



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2022-006548

First-tier Tribunal Nos: PA/51387/2021  
IA/06234/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 6 August 2023**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN**

**Between**

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

Appellant

**and**

**MAA  
(ANONYMITY ORDER MADE)**

Respondent

**Representation:**

For the Appellant:

Mr. E. Terrell, Senior Home Office Presenting Officer

For the Respondent:  
Solicitors

Ms. G. Brown, Counsel, instructed by Barnes & Harrild & Dyer

**Heard at Field House on 11 July 2023**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the Appellant, likely to lead members of the public to identify the Appellant. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

1. This is an appeal by the Secretary of State against a decision of First-tier Tribunal Judge Ruth, (the “Judge”), dated 27 May 2022, in which he allowed MAA’s appeal against the Secretary of State’s decision to refuse to revoke a deportation order. MAA appealed against the decision on asylum and human rights grounds.
2. For the purposes of this decision I refer to the Secretary of State as the Respondent and to MAA as the Appellant reflecting their positions as they were before the First-tier Tribunal.
3. I have continued the anonymity direction made in the First-tier Tribunal given that this is an asylum appeal.
4. Permission to appeal was granted by First-tier Tribunal Judge Seelhoff on 22 June 2022 as follows:
  - “2. The grounds assert that the Judge erred in accepting the expert as an expert on document verification, and in accepting her assessment of the documents as genuine.
  3. The judge was entitled to treat the expert as having some expertise him even while acknowledging she was not a ‘forensic’ expert.
  4. The grounds further assert that insufficient account has been taken of the previous adverse credibility findings made by the tribunal in an earlier appeal by the expert in assessing the documents and by the judge when reviewing the credibility in light of the new documents.
  5. Although the judge identifies the previous decision as a starting point it is only in terms of the finding as to the Appellant’s nationality. There is no substantive consideration of the previous credibility findings, no examination of the expert evidence in the context of the previous adverse credibility findings and no reference to Devaseelan”.

### **The Hearing**

5. The Appellant attended the hearing. Ms. Brown provided a Rule 24 response dated 23 September 2022 which was not on the file before me. Mr. Terrell had had an opportunity to consider this. I heard submissions from Mr. Terrell and Ms. Brown. I reserved my decision.

### **Error of Law Decision**

6. Mr. Terrell began by accepting that the criticism of the Judge’s comment at [38] that the expert “had no axe to grind” was not the Respondent’s strongest point, and he pursued it no further. However, he submitted that, right from the start, the Respondent had put her case with reference to the limitations of the expertise of the expert witness. I was referred to the Respondent’s decision where she stated that it was not clear what expertise the expert had in physically authenticating official Iranian documents, or in the identification of forged Iranian documents (page 326 of the Respondent’s bundle).
7. Mr. Terrell submitted that it was necessary for the Judge to decide whether the expert was an expert in document verification as that went to the weight to be attached to her report. This had been sidestepped by the Judge. The finding that

she had many years of acting as an expert was not the same as her having expertise.

8. I was referred by Ms. Brown to [10] and [11] of the Rule 24 response where it is submitted that the Judge had entirely rationally reasoned and concluded that the expert had the required expertise to comment on the authenticity of the documents. I was referred to the letter from the expert, RF, dated 20 December 2021 (page 56 of the Appellant's bundle). This letter was written following the Respondent's decision and the questions she had raised concerning RF's expertise. It is a direct response to those criticisms. RF set out in that letter how she had authenticated documents for over eighteen years. She referred to Annex A of the Country Report cited in the Respondent's decision for evidence that there are a variety of indications on the documents that will identify whether the document is fraudulent. She referred again to Annex A in regard to her extensive experience in identifying the nuances and minutiae that would indicate a difference between an authentic document and a forgery. She referred to Annex A in relation to the paper, printing and ink used in official documents and the fact that templates have been shared amongst forgers. It was submitted that this, together with her expertise as set out in her report, was adequate evidence for accepting her as an expert witness. Ms. Brown further submitted that there was no authority for the submission made by Mr. Terrell that it was incumbent on the Judge to make a finding that RF was a document verification expert.

