Syrian?**

I think so

**Do you know where they were born?**

My dad is from my town Jisr al-Shughur, but my mom is not. Her family is from Latakia

**And you have three brothers and two sisters?**

Yes, we are two girls and four boys

**Can you tell me their names and their ages?**

Okay. First there is Hassan, he is 4 years older than me. Then there is my sister Zaynah and she is 2 years older. Then there is my brother, Halim. He is 1 year younger. Then Abdullah who is two years younger. And finally, my baby sister Dina, who is 5 years younger

**Where is your family now?**

My mom and dad are still in Turkey, in the camp in Kilis City. Zaynah, Hali, Abdullah and Dina are with them I think... I haven't seen them in such a long time... And I don't even know where Hassan is. He disappeared after we had joined Hay'at Tahrir al-Sham, and I have no news from him...

*Asylum seeker cries*

*Officer gives asylum seeker a tissue*

**I understand it's very difficult for you, but we need to keep going because I still have a lot of questions for you. Is that okay?**

I guess so

**Good. Can you tell me why your family left Syria?**

I was very young back then... I remember that before the war there were lots of people on the street. My brother Hassan told me that my father was there too. One day the police came to our house and took my father away. I did not really know what was happening or why they took him away... I just remember my mother was crying and asking them not to take him... When he came back, he was not the same anymore. He did not want to play with me anymore and he would always get very angry at me when I was making too much noise. My brother told me the police had not been good to him, but he did not tell me what happened. At some point my father decided it was too dangerous and that we had to leave...

**Do you know why the people were protesting?**

I don't really know. My brother said they were against al-Assad because he was not good for the Syrian people...

**How long was your father detained?**

A few days maybe... I just remember that everyone was very scared, and my mother and sister were crying the whole time... It was very difficult

**What kind of work did your father do when he was still living in Syria?**

He had a little shop

**What goods did he sell?**

Vegetables, and fruit.

**Did you leave Syria together with your family?**

Yes, when the war started and my whole family fled the country... It was 2011, I think. But I went back to Syria with my older brother Hassan, we wanted to fight with the opposition. But then he disappeared and...

**We'll come back to that later, just answer my questions please, otherwise we will still be here tomorrow. Are you still in contact with members of your family?**

Yes, with my parents. We talk on the phone whenever we can

**When was the last time you talked to them?**

About 3 days ago

**How are they doing?**

Life is not easy in the camp, and they are very worried about my brother Hassan, and for me too...

**Let's have a short break now. I'll see you back in half an hour more or less.**

***BREAK: 10:28-10:53***

**Welcome back. Can we start again?**

Yes

**Good. Do you know any big cities in Syria?**

I've heard of Latakia, and Damascus, Homs...

**Have you been there?**

We went to Latakia once to visit the family of my mother, but I was very young so I don't remember much

**Can you tell me what you remember about Latakia?**

It was the first time that I saw the sea, it was very beautiful. And there were very big boats in the port. It was with my cousins, we were throwing little stones on the water

**Do you know the capital of Syria?**

My mother taught me it's Damascus

**Did you sometimes watch TV in Syria?**

Yes, when we'd have electricity

**What did you watch?**

There were cartoons on Sama TV, and we would look at video clips on Eamar Music

**Do you remember any important security incident shortly before you left Syria?**

A few months before Hassan disappeared there was a big attack on Qah and many people died. In the camp they said it was Al-Assad with the help of Russia who did this

**How far is Qah from Jisr al-Shughour?**

I have never been there, but I know there is a big camp with many people who fled their homes

**What was your favorite dish back in Syria?**

Kibbeh, Bulgur with lentils, it's so good

**Can you tell me what the seasons are in Syria?**

Winter is from Kānōn [']Ḥrāy (January) until Āḍar (March). Then comes Spring from Nīsān (April) to Hziran (June). Summer is from Tammūz (July) until Īlūl (September). And then comes Autumn

**What is the Syrian currency?**

The Syrian pound

**Can you describe me how a 50 pound note looks like?**

*Silence.* I didn't have money myself... Maybe it was brown?

