Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/00017/2016

THE IMMIGRATION ACTS

Heard at Manchester	**Decision& Reasons Promulgated**
On 6th March 2018	**On 2nd May 2018**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

AHMED [A-K]
(anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Miss N Wilkins instructed by the Greater Manchester Immigration Aid Unit.
For the Respondent: Mr C Bates Senior Home Office Presenting Officer.

ERROR OF LAW FINDING AND REASONS

1. The appellant appeals with permission against a decision of First-tier Tribunal Judge Gurung-Thapa, promulgated on 6 July 2017, in which the Judge dismissed the appellant's appeal on protection and human rights grounds.

Background

2. The appellant claimed to be a citizen of Syria born on [ ] 1998. He claimed asylum in the United Kingdom on 30 July 2014 on this basis. The respondent refused the application on 16 December 2015 against which the appellant appealed.
3. The Judge noted that the EURODAC fingerprint database showed that the appellant had been fingerprinted in Italy on 25 May 2014. The Italian authorities have confirmed to the respondent that the appellant, in addition to providing the name and date of birth referred to above, also claimed he was Ahmed [A], an Egyptian national, born on 24 May 1997.
4. Having considered the evidence, the Judge sets out her findings of fact from [27] of the decision under challenge. At [29] the Judge writes: "*Miss Smith confirmed that the only issue in the appeal is the appellant's nationality. In his rebuttal statement, the appellant asserts that he is a Syrian national and that he speaks the Syrian dialect of Arabic. He told the Home Office in his statement that he had lived in Egypt and has never attempted to hide this fact. While he believes that his dialect may have been influenced by the Egyptian dialect, he maintains that he does not speak the Egyptian dialect and that he is not an Egyptian citizen.*"
5. The Judge noted the core of the appellant's case and that the respondent relied upon a language analysis from Verified AB. The Judge also notes the appellant relied upon a report from a Professor Yaron Matras dated 30 July 2016, who is a Professor of Linguistics at the University of Manchester. The Judge notes the appellant's expert is critical of the evaluation of the Verified report on the grounds that an individual's speech is rarely uniform and that young people who have left their home region and have come into contact with other migrants of different backgrounds usually have a complex of differentiated repertoire of speech forms that shows variation according to style, setting and interlocutor and, secondly, on the ground that Verified fails to provide any justification or explanation for the choice of the Cairo dialect as an alternate hypothesis [39].
6. The Judge's core findings are set out between [41 – 53] in the following terms:

> "41. I have taken into account both the reports and accept that there are limitations and that the Verified report has to be considered in its context. Likewise, I find that there are also limitations on the report of Professor Matras as he only considered the 38 minutes telephone recording and did not interview the appellant. Further, while he is of the view that the appellant's most likely place of origin is Damascus, he accepts that individuals' speech is rarely uniform especially that of young people.
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> 42. I have given due weight to the two reports but I also have to assess all the evidence in the round and make my own findings.
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> 43. I had the benefit of seeing and listening most carefully to the appellant as he gave his evidence. I have given due regard to the fact that the appellant was aged 16 when he entered the UK and was aged 17 when he had his substantive asylum interview. I find that there are

material inconsistencies which damages the appellant's credibility and thus reject the appellants claim that he is a Syrian national.

44. The appellant and his substantive asylum interview stated that he was born in Al Yarmouk camp and not live anywhere else in Syria (Qs 10 and 11). He described working with his father in construction and they worked a lot in the camp itself (Qs 26 and 27). He stated that he did not know Umayyad Mosque (Q30). The respondent in the refusal letter states that Umayyad Mosque is one of the largest, oldest and holiest mosques of the world found in the centre of Damascus (paragraph h). Following the appellant's substantive interview his previous representatives made further submissions in response to the interview record and in relation to Q30 where it states that the appellant had said that he didn't go to the mosque, he told the interpreter that he caught the bus to get to the centre of Damascus and then went there twice. He does not know why the answer says that he does not know but he is sure that he gave this information (D1).