9. At [37] and [38] of the decision the Judge states:

"Perhaps unusually, in the refusal letter the respondent accepts that the expert is appropriately qualified to provide expert opinions. She questions, however, whether physical verification of documentation is within her expertise. The expert responds to this and points out that she has many years of experience looking at and comparing documents and giving opinions about whether they are likely or not to be genuine. She gives her opinion that the birth certificate is a genuine document, leading to the conclusion the appellant is likely to be Iranian.

The expert is known to the Tribunal and her qualifications impressive. She plainly has no axe to grind in this appeal and understands her duty to the Tribunal as an expert. I have had careful regard to the views of the expert in relation to the birth certificate. She carries out a careful examination of the certificate and gives detailed reasons as to why she consider it more likely than not the certificate is genuine. Whether or not she could be regarded as a document verification expert, such as those carrying out forensic examinations within the Home Office, it is not necessary for me to decide. As she states in her report and subsequent letter, she has many years of acting as an expert, including in the giving of opinions about whether or not particular Iranian documents are likely to be genuine. I consider her opinions can be given considerable weight".

10. As set out at [37] of the decision, while the Respondent had questioned RF's expertise in relation to authenticating documents, the Respondent had accepted that RF was likely to have sufficient general knowledge of the aspects that made up a birth certificate and the ability to compare it against others that she had encountered (page 325 of the Respondent's bundle). The Respondent had also noted that RF had an extensive background in academia surrounding Iran.

11. The Judge referred to RF's letter at [37]. I find that he gives adequate reasons at [37] and [38] for relying on the expert report. I reject the submission that the Judge had to make a finding of whether RF could be regarded as a document verification expert such as those within the Home Office given that RF had

provided adequate evidence of her extensive experience in considering Iranian documents and whether or not they were forgeries. The Judge gave ample consideration to RF's expertise. He was well aware of the Respondent's criticisms but gave weight to RF's report having carefully considered her expertise and her response to the Respondent's criticisms. He correctly states that he needs to find whether it is more likely than not that the certificate is genuine.

12. I find that the Judge was entitled to place weight on the expert report and his reasons for relying on that report are adequate. I find that the Judge did not err in accepting the view of RF.
13. It is argued in the alternative to that RF failed to address whether or not the documents were fraudulent ([3] and [4] of the grounds). However, I find that RF was asked to assess the documents and whether they were genuine or fraudulent, and her conclusion was that they were genuine. She gave reasons for considering that they were not fraudulent, reasons which the Judge carefully considered as set out at [38].
14. I find that the Judge was aware of the Appellant's immigration and criminal history as set out at [16] and [17]. However, he was entitled to give weight to the evidence from the expert that the documents were genuine. I find that there is no error of law in the Judge's consideration of whether or not the documents were genuine and could be relied on.
15. In relation to the second point at [4] regarding the Nationality Statement from the immigration officer, Mr. Terrell submitted that this had not been taken into account by the Judge. It was not clear what the Judge meant at [40] and [41]. I was referred to the Nationality Statement (page 24 of the Respondent's bundle). The interview record which led to this Nationality Statement being made is at pages 25 to 33 of the Respondent's bundle.
16. At [40] and [41] the Judge considered this issue and states as follows:

"Furthermore, she provides no real positive evidence of any kind that the appellant is a national of Iraq or of any other country. The only evidence provided is a statement from an immigration officer on 26 April 2016. This refers to an interview conducted with the appellant during which, it is asserted, he did not answer questions about the Persian calendar, his birth certificate or the area from which he comes, in a manner satisfactory to the Respondent. The notes of the interview are provided.