**I have never been to your town of Jisr al-Shughour. Can you describe to me what I would see if I would walk around?**

It's the most beautiful town you will ever see. Really! There are many mosques, and there is the Alahuzeih Market. There is also the river next to the town, and if you cross it and you keep going you arrive in Furaykah



**Do you know the name of the river?**

Asi

**Do you know the capital of Idlib governate?**

Idlib I think, no?

**Can you tell me the names of small towns next to Jisr al-Shughour?**

If you cross the bridge and then take the smaller road on the left you get to Ein Elsoda. And if you take the big road you go to Esthabraq

**Okay, let's go back to your personal situation. You said that you went back to Syria with your brother. When did you leave Syria the last time?**

A few months before I arrived here

**In 2020?**

Yes

**And where did you go to when you left Syria?**

I went to Atakya in Turkey, in the province of Hatay

**How long did you stay in Turkey?**

Not long... Only the time to find a way to come here

**Did you have papers there?**

No, I told you, I didn't stay there, and I didn't want to

**Did you ask for asylum in Turkey?**

No, I just wanted to go away as far as possible from Syria because I was afraid

**Why didn't you join your family in Kilis?**

I was afraid the fighters of HTS would find me there because it's very close to Syria and there are rebels everywhere there...

**When did you arrive in Kalakuta?**

Isn't it written in my documents there?

**It is, but I want you to tell me.**

I don't remember the exact date, somewhere in March last year I think

**Who organized the journey?**

I asked a friend from Syria. He helped me to find someone to get on a boat

**What was your friend's name?**

Idriss, he was also with the rebels but ran away from them.

**Can you explain to me how you left Turkey to come to Kalakuta?**

The person who helped told me I had to wait until he would tell me we were ready to go. So one night he called me and he said it was the moment to leave. We got into a car and we drove for a long time. We arrived at the water. It was still dark. He told me to be very quiet and to follow him. There was a boat waiting for us but there were many other people, so it was very full on the boat. It was very scary on the water, people were screaming and crying... We were on the boat for the whole day but we could see land far away. Finally we arrived when the evening was falling..

**Okay, what happened once you were in Kalakuta is not important. We will now talk about all the reasons why you left your country. To have a complete understanding of your story, it is crucial that you tell me everything that happened in your country and why you fled. I am aware of the general**

**situation in Syria, so I would like you to talk about your personal situation and the issues you personally encountered in Syria that forced you to flee the country.**

I told you already that after the war had started, I fled to Turkey with my family because life was too dangerous in Syria. So, we went to Turkey, in a camp with lots of Syrians close to Kilis. I could go to a little school in the camp, but often the teacher would not come, and we were many kids in the same class.

One day there was a big rocket attack next to where we were living, and many people died or got injured. My father said Daesh was responsible for this. The bombs fell close to our school, and one of my friends, Bassam, got hit. He died from his injuries... This made me very very sad and angry! I wanted to take revenge for my friend... I was so angry at the attackers, and also at the soldiers of Al-Assad because we had to live in this camp because of them, and all I wanted was just to go home, and live with my family in my home like before...

Then my brother told me that if I was really angry with Daesh and Al-Assad, that I should come with him and join the opposition to fight against them. He brought me to a meeting in the camp with people from the opposition. They talked to me and told me a lot about what is happening in Syria, and that if I was angry I had to fight with them... I kept going to the meetings with my brother after that.

After some time, my brother said it was time to really fight with the opposition and that we had to go to Syria to join them. We went to Idlib and he introduced me to the fighters of Jabhat Fath al-Sham there. In the beginning I got some training but because I was too young they said I could not fight... So they told me that I had to go to town and listen around to find information about who was working with Daesh and the soldiers of Al-Assad and other groups.