45. If the appellant had indeed attended the Umayyad Mosque then it is reasonable to conclude that he would have said so in his substantive asylum interview. The appellant claims that he told the interpreter that he caught the bus to get to the centre of Damascus in order to attend the mosque and if he is to be believed in his account then this would have been recorded in his interview record. However, it is clearly recorded that he had indicated that he did not know the mosque (Q30). It is not the appellant's assertion that he could not understand the interpreter or that the interpreter had misunderstood him. The appellant at the conclusion of his interview confirmed that he understood all the questions put to him and that he understood the Home Office interpreter (B27). Present at the interview was also his representative (B28). The representative did not state that the appellant had problems understanding the interpreter (B 28).

46. I find that there is also a material inconsistency as to when the appellant left Syria. In his screening interview, he claims that he left Syria about 5 months ago which was around February 2014 whereas in his witness statement he claims to have left Syria in 2012 but does not remember the date or time (C28). I find it reasonable to conclude that if the appellant had indeed left Syria in 2012 then he would have said so during his screening interview. In his screening interview, the appellant also failed to mention that he lived in Egypt for 2 years instead stating that he travelled through two unknown countries after Jordan where he stayed for 2 days and later on in France (2.1). In his screening interview, the appellant also claimed that his last address was Al Yarmok Street in Aleppo and gave the house number as 8 (7.1) and that his family remained in Syria (7.7). The appellant I find has not given a satisfactory explanation as to why he would not have mentioned the fact that he lived in Yamouk camp in Damascus and the fact that his parents and younger were in Egypt.

47. The appellant in cross examination was asked why he claimed in his screening interview that he left Syria around February 2014 and his

response was that he did not say that. He was also asked why he failed to mention in his screening interview that he lived in Egypt. He replied that since he arrived in the UK he had told people who interviewed him that he went to Egypt and stayed there for 2 years. It was put to the appellant that in his screening interview he claimed that his parents were still in Syria and to this the appellant replied he said they accompanied him to Egypt and they stayed in Egypt. If the appellant is to be believed then it is reasonable to conclude that such information would have been recorded in his screening interview. I find that the appellant has failed to provide a satisfactory explanation.

48. I find the appellant also failed to state in his screening interview that he was in Italy where he was fingerprinted. He only mentioned the fact that he was fingerprinted in the UK (2.13). I find that the appellant had indeed concealed information and it cannot simply be put down to the fact that he was aged 16 at the time of that interview, especially when taking into consideration the fact that he himself asserts that he was afraid of the interpreter and the interviewing officer as they were talking about returning him to Italy because his fingerprints had been located there.

49. I find that the appellant had provided different identities to the Italian authorities, namely the name of Ahmed [A] with the date of birth of 24/05/1997 and claimed to be an Egyptian national. I reject the appellant's explanation that the name [A] is similar to his own name and that the Italian immigration officials incorrectly noted his name on their system and that they assumed he was Egyptian.

50. I asked the appellant in his oral evidence as to why the Italian officials would assume that he was Egyptian not Syrian. To this the appellant replied when he arrived in Italy the authorities took all Syrian families and left the other people like him i.e. males of their own. They took their names and date of births. The other Syrian males who were on their own stayed with them at the same place. If this is the case then I find the appellant's assertion that the Italian authorities simply assumed he was Egyptian to be implausible.

51. I find the appellant's failure to claim asylum in Italy and France damages his credibility under section 8 of the 2004 Act. Given the appellant's overall credibility, I reject his explanation that the situation in Italy and France is very bad and he saw lots of people there on the street [26 of the first statement].

