



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: IA/07376/2014

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 29 July 2014**

**Determination**

**Promulgated**

**On 4 August 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVID TAYLOR**

**Between**

**ENRIKAS SKUCAS  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

The appellant appeared in person

For the Respondent: Mr P Deller, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant Enrikas Skucas is a 16 year old citizen of Lithuania. He has appealed, with permission, against the determination of First-tier Tribunal Judge M J H Wilson promulgated on 6 May 2014 dismissing his appeal against the refusal to grant him a registration certificate as confirmation of his right to reside in the United Kingdom as the dependant of an EEA

national exercising treaty rights. The determination had been made on the papers as the appellant had elected not to have an oral hearing.

2. The appellant's application had been refused because the respondent did not accept, on the evidence, the relationship between him and his sponsor. The appellant's sponsor is his mother Ms Diana Skucaite who is also a citizen of Lithuania. She is a single mother and the appellant is her only child. She was granted an EEA registration certificate on 3 January 2014 and in her application she had included the appellant as her dependant. Her application was granted but that of the appellant was refused.
3. In dismissing the appellant's appeal on the papers, Judge Wilson noted that, following the refusal decision, the appellant had submitted a photocopy of his birth certificate with what appeared to be a translation from the Lithuanian. At [9] and [10] of his determination he gave reasons for not accepting the validity of the copy birth certificate and translation.
4. Permission to appeal was granted on 16 June 2014. The reasons given in granting permission included the following:
  7. It is important when persons are acting in person to give the broadest of consideration to the decision before us, the matters relied upon, and more widely when justice requires.
  8. Notwithstanding the judge's citation of the burden and standard of proof there is discerned in the judge's assessment of the appellant's birth certificate evidence, that the standard operating when evaluating that evidence appeared higher than that of the balance of probabilities, with the language of the assessment appearing by itself inconsistent (para 10).
5. At the hearing before me the appellant attended with Ms Skucaite. Mr Deller had not previously seen the copy birth certificate and translation that had been in evidence before the First-tier Tribunal and he examined it. The original of the photocopy birth certificate was also produced by the appellant and the Presenting Officer accepted that the photocopy was a true copy.
6. The judge's determination referred [10] to the translation of the certificate into English. He said in his determination that it seemed to him to be "amateurishly presented with no direct evidential link to the document to which it was stapled attesting to its being a true translation". I have examined the documents. There was no staple. The certificate and the translation are sewn together in a professional manner with a clear certificate from the translator. There appears to me to be nothing amateurish about the translation or the certificate attached to it.
7. Following discussion, Mr Deller conceded that the judge's determination at [10] contained a material error of law in relation to his assessment of the

copy birth certificate. There is a clear perception in the determination that the judge applied a higher standard than the balance of probabilities. I am satisfied that his reference to the translation being “amateurishly presented” does not bear close scrutiny.

8. With the consent of the Presenting Officer, I therefore set aside the First-tier Tribunal decision.
9. On reviewing all the evidence and taking the standard of proof as the balance of probabilities I am satisfied that Ms Skucaite is the mother of the appellant. The birth certificate says so. There is evidence that they live together; the evidence includes a letter from the appellant’s school showing his address to be the same as that of Ms Skucaite. The appellant’s Lithuanian passport shows the same date and place of birth as that on his birth certificate.
10. In summary there is no cogent reason for doubting the genuineness of their relationship and I find that the appellant is the dependent son of Ms Diana Skucaite as claimed. His appeal must therefore be allowed.

## **Decision**

The determination of the First-tier Tribunal contained a material error of law (as set out above) and is accordingly set aside.

I remake the decision and **allow** the appellant’s appeal.

**Anonymity** direction not requested and **not made**.

Although I have allowed the appeal, I make **no fee award** because the copy birth certificate was not produced until after the filing of the original appeal; it was not submitted (as it should have been) with the application.

Deputy Upper Tribunal Judge David Taylor  
31 July 2014