I remember there were some big fights and bombings and then my brother told me that now we were fighting with Hay'at Tahrir al-Sham (HTS). That was the new name of the opposition, and I had to be loyal to them. So then I continued spying and gave HTS information about the other fighters.

One day they sent Hassan with a group of fighters to set up an ambush or something for some Al-Assad soldiers but he did not come back. Nobody knew where he was... I was very scared because I was alone... And then I remembered that they had told me that they punish people who leave the opposition. I was so scared, I didn't know what to do. So one night I ran away from the camp. I walked for a very long time until I got to Turkey, and then in Turkey I found Idriss and he helped me find a boat and then I came here.

**Thank you. I will ask you some more questions now. You told me about a big rocket attack on Kilis during which your friend died. When did this happen?**

I don't know... I am not good with numbers and dates etc.

**I understand but just try to tell me more or less when it was. Do you remember how old you were?**

Like 12 or 13...

**So it was in 2017?**

I guess so

**You told me your brother brought you to a meeting in the camp. Who organized this meeting?**

Some people from the opposition I think

**And how long had your brother been in the opposition?**

I didn't know it back then, but later he told me that for a long time he had been going between the camp and Aleppo to find people to fight

**Can you tell me when exactly you left the camp to join the opposition? Just try to say it more or less...**

This I remember well because it had just been my birthday, I turned 14, and then my brother told me that now I am a man and I have to go back to Syria and fight

**Did your parents know about it?**

No, my brother told me I could not tell them... We left when everyone was still sleeping

**Did Jabhat Fath al-Sham use to have a different name before?**

I don't know, that's how it was called when I arrived

**And can you tell me about other groups of the opposition that were fighting in Idlib?**

*Asylum seeker stays silent for a long time.*

I don't know... I heard someone talking about Al-Nusra... And there was Harakat Nour al-Din al-Zenki I think

**Was there a link between Jabhat Fath al-Sham and Al-Nusra?**

I don't know... Maybe... I think my brother told me but I forgot

**You said you received some training when you joined Jabhat Fath al-Sham. What kind of training was it?**

First, we had to learn about the sharia, like maybe for 10 days or so. Once we understood what it was, and they thought we were pure enough to fight, we had to swear allegiance to emir Abu Mohammad al-Julani. He is very important

**Anything else? Did you learn to use weapons etc?**

Ah yeah of course. We also had a training to learn how to fight. They showed us how to hide and how to install a weapon and shoot

**Do you know how long this military training was?**

I don't remember... Maybe two weeks or so

**Can you tell me more about the training? Were there different levels?**

I told you what I know. First, we learned the sharia, and then we learned the weapons and the fighting. I don't know if there is another level. I didn't do more training, so I don't know if there were other levels

**Can you tell me more about Hay'at Tahrir al-Sham (HTS). Why was it no longer Jabhat Fath al-Sham?**

My brother said that other smaller rebel groups wanted to join so then they gave it a new name, Hay'at Tahrir al-Sham

**And do you know which other factions joined?**

I don't know, it's so long ago...

**Just try to remember something.**

I think my brother said Harakat Nour al-Din al-Zenki was one group

**Who were the leaders of HTS?**

There was the big leader emir Abu Mohammad al-Julani. And there was also Oreidi, I don't know the others

**Do you know if Oreidi has another name?**

I only know Oreidi

**Do you know Abu Mahmoud al-Shami?**

No...

**It's another name of Sami al-Oreidi. How come you don't know this?**

I don't know... I told you everything I know... I was mostly with my brother in the camp, I didn't talk to the big leaders, I was not allowed to

**How was the structure of HTS? Were there sub-sections etc?**

I was part of a group of fighters, and we had to follow emir Abullah Al-Assam and do everything he said. But he was only a small leader. I don't know about other sections

**How did the camp look like?**

I don't remember... There were some buildings and a wall around it...