52. I find that the appellant was also inconsistent as to why he has not been in contact with his parents. In oral evidence, he stated when he left Egypt he did not have a phone with him. When he arrived in Italy he lost all his contacts. When asked to explain what he meant lost all contacts, the appellant replied lost contact number for his family. It was on the phone and when they arrived in Italy the phone fell in the sea. It was his phone. When it was put to the appellant that initially he said that he did not have a phone when he left Egypt, the appellant replied he had a phone but when he arrived in Italy he lost

> all the contacts. I asked the appellant why he initially said that when he left Egypt he did not have a phone with him. The appellant replied he did have a phone with him but when they boarded the sea he lost it on the second day. Before they took the boat, they had to walk on the sea and half of his body was underwater and as his phone was in his trousers it got wet. Given the appellant's overall credibility, I reject his claim that he has not been able to contact his family because he lost his contact numbers.
>
> 53. After consideration of all the evidence in the round I find that the appellant has failed to demonstrate, even to the lower standard of proof, that he has a well-founded fear of persecution for any of the reasons recognised by the Refugee Convention. I find that there are no grounds which would justify a grant of humanitarian protection and I can find no reason to distinguish the appellants claim under articles 2 or 3 of the ECHR.

7. The appellant sought permission to appeal which was granted on 17 October 2017. The operative part of the grant being in the following terms:

> 3. The grounds of appeal raised arguable errors of law in the decision of the FtTJ. Whilst the Judge at [33] – [41] set out salient aspects of the Respondent and Appellants respective language analysis reports, she stated at [42] that she had given them due weight, without making any findings as to which report or aspects of the reports she accepted and which she rejected. Given that the Appellants nationality was the central aspect of the appeal it is an arguable error for the Judge to failed to make clear findings in respect of the two reports. Permission to appeal is granted.

8. The application is opposed by the Secretary of State in her Rule 24 response dated 22 November 2017.

Submissions

9. On behalf of the appellant it was submitted that his language expert has concluded that he is definitely from Syria. The Judge noted at [41] limitations on the material considered by the appellant's expert which meant the experts had the same material available to them which it was submitted made it easy for the Judge to compare the reports.
10. It was submitted on the appellant's behalf that at [43] the Judge's findings are not clear in relation to where she was going. It was accepted the appellant had lived in Egypt for a while, which was not disputed, but it was not clear what findings the Judge was making about the conflicting reports and what weight the Judge gave to the reports.
11. It was submitted on the appellant's behalf that what the Judge did was to not make a decision on which report was reliable but just put that issue aside preferring instead to consider other aspects of the evidence.
12. It was submitted on the appellant's behalf that Professor Matas is more experienced than those who undertook the report on behalf the Secretary of State and so his conclusion should have been given greater weight due to his

academic qualifications and experience. It was confirmed neither expert was called to give oral evidence.

13. On behalf the Secretary of State, Mr Bates disagreed with the suggested approach arguing that both were independent experts and that in relation to language matters the appellant could not say that one was more qualified than the other.
14. Mr Bates submitted both experts set out their reasoning for the conclusions reached and set out the methods and limitations. It was submitted there was nothing to support a claim that the respondent's report should have been found to be less reliable than that of the appellant.
15. It was submitted the analysis considered the language issue on behalf of the Secretary of State and came to the conclusion set out in document. This is different from the appellant's expert who is an academic which has its own limitations. No third report was provided or produced regarding the conflict meaning the judge had the two reports and the other evidence available to her. Mr Bates submitted the appellant's submission that the Judge was required to state which of the reports was preferred is unrealistic on the basis language analysis is not an accurate science and that the Judge was required to look at all the other evidence in the round.
16. Mr Bates submitted having done so the Judge highlights a number of issues that were of concern based upon the evidence provided by the appellant, including failure to demonstrate knowledge of an important mosque located in Damascus. Points are also raised in the reasons for refusal letter in relation to the appellant's credibility. The Judge noted discrepancies in the evidence and when combining all the available material submitted was entitled to come to the conclusion she did in relation to the language issue.
17. In reply, Miss Wilkins submitted the appellants expert's methodology was to look at the language analysis and then decide how the same was made out by considering dialects. It was submitted the Professors methodology was more robust.
18. The Judge's findings were challenged by reference to the fact that the appellant's representative had written following the interview to correct the error relating to the mosque in Damascus which gives rise the question of whether that issue was a contradiction or misunderstanding. The appellant's position was that the interviewer did not properly record the answers that he gave. It was submitted that if those findings remain it will impact upon the assessment of other aspects of the case.
19. On behalf of the appellant Miss Wilkins concluded her submissions by returning to the point that the language evidence had not been subject to a finding as to whether it was reliable or not, which meant that it could not be considered if the report was reliable or not.