The difficulty with this is that it is not clear to me what level of knowledge of the matters put to him the appellant would be required to have in order to establish his Iranian nationality and why his alleged failure to answer the questions described by the immigration officer leads to the conclusion that he is more likely to be a national of Iraq than Iran, or at least unlikely to be a national of Iran".
17. I find that [41] is clear. The Judge has stated that he has no evidence as to what level of information and knowledge the Appellant should have had in 2016 to establish his Iranian nationality. The Appellant had come to the United Kingdom in 2004 as a minor. The Judge had no evidence from the Respondent as to what she considered that the Appellant should know in these circumstances, and what would be a satisfactory level of knowledge for her.

18. The Judge referred to both the Nationality Statement and the interview record when coming to his conclusion about the weight to be attached to them. I have carefully considered them. I find that the conclusions in the Nationality Statement are not borne out by the interview record, thus adding weight to the Judge's comment that he did not know what level of knowledge the Respondent required. I find that some knowledge has been reported as no knowledge. For example, in the second paragraph the Nationality Statement states that the Appellant "does not know the months of the Persian calendar". However, the interview record indicates that, although he could not name them all, he was able to name some of them (page 29 of the Respondent's bundle). It states in the fourth paragraph of the Nationality Statement that the Appellant "has no knowledge of the area of Iran he claims to come from", but this is not borne out by the interview record where the Appellant names his village, the nearest big town, how far away the nearest big town was and other towns in the area (pages 26 and 27 of the Respondent's bundle). The Nationality Statement states "[the Appellant] has no knowledge of popular Iranian culture" but there is no further explanation as to what is meant by "popular Iranian culture" or how the Appellant has shown that he has no knowledge of it.
19. I find that the Judge was entitled to find "it is not clear to me what level of knowledge of the matters put to him the appellant would be required to have in order to establish his Iranian nationality" given that the transcript indicates that he had some knowledge, but not enough to satisfy the Respondent.
20. Further, the Nationality Statement states that the Appellant "was interviewed in Sorani as he does not understand Farsi". In the fifth paragraph it refers again to his inability to speak Farsi. I was referred by Ms. Brown to a letter in the Respondent's bundle from the Respondent to the Appellant's MP which states that the Appellant had a telephone conversation in Farsi with an interpreter in April 2016 (page 108 of the Respondent's bundle). This contradicts the Nationality Statement and is evidence that the Respondent was aware in 2016 that the Appellant had been interviewed in Farsi, and therefore could understand Farsi. It is not clear either why the statement that he cannot understand Farsi was made in the Nationality Statement. The interview record states that the Appellant said that he spoke Farsi but not very well (page 30). The statement that the Appellant had an inability to understand Farsi is not made out.
21. It is further alleged at [4] of the grounds that the Judge failed to address the issue of the Appellant not being able to describe his Shehnasnameh document on which he purported to rely. It was submitted that this was relevant to consideration of the birth certificate and the weight to be attached to it.
22. The Nationality Statement says "[the Appellant] was unable to describe his shehnasnameh document". I have carefully considered the interview record. The Appellant said that the document contained his name, his father's and mother's names, and his photo in the left corner of the page. He also said that it was like a passport. He was asked again "what does it look like though" and said that he did not remember and did not want to make mistakes. However, he had already said that it was like a passport, and that it had his photograph in the left corner, which is exactly how the documents looks (page 5 of the Appellant's bundle). Again, for the Nationality Statement to state that he was "unable" to describe his shehnasnameh document" is not accurate.

23. Even were I to have found that the Judge erred in his consideration of the Nationality Statement and the interview record, as asserted by the Respondent, it cannot be material given the contradictions in the evidence provided to the Tribunal by the Respondent. I find that the Judge was entitled to find that there was no objective measure by which he could consider whether or not this information was sufficient. Further, a careful consideration of the Nationality Statement indicates that it is not a true reflection of the evidence given by the Appellant as set out in the interview record, and that it contradicted by the evidence provided by the Respondent to the Tribunal that the Appellant could speak Farsi.