**How did a normal day look like?**

I would go to town to listen if there was important information

**What else did you do during the day? What time did you have to wake up? Did you have chores to do? Etc.**

I don't remember... I'm very tired

**Can you tell me an important attack carried out by HTS?**

I heard that a bit after I arrived in the camp, there was a big suicide attack in Homs. Someone important close to Assad died. Everybody in the camp was very happy

**You said you were an informer. To whom did you have to give the information you gathered?**

First to the bureau of the big commander of Idlib, and then when it became HTS to the security services

**Can you give me an example of important information you gave to the security services?**

I don't remember very well, it's a very long time ago, and sometimes I got those headaches and then I forget

**Okay, but you must remember something. You were an informer for more than 3 years...**

*Asylum starts crying*

**Let's move on then. When exactly did your brother disappear?**

I don't know exactly, it was during the winter

**Of which year?**

The same year I came here

**Do you know what happened to him?**

I told you, they sent him to put up an ambush but then he didn't come back. I don't even know if he is still alive

*Asylum seeker cries again*

**It's late already so we really have to keep going. You said that deserters of HTS are being punished. Can you tell me more about this?**

Yes, I heard this in the camp when we were doing the training

**And who told you this?**

I don't really remember, it's just what people said

**So you ran away based on some of kind of rumour that you heard in the camp? You have no real basis for what you are saying?**

No but it's really true. If I go back, they will kill me because I ran away

**We're coming to the end of the interview now. I have a few more questions. If, purely hypothetically, you would have to go back to your country of origin now, what or who do you fear personally?**

As I told you, I am so afraid HTS will find me and they will kill me, and then I will disappear just like my brother... I'm sure that if I go back they will find me. And also, I was working with the opposition so the soldiers of Al-Assad will also arrest me if they find me, and they will hurt me, and then kill me.

**Are there any other reasons preventing you from going back to your region of origin?**

It's very dangerous where I come from, there are bombings all the time, and fighting, many people die. I don't want to go back there... It will be my death for sure

**Have you been able to tell me clearly all the reasons why you left Syria and why you cannot go back?**

Yes

**I don't have any other questions. Is there anything else you would like to add?**



I have told you my whole story, the whole truth, everything that I went through before coming here. I have nothing to add... I'm very tired. I didn't sleep the whole night because I was so afraid about today... And sometimes, when I think about my brother, my head hurts so much and I have pain in my stomach

**Have you ever seen a doctor about this?**

No, in the centre they just give me a pill when I have pain

**If you don't have a medical certificate concerning this, I cannot take it into account since I am not a doctor. Did you understand all the questions correctly?**

Yes

**Did you understand the interpreter well?**

Yes

**Okay, then I'll give the opportunity to your lawyer to make observations or remarks. Sir?**

I have no special remarks. I would just like to emphasize the young age of the applicant. It's something which needs to be taken into account

**Thank you. I'll quickly explain what the next steps will be. After this interview, a decision will be taken. This can be a positive decision, which means you are recognized as a refugee, or a negative decision. If the CIP rejects your asylum claim, you can appeal against this decision with the help of your guardian and your lawyer in front of the administrative court of first instance of Makosi. Thank you for being here today and telling me your whole story.**

Thanks for having me. But you have to know that even if your decision is negative, I will not go back to Syria. My life is really in danger there. I just want to live in peace...

**END: 12:26**

**Decision on the request for international protection**

**REFUSAL OF INTERNATIONAL PROTECTION STATUS**

**People's Republic of Kalakuta**

**Commissioner for International Protection**

**Reception Centre "PORT 3"**

**Omar SHARIF**

**12, Window Street**

**MAKOSI City**

**KALAKUTA**

**October 1<sup>st</sup>, 2021**

File number: 2020/58/B

Surname: Omar

First name(s): Sharif

Date of birth: December, 11<sup>th</sup>, 2003

Nationality: Syrian

Date of application: March 16<sup>th</sup>, 2020

Interview: July 30<sup>th</sup>, 2021

**1. Decision: rejection international protection**

You applied for international protection on March 16<sup>th</sup>, 2020 and you were heard by the Commissioner for International Protection(CIP) on 30<sup>th</sup> July, in the presence of your lawyer and provided with an Arabic interpreter. Following your interview, the CIP decided to **reject your application**, because you do not fulfill the criteria of the definition of Art. 1A Refugee Convention, nor the conditions to be granted humanitarian protection.