Error of law finding

20. In this appeal the Judge was faced with two languages analysis reports the first dated 11 August 2015 written by Verified AB on behalf of the Secretary State and the report written by Professor Matras dated 13 July 2016.
21. Verified state they provide "expert testimony regarding linguistic behaviour, in particular relating to an individual´s linguistic background. These services are required by police, migration authorities and for trials in court.

> "Verified employs a dozen of linguists with special training, such as creole languages, dialectology, interview technique and forensic phonetics. Verified has conducted in excess of 24.000 analyses. The use of the same rigorous and well-defined methodology in each case ensures that analysis reports can be assessed and used in a safe and easy way, whether that be during an investigation or in court.
>
> Equally indispensable for a clear and reliable result is the active language competency of a native speaker. To meet this requirement, Verified maintains a network of around 240 native speakers with training in auditory analysis to cover about 100 combinations of linguistic varieties and regions."

22. The analysts who prepared the report are identified as Analyst 1616, described as an Arabic (Egyptian Arabic) speaker at mother tongue level, who has a degree in Social Work from a university in Egypt and who has worked as a social worker in Egypt and as a preschool teacher in Egypt and Sweden and who was born in and grow up in the north of Cairo, Egypt, who has also lived in Alexandria, who last visited Egypt in 2013, and who has maintained contact with friends and family in Egypt. The analyst was commissioned by Verified for language analysis in 2014.
23. Analyst 1586 is said to speak Arabic (Damascus dialect) at mother tongue level and to have studied English and French in Damascus and English in Sweden as well. This analyst was commissioned for a language analysis in 2013 and was born and raised in Damascus in Syria and last travelled to Damascus in 2011 and has since spent time in Beirut, Lebanon for five months in 2013, and kept frequent oral and written contact with their home region and socialises with fellow countrymen.
24. Analyst 1608 is said to speak Kurmanji of Kobani variety and Arabic at mother tongue level. This analyst studied economy and language at the University in Aleppo, Syria and has been commissioned for language analysis by Verified since 2014. It is said this analyst was born and raised in Raqqa in north central Syria with parents from Kobani. The analyst left Syria in 2010 after which four months was spent in Turkey where there are relatives. The analyst now maintains contact with their place of origin several times a week orally and in writing, keeps up-to-date whilst in Sweden through Kurdish and Arabic TV channels and electronic papers, and socialises with Kurdish and Arabic speakers from different areas of Syria.
25. The above analyst's details appear under the section report headed "Information regarding competence". There is also a named individual who has provided linguistic qualifications, namely a Josefin Nillsson, who holds a

Master of Arts in Psychology and Linguistics from the University of Edinburgh afforded with first-class honours. The linguist has been employed by Verified since 2014 and has undertaken courses of particular relevance to the context in hand including Psycholinguistics of Language Production, Sentence Processing, and Psycholinguistics.

26. The report also refers to LOID which appears to be a reference to 'Linguistic Origin Identification'. The methodology of this system is to focus on profiling a dialectal background. It identifies a number of grammatical, morphological and phonetic features of a person's speech and groups them in patterns. These patterns are supported with references in academic research which makes LOID reports transparent and easily cross-checked. The patterns create the basis for conclusion about the probability that the person's speech can be attributed to the claimed area of origin.
27. The authors of the report records limitations in any language analysis and set out the summary of the results in section 2 in the following terms:

> "**2 Summary of Results**
>
> **2.1 The claimed linguistic community**
>
> The hypothesis is that the person belongs to an Arabic linguistic community that occurs in Damascus, Syria.
>
> For a person born and raised in Damascus, Damascus dialect of Central Syrian Arabic is expected. Noted phonological and morphological features mostly deviate from Damascus dialect. Noted syntax features are consistent with Damascus Dialect.
>
> **The language analysis clearly suggests that the results obtained most likely are inconsistent with the linguistic community as stated in the hypothesis** (see full assessment in section 3).
>
> **2.2 The alternate linguistic community (if applicable)**
>
> The hypothesis that the person belongs to an Arabic linguistic community that occurs in Egypt.
>
> For Egypt, Cairo Arabic is primarily expected, and various Delta dialects can also occur. Noted phonological features are generally consistent with Cairo Arabic. Phonological elements which are instead consistent with certain Delta dialects are noted. Noted morphological features are most consistent with Cairo Arabic. Noted syntax features deviate from Cairo Arabic.
>
> **The language analysis somewhat suggests that the results obtained more likely than not are consistent with the linguistic community as stated in the hypothesis (see full assessment in section 4).**"