24. Paragraph 5 of the grounds refers to the court documents and asserts that the Judge has failed to give adequate reasons as to why he has departed from the previous decision. At [43] to [47] the Judge states:

“The next question is whether the appellant, whose Kurdish ethnicity is not disputed, is likely to have been sentenced in absentia for involvement in pro-Kurdish activities as set out in the court documents from 2005, submitted to the respondent in 2012. Once again, it seems to me this matter can be dealt with briefly.

Returning again to the views of the expert, who provides a detailed examination of the court documents and gives her reasons for concluding that in her opinion they are probably genuine, I see no reason not to place weight upon these conclusions.

I note the respondent has been in possession of these documents for a decade and has not provided any contrary expert information to suggest they are not genuine. She relies upon background country information suggesting the widespread use of forged documents in Iran, but this does not deal directly with the detailed examination of the documents made by the expert and her detailed reasons for concluding they are more likely than not to be genuine.

In my judgement, the preponderance of the evidence suggest the documents are more likely than not to be reliable. This is most particularly because of the views of the expert to which I give considerable weight.

Those documents were not before the previous Tribunal, where the appellant was unrepresented, and they also did not have the benefit of the expert opinion with which I have been provided. In my judgement, therefore, there is new evidence before me which is compelling and justifies a departure from the findings of the previous Tribunal in 2007.”

25. In relation to the criticism at [6] of the grounds that the Judge had failed to address the issue of why the documents were not before the previous Tribunal, Ms. Brown submitted that the Appellant was asked for his birth certificate in 2016 as shown by the letter to the Appellant’s MP (page 108 of the Respondent’s bundle). At the previous appeal his nationality was not in issue as it had been accepted by the Respondent that the Appellant was Iranian. The Tribunal found that he was Iranian. His birth certificate was not relevant to that consideration. She submitted that there was no adverse credibility finding to be made on the basis that he did not provide his birth certificate before 2016. I accept this submission.

26. Ms. Brown further submitted that the Appellant had made this claim in 2012, which is when he provided the court documents. The Respondent had not made a decision until 2022. She had had the court documents for ten years.

27. I find that there is no error in the Judge's consideration of the documents or when they were provided. The Respondent had not previously disputed the Appellant's nationality or date of birth. In relation to the court documents, as found by the Judge at [45], the Respondent did not provide any contrary expert information to suggest they were not genuine, nor did she deal with the detailed examination of the documents made by the expert. I find that the Judge has given adequate reasons for departing from the decision made in 2007. He took into account that the Appellant was unrepresented in 2007. He placed reliance on the expert report, and I have found that there is no error of law in his reliance on this report. He correctly found that there was new evidence to justify departure from the findings of the previous Tribunal in 2007. The fact that Devaseelan is not mentioned explicitly is not an error of law as it is clear from the decision that the Judge was aware of the Devaseelan principles when explaining why he could depart from the previous decision at [47].
28. I find that the Judge's consideration of risk from [49] to [55] is correct, taking into account the Country Guidance caselaw which was not before the previous Tribunal in 2007.
29. Taking into account all of the above, I find that the grounds are not made out. I find that the Judge engaged with all of the material issues before him. He was entitled to place weight on the documents, both the certificate and the court documents, having given weight to the expert report. He gave adequate reasons for attaching weight to the expert report.
30. I find that the Respondent's grounds amount to little more than a disagreement with the findings of the Judge. The evidence before the Judge supported his conclusions. The decision is well reasoned and does not involve the making of a material error of law.

### **Notice of Decision**

31. The decision of the First-tier Tribunal does not involve the making of a material error of law and I do not set it aside.
32. The decision of First-tier Tribunal Judge Ruth stands.

**Kate Chamberlain**

Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber  
24 July 2023