The reasons for this decision will be set out in section 3 of this decision.

## **2. Request for international protection**

You declared being a Syrian national of Arab origin, Sunni Muslim and born December 11<sup>th</sup>, 2003 in Jisr al-Shughour (Idlib governate). You grew up and went to school in Jisr al – Shughour until the age of 7. In 2011, your father got arrested and tortured following his participation in the widespread protests against the Al-Assad regime. After his release, you and your family (parents and 3 brothers/ 2 sisters) fled to Turkey where you got registered in Kilis camp.

You stated that in 2017, Kilis camp was hit by rockets fired by IS/Daesh soldiers and many people died. One rocket hit your school and killed your best friend Bassam. Angry and frustrated by this incident, you wanted to join the opposition against IS/Daesh and the Syrian regime. It was your elder brother Hassan, who informed you and introduced you to secret meetings of Syrian rebel groups in the Kilis camp. Your brother Hassan had joined Al-Nusra and travelled back and forward between Kilis camp and Aleppo, recruiting young men. Soon after your 14<sup>th</sup> birthday, you and Hassan left the camp, crossed the border into Syria and returned to Idlib where you also joined the ranks of Al-Nusra, by that time it was rebranded as Jabhat Fath al-Sham. You did not inform your parents about your departure and your rebel activities.

Upon arrival in Idlib, you received ten days of sharia lessons and pledged allegiance to emir Abu Mohammad al-Julani, followed by two weeks of military training. As you were considered too young to join the armed battle, you were deployed as an informant. You were responsible for passing information directly to the bureau of the Idlib commander on persons involved in activities of IS/Daesh and other rival factions, including the Syrian Interim Government (opposition) elements. When clashes in Idlib governate between different factions in 2017 led to the formation of a new hardline Islamist coalition, Hay'at Tahrir al-Sham (HTS), you started passing on information to the security services of HTS.

You declared that you fled Syria again in January 2020 following the disappearance of your brother Hassan. As you were told previous stories of HTS rebels searching to punish deserters from their ranks, you became afraid and decided to leave Syria as soon as possible. You managed to cross into Turkey, to the city of Hatay. You didn't want to return to Kilis camp afraid to be found and recognized by the former rebels.

With the help of a former rebel friend Idriss, you boarded a boat to Kalakuta and arrived at the harbour of Makosi city on 15 March 2020. In the morning of 16 March, you applied for asylum at the police station of Girin town. You submitted a Syrian family booklet and a proof of departure from Syria. During your interview, you declared that you feared being arrested, tortured and sentenced to death or extrajudicially killed by the Syrian regime, for your involvement in the Islamist rebel opposition, as well as by HTS, for having deserted the rebel group. You also fear for your life in Syria due to the armed conflict in your region of origin.

## **3. Motivation**

First, it should be noted that the Commissioner for International Protection (CIP) took into account your young age. Hence, you were appointed a guardian during your procedure for international protection, you were heard by a specialized asylum officer who is trained to conduct interviews with minors, your lawyer was present during your whole asylum interview and your age and maturity were considered when assessing your need for international protection.

However, after an in-depth analysis of your declarations, presented documents and available country information, the CIP decided that you cannot be considered a refugee in the meaning of the UN Convention relating to the Status of Refugees of 1951 because of several reasons motivated hereinafter.

It should be stressed that the burden of proof is on the applicant. Owing to the special situation in which asylum seekers often find themselves, it is frequently necessary to give them the benefit of the doubt when it comes to assessing the credibility of their statements and the documents submitted in support thereof.

