



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/04791/2015

THE IMMIGRATION ACTS

Heard at Glasgow
on 21 August 2017

Determination issued
on 22 August 2017

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

[H K]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Ms N Loughran, of Loughran & Co, Solicitors
For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant appeals against a decision by First-tier Tribunal Judge Farrelly, promulgated on 2 December 2015, dismissing her appeal against refusal of asylum.
2. The respondent's decision dated 4 March 2015 was based in part on a report from Verified AB, a Swedish company, dated 11 December 2014. It was common ground between representatives that the report follows the same model of approach as

reports by the company Sprakab, which were the subject of *M A B N and another v SSHD* [2013] CSIH 68, *SSHD v MN & KY* [2014] UKSC 30.

3. The report is signed off at page 9 after the following passage:

The linguist named below is responsible for the production of the final report, which includes analysis provided by Verified's trained analysts.

4. The annexed qualifications of the linguist are these:

Academic background

The linguist holds a Master of Arts from the Department of Culture and Communication, received within the Graduate School in Language and Culture in Europe (University of Linköping) (2013) and is scheduled to put forth her thesis for Master degree in General Linguistics at the University of Stockholm (2014).

Courses of particular relevance in the context at hand include Field Linguistics and Linguistic Typology with a focus on methodologies of collection and interpretation of linguistic data.

Professional experience

The linguist has been employed with Verified since 2014.

The linguist the linguist has previously worked with translation.

Language skills

Besides native skills in Farsi, the linguist has an excellent command of English and a good command of Swedish.

5. Annexed details of the two analysts show one to be a first language speaker of Kurmanji, from Syria, and the other to be a first language speaker of Bahdini, from Iraq.
6. The report finds at 3.4 that the appellant does not speak Kurdish Kurmanji as spoken in the village of Syria which she claims as her place of origin, and at 4.4 that she speaks a Bahdini variety of Kurmanji spoken in Iraq.
7. The judge at ¶14 said that he gave "considerable weight" to the report, which made his task considerably easier; it was only part of his assessment, which "may well have been the same on general credibility grounds", but was "a solid foundation upon which I base my conclusion".
8. The submissions of Ms Loughran were based primarily on *M A B N and another* at ¶18, which sets out a note of reasons issued by Lord Macphail in other proceedings. The note in turn cites from Guidelines by an international group of linguists:

3. LANGUAGE ANALYSIS MUST BE DONE BY QUALIFIED LINGUISTS

Judgements about the relationship between language and regional identity should be made only by qualified linguists with recognized and up to date expertise, both in linguistics and in the language in question ...

The sixth guideline reads in part:

Linguists should provide specific evidence of their professional training and expertise ... so that a court may have the opportunity to assess these matters.

9. The appellant's argument was that the report should have been found to carry little weight because (a) the "linguist" was not shown to have a qualification in the subject, and (b) she did not speak the language in question.
10. On point (a), Ms Loughran said that if the first degree of the signatory of the report was in linguistics, the summary could and should have specified "a degree in linguistics". Without such a statement, there was nothing to show that her Master of Arts was in linguistics.
11. The judge dealt with this submission at ¶11, saying:

On the basis that linguistics is the study of language and having regard to qualifications in my view the signatory is a linguist. She holds a Masters degree in language and culture in Europe and is completing her Masters degree in general linguistics.
12. Mr Matthews submitted that the Judge was obviously right, and that the linguist would only have been employed as such by Verified if she had the appropriate qualification.
13. On this issue, I consider that the judge made no error of law by concluding from the evidence before him, for the reasons he gave, that the linguist's qualifications were in that field.
14. Mr Matthews submitted that point (b) was resolved by the Supreme Court in favour of the SSHD.
15. Ms Loughran argued that while the Supreme Court had not agreed with the Inner House that no weight could be given to reports of the present nature, it had not gone into detail on this issue, and had not dissented from the analysis favoured by the Inner House, based on the Guidelines. She said that the Judge fell into error by failing to deal with the submission that for this reason, the report deserved little or no weight.
16. Ms Loughran is correct to the extent that point (b) was mentioned to the FtT, in particular in written submissions, and the Judge did not deal with it.
17. Mr Matthews referred to the issues agreed in MN and KY at ¶21:
 - i) Whether the immigration judges were entitled to attribute any weight to the Sprakab reports;
 - ii) In what circumstances should witnesses providing evidence in such appeals be granted anonymity;
 - iii) Whether there are any particular rules governing expert evidence tendered in the name of an organisation rather than an individual;
 - iv) To what extent can such evidence be accepted in a form not prescribed by the Practice Directions;
 - v) To what extent, and with what effect, can the Upper Tribunal give guidance as to the weight to be given to such reports, or the conclusions to be drawn from them.

18. He then went to the resolution of (i), (iii) and (iv) at ¶37:

So here, it is inappropriate for general questions relating to Sprakab, its methodology and the presentation of its reports to be re-litigated constantly in separate FTT hearings, with inevitable inconsistency of outcome. The Upper Tribunal were right in *RB* to address those issues. Subject to appropriate safeguards, they were entitled in my view to find no objection of principle to the admission of the Sprakab reports, whether because they were in the name of an organisation rather than an individual, or in general for failure in other respects to comply with the practice directions. This discussion makes it unnecessary to consider in more detail issues (i), (iii), (iv); the short answer is that none of them points to any overriding objection to evidence in this form. ... As Lord Eassie said, in a passage to which Mr Lindsay took no objection:

"... in the end one naturally has to consider whether, in substance, the tribunal in question has been provided in the case before it with expert evidence which the tribunal can be satisfied is based upon an appropriate and adequate expert knowledge, given with the neutrality required of the expert, unencumbered by views falling outwith his field of expertise."

19. I note also ¶51 (ii) (a):

As to language, the findings (on evidence) in *RB* are ... sufficient to demonstrate acceptable expertise and method, which can properly be accepted unless the evidence in a particular case shows otherwise.

20. I accept that *MN and KY* did not relax the usual rules about expert evidence, and that credentials and expertise must be scrutinised in each case. However, the methodology of Sprakab was generally approved by the Supreme Court. That methodology was the use of two native speaker analysts, overseen by a linguist, not necessarily qualified in the language being examined – the same approach as in the present case.

21. There is no rule to be deduced from the Guidelines and from the decision of the Inner House to the effect that since *MN and KY* a report based on supervision by a linguist of two native speaker analysts is to be given little weight.

22. Error on point (b), if any, makes no difference, and so does not lead to the decision being set aside.

23. The decision of the First-tier Tribunal shall stand.

24. No anonymity direction has been requested or made.



21 August 2017
Upper Tribunal Judge Macleman