28. The professional opinion of Verified is clearly that the appellant is a national of Egypt and not of Syria.
29. Professor Matras has the opportunity of considering the report by Verified and confirms that his instructions given by the appellants representatives have been

to review the written and audio material and to provide his opinion as to whether he agrees with the report's conclusions or not, in regard to the question whether the appellant's linguistic features may indicate that he is from Damascus in Syria.

30. Professor Matras has served as a professor at the University of Manchester since 2003 prior to which he was a Senior Lecturer between 2001–2003, Lecturer between 2000 to 2001, and Research Fellow between 1995 and 2000 in linguistics at the same university. The Professor states he learned the Palestinian variety of Arabic as an adolescent and is considered a near native speaker who studied Arabic Language and Literature at the University of Jerusalem together with General Linguistics and the Linguistics of the Middle East at the universities of Tubingen and Hamburg. The Professor states he has drawn on data from Arabic in numerous comparative publications in academic books and journals and has contributed written work to various publications as well as supervising PhD thesis and Masters Degree thesis on Arabic dialectology.
31. The Professor had before him a 38-minute recording of a telephone conversation between the appellant and the analysts. The Professor's methodology is set out at section 4.1 of his report together with the phrenology in a similar manner to that set out by Verified.
32. The Professor's conclusions are set out in section 6 of the report in the following terms:

> "**6. Conclusion**
>
> The VERIFIED report is flawed from a methodological perspective, as it arbitrarily juxtaposes the hypothesis that favours the clients own narrative about his place of origin with the hypothesis that the client is from Cairo, and because it fails to take into account that stylistic variation, notably incorporation structures from formal standard Arabic, is a natural occurrence in speech, especially in formal settings such as the remote interview with a stranger as part of a formal institutional procedure. Some of the statements in the VERIFIED report are inconsistent with the data found in the recording, and some interpretations of the data are inconsistent with published documentation on the relevant dialects of Arabic.
>
> The VERIFIED report also entangles itself in contradictions, recognising that some features of the client's speech are consistent with the Arabic dialects of both Damascus and Cairo yet at the same time using them selectively to favour its 'alternate' hypothesis of an origin in Cairo (see p 10 of the report). VERIFIED fails to acknowledge that, once stylistic variation is taken into consideration, or features of the client speech, without exception, are consistent with an origin in Damascus in Syria, and moreover, that in the particular combination in which they occur in the client's speech, they are consistent exclusively with an origin in Syria, as detailed in section 4.6 above. At the same time, no features of the client speech are consistent - either in isolation, or in the combination in which they occur - exclusively or specifically with the Arabic dialect of Cairo,

and there is therefore no basis whatsoever for the suggestion that the client's origin might be in Cairo."

