



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/10413/2016

**THE IMMIGRATION ACTS**

Heard at Glasgow  
On 6 September 2018

Decision and Reasons Promulgated  
On 13 September 2018

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

REBAZ [K]  
(anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Ms S McKeeve, of McGlashan MacKay, Solicitors  
For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. This decision is to be read with:
  - (i) The respondent's decision dated 5 September 2016, refusing the appellant's claim.

- (ii) The appellant's grounds of appeal to the First-tier Tribunal.
  - (iii) The decision of FtT Judge Handley, promulgated on 6 November 2017, dismissing the appeal.
  - (iv) The appellant's grounds of appeal to the UT, stated in the application for permission on 24 January 2018 under the heading "errors of law in light of the expert report" at 3 (i) - (iv), and on materiality at 4 (i) - (v).
  - (v) The grant of permission by the UT dated 7 March 2018, on the view it was arguable that the Judge might have failed to engage with an expert report from Mr Joffe or with other background evidence.
2. Ms McKeeve sought to amend the grounds, to rely also on failure to deal with a letter from Mr Rahamim Moshe (or Moshe Rahamim), a copy and a translation of which are in the appellant's first inventory in the FtT, item 3. She sought a remit.
  3. Mr Govan, sensibly, did not oppose the amendment. He argued that although there was little reference to the expert report, it did not make any difference, and that the letter did not appear to have been heavily relied upon in the FtT, and required no separate treatment.
  4. I indicated that I was satisfied that there was error of law such as to require remittal.
  5. The judge narrates at paragraph 3 that the appellant submitted an expert report, but does not mention it again.
  6. The appellant claimed to be entitled neither to Iranian nor to Israeli nationality. The report went to those crucial issues.
  7. The judge at paragraph 37 finds that the appellant's account of an ID card suggested that he was a national of Iran, and that he offered "no plausible explanation" for his "lack of clarity" at interview. As Ms McKeeve identified at paragraph 4 (ii) of the grounds and in submissions, this takes no account of relevant passages at paragraphs 12 and 13 of the report. On reference also to Q/ A 85 - 87 and 93 of the interview, issues around the ID card could not satisfactorily be answered without analysing the report.
  8. Mr Govan made legitimate points about the weight which ought to be given to the report, and it does not lead inevitably to the decision being reversed; but those were points which would be relevant in remaking the decision, rather than showing that there was no error of law.
  9. The grounds make further points about the materiality of failing to take account of the report, although of lesser force. It does not seem that much was made of the letter from Israel, and again, reasons may be found to give it little weight, but it is a source of evidence about the appellant's national origins which probably warranted separate treatment.

10. The grounds as a whole, and at 4 (ii) in particular, show error on issues such that the decision cannot safely stand.
11. Mr Govan argued that the decision could be remade by submissions on the report and the letter. However, I preferred the submission by Ms McKeeve that the overall credibility assessment was affected in such a way as to require a fresh hearing.
12. The decision of the FtT is **set aside**. It stands only as a record of what was said at the hearing.
13. The nature of the case is such that it is appropriate under section 12 of the 2002 Act and Practice Statement 7.2 to remit to the FtT for an entirely fresh hearing.
14. The member(s) of the FtT chosen to consider the case are not to include Judge Handley.
15. No anonymity direction has been requested or made.

A handwritten signature in black ink, reading "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

6 September 2018  
Upper Tribunal Judge Macleman