You declared being a Syrian national of Arab origin who has always been living in Idlib Governate, Jisr al – Shughour. In light of the fact that you have submitted an authentic family booklet and considering your statements and general knowledge regarding your region, hometown, school, not contradicting general country of origin information, your nationality and place of former residence are deemed credible.

With regard to the credibility of your asylum claim, we make the following remarks.

Firstly, you mentioned that in 2017, Kilis camp was hit by rockets fired by IS/Daesh soldiers and many people died. However, available country of origin information shows that the attack on Kilis camp took place in May 2016. Given the fact that this attack was the trigger for you to leave Kilis camp and taking into account that this led to the death of your best friend Bassam, one could assume that you would remember this date precisely.

Secondly, you stated that you joined the ranks of Jabhat Fath al-Sham (previously called Al-Nusra) in 2017. You continued your rebel activities for HST until January 2020, when you left Syria for a second time. However, it should be noticed that your knowledge about the different rebel factions operating in Idlib at that moment, as well as your statements on the internal structure/leaders of HST were rather vague and confusing. You were not able to provide a reasonable explanation for this lack of knowledge. Even though considering your young age, one could expect that you would be able to provide more detailed information about your previous rebel activities considering that you lived for more than 3 years in the HST camp, that you received intensive training by HST and that a lot of first-hand information about the rebel factions was shared by your brother. Moreover, when asked to clarify the different training levels and the way HST was organized, you remained silent.

Thirdly, when asked to elaborate further on your day-to-day activities within HST, you remained again vague. Questioned to describe the HST-camp where you lived or to share your daily structure, you never got beyond the answer *“I don’t remember”*. This affects your general credibility.

Given all the above-mentioned reasons, we consider that you did not make plausible that you were involved in the Islamist rebel opposition or HTS in Syria.

With regard to your allegations of HTS rebels searching to punish deserters from their ranks, it should be noticed that you were not able to provide more information about this rumour or the person who was responsible for spreading this kind of information. It is more probable that you decided to leave your home country in search for a better life outside Syria.

### **Refugee status**

Given the above-mentioned reasons, it has been decided by the CIP to refuse to recognise you as a refugee in the meaning of the UN Convention relating to the Status of Refugees of 1951.

The general situation in Syria is characterized by an economic and political crisis, which also affects the human rights situation. However, the situation is not sufficiently serious to consider every Syrian national a refugee. Therefore, the applicant has to make plausible that he has personal reasons, which justify his fear for persecution.

The applicant's statements that he has a well-founded fear for being arrested, tortured and sentenced to death or extrajudicially killed by the Syrian regime for his involvement in the Islamist rebel opposition, as well as by HTS, for having deserted the rebel group, are not considered credible.

### **Article 3 Convention against Torture, Article 7 International Covenant on Civil and Political Rights**

Your claim with regard to Article 3 of the Convention against Torture and Article 7 of the International Covenant on Civil and Political Rights is also rejected.

The existence of a pattern of gross, flagrant or mass violations of human rights in a country does not, as such, constitute sufficient reason for determining that a particular person would be in danger of being subjected to torture upon return to that country; additional grounds must be adduced to show that the individual concerned would be personally at risk.

You have not made plausible that you belong to a particular social group, which is specifically targeted by the Syrian authorities. Also, you have not made plausible that you run a real risk of torture or inhuman or degrading treatment on the basis of your personal circumstances (see the argumentation mentioned above under 'motivation').

### **4. Legal consequences**

The applicant is not permitted to legally reside or stay on the territory of the People's Republic of Kalakuta. The applicant is granted fourteen days to leave the country by his own initiative, after which he will be forcibly returned to Syria.

### **5. Legal remedies**

An appeal, including substantiated means in fact and law, against this decision can be lodged before the 15<sup>th</sup> of December 2021. The appeal should be sent to:

The administrative court of first instance

Human Rights Street 5

MAKOSI City

KALAKUTA

By email: [migrationmoot@ugent.be](mailto:migrationmoot@ugent.be)