33. The Judge was therefore faced with two conflicting reports one prepared by two analysts whose experience of relevant language is based upon there being mother tongue speakers with relevant training, as well as the other aspects set out above, supplemented by a third person educated to Masters degree level with relevant language experience and the report prepared by Professor Matras. There is no third report available and nor does it appear that either of the advocates took any steps to arrange a joint meeting, on the telephone or otherwise, between the report's authors to enable them to discuss their differing opinions and to see what could be agreed and what remained in dispute between them. Such a meeting of joint experts is common in both the civil and family jurisdictions and it should not need a specific direction from the Tribunal for such a step to be taken. The failure of the representatives to do more than they did contributed to the situation facing the Judge.
34. The Judge at [42] states that due weight is given to the two reports but that she also was required to assess all the evidence in the round and make her own findings. The Judge cannot be criticising for adopting such an approach. In a report an expert sets out his or her opinion in relation to the topic in hand and no more. Those opinions in this case are in opposition with Verified not being given the chance to reply to the criticism of their methodology or conclusions. In *NA v UK Application 25904/07 2008 ECHR 616* it was said that "in assessing such material, consideration must be given to its source, in particular its independence, reliability and objectivity. In respect of reports, the authority and reputation of the author, the seriousness of the investigations by means of which they are compiled, the consistency of their conclusions and that corroboration by other sources are all relevant considerations."
35. There have been a number of cases in relation to 'Sprakab Reports' before the Tribunal and the senior courts, including the Supreme Court. The most recent guidance is to be found in *RM (Sierra Leone) 2015 EWCA Civ 541* it which was held that *RB (Linguistic evidence – Sprakab) Somalia [2010] UKUT 329 (IAC)* set out the approach to be taken to linguistic analysis reports. Those reports were entitled to considerable weight but should not be treated as infallible. The Upper Tribunal was therefore entitled to take the report into account provided it adopted a properly critical approach. This decision is a practical application of the guidance given at paragraph 51 in the judgment of Lord Carnwath in *Secretary of State for the Home Department v MN and KY [2014] UKSC 30*. A Sprakab-based analysis now requires a proper nuanced assessment of the knowledge demonstrated by the analyst (see Lord Carnwath's opinion at 51(i)), considering what the relevant expertise is of that expert.
36. At [51] of the judgment in *RM (Sierra Leonne)* Lord Justice Underhill, giving the lead judgment, stated:

> "51. Various points are made in that passage. I take first the fact that the analysts have no formal qualifications as linguists (in the sense of linguisticians). I do not believe that it follows from that fact that the Judge was obliged to hold that it was not established that they had, in

> Lord Eassie's phrase, "the appropriate expert qualification". I do not understand either Lord Eassie or Lord Carnwath to have been referring, in the passage relied on by Mr Chirico, to formal or academic qualifications but to the question whether it had been shown that the analysts had appropriate expertise to express an opinion on the particular issue in question. The criticism of the Sprakab report in MN was that the analysts expressed views about (a) the subjects' lack of knowledge of a particular part of Somalia when there was no evidence of their own knowledge of that part and (b) identification of certain Somali dialects and the distribution of their speakers when there was no evidence of their expertise in those questions; and it was to those deficiencies that Lord Eassie was evidently referring. I do not understand either this Court in RB or the Supreme Court in MN to have held that the evidence of Sprakab analysts was worthless unless they had an appropriate academic qualification. Indeed if that had been their view they could hardly have given the endorsement that they did, albeit carefully qualified, to the continued use of Sprakab reports in principle, since it is inherent in the Sprakab method that its analysts rely on their practical knowledge and experience of a language, supported by appropriate training and with the involvement of a professional linguist. The crucial question is whether they have demonstrated an expertise in the particular issue on which they are expressing an opinion. For the same reason I do not regard it as fatal that "linguist 04" does not claim expertise in West African English: detection and analysis of significant features of the subject's speech is the role of the analysts."

37. Miss Wilkins submission that more weight should have been given to the report of Professor Matras as a result of his academic qualifications is not therefore the determinative issue. As recognised by both the Supreme Court and the Court of Appeal, the term "appropriate expert qualification", related to the question of whether it had been shown that the analysts had appropriate expertise to express an opinion on the particular issue in question.
38. The report based upon the work of the analysts within Verified, like Sprakab, relies on their practical knowledge and experience of the relevant languages supported by appropriate training with the involvement of a professional linguist. The information in the report relied upon by the Secretary of State clearly demonstrates an expertise in the particular issue on which Verified were expressing an opinion.
39. It is also the case that, although derived from discussions with students and academic sources, Professor Matras has also demonstrated an expertise in the particular issue on which he is expressing an opinion.
40. I find no arguable merit in Miss Wilkins submission that the Judge was required, in isolation, to express as a preliminary issue her opinion upon which report she preferred. In *Pajaziti v SSHD [2005] EWCA Civ 518* the Court of Appeal said that adjudicators were not to select a particular evaluation of an expert's report, without placing it side by side with other expert evidence (in this case a CIPU report), in order to make a qualitative assessment and arrive at a balanced over view of all the material. At very least adjudicators had to

explain why they preferred one source of expert evidence over another. Matters that had to be taken into account included the standing of the expert, the sourcing of the expert's material and the logical cogency of the arguments.

41. Other relevant case law includes *FS (Treatment of Expert evidence) Somalia [2009] UKAIT 00004* in which the Tribunal held that Immigration Judges have a duty to consider all the evidence before them when reaching a decision in an even handed and impartial manner. In assessing the evidence before them they must attach such weight as they consider appropriate to that evidence. It may on occasions be appropriate to reject the conclusions reached by an expert. What is crucial is that a reasoned explanation is given for so doing. In *Y and Z (Sri Lanka) v SSHD [2009] EWCA Civ 362* the Court of Appeal said that where the evidence of one expert was contradicted by the evidence of another, the judge might need to choose between them, but should not, for that reason alone, reject both. In *AK and FH (Kosovo) v SSHD [2009] EWCA Civ 1032* the Court of Appeal said that the Tribunal was not bound to follow the evidence of two expert witnesses. In this case the Tribunal had taken into account other evidence from UNHCR and concluded overall that although the Appellants might face difficulties, despite comments of the experts, they would not be at risk. Where adequate reasoning was provided for that decision it sufficed.
42. The Judge considered the evidence outside the language reports from [43] – [52] of the decision under challenge. Whilst Miss Wilkins asserted the Judge was not entitled to conclude there are material inconsistencies in that evidence, particularly in relation to the matters raised at [44], those submissions repeat matters relied upon at the hearing before the Judge which the Judge did not find provided a proper explanation for what appeared to be the appellant's lack of knowledge of the most important mosque in Damascus in his substantive asylum interview. The Judge assessed the evidence with the required degree of anxious scrutiny and disagreeing with a conclusion reached, especially when adequately reasoned, does not establish arguable legal error.
43. Having made relevant findings, the Judge was faced with a situation of conflicting language expert reports on the one hand but with a number of material discrepancies which undermined the appellants claim to be a national of Syria, including his having advised the Italian authorities that he is an Egyptian national. That evidence when considered in the round together with other material supports the conclusion set out at [53] that "after consideration of all the evidence in the round I find that the appellant has failed to demonstrate, even to the lower standard of proof, that he has a well-founded fear of persecution for any of the reasons recognised by the Refugee Convention. I find that there are no grounds which would justify a grant of humanitarian protection and I could find no reason to distinguish the appellants claim under Articles 2 or 3 of the ECHR". As the appellants claim was based on a real risk of ill-treatment of return to Syria the Judge was finding it had not been established to the required standard that the appellant is a Syrian national. A specific finding made at [43] of the decision under challenge. The Judge was clearly finding that she did not find the conclusion of Professor Matras to be determinative.

44. Although the Judge does not expressly find the appellant is Egyptian the clear inferences from the findings and the evidence is that that is what the weight of the evidence provided supported although, as Mr Bates submitted, the core finding is that the appellant is not Syrian, whatever he may actually be.
45. As stated above, the Judge was not assisted in the manner in which this case was prepared or presented. Notwithstanding, the Judge undertook the analysis of the evidence required of her. The weight to be given to that evidence was a matter for the Judge. The Judge clearly found that the issues arising from the evidence was sufficient to enable her to make a clear and adequately reasoned finding notwithstanding the dispute between the language experts. It has not been made out the findings or outside the range of those reasonably available to the Judge on the evidence; including that relating to the failure of the appellant to discharge the burden of proof upon him to the applicable lower standard. On that basis the appellant has failed to establish that it is appropriate in the circumstances of this appeal for the Upper Tribunal to interfere with this decision.

Decision

46. There is no material error of law in the Immigration Judge's decision. The determination shall stand.

Anonymity.

47. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

    I make no such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed…….
Upper Tribunal Judge Hanson
Dated the 2 May 2018