



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

PA/05275/2017 (V)

THE IMMIGRATION ACTS

Heard by *Skype for Business*  
On 18 November 2020

Decision & Reasons Promulgated  
**On 23 November 2020**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

**YAMA [M]**

Appellant

and

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

Respondent

For the Appellant: Mr S Winter, Advocate, instructed by Katani & Co,  
Solicitors

For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. This determination is to be read with:
  - (i) The respondent's decision dated 22 May 2017.
  - (ii) The appellant's grounds of appeal to the First-tier Tribunal.
  - (iii) The decision of FtT Judge McFtridge, promulgated on 6 September 2017.

- (iv) The appellant's grounds of appeal to the UT, stated in her applications for permission to appeal made to the FtT and, in slightly expanded form, to the UT.
  - (v) The joint minute between the parties in the Court of Session (the copy on the UT file is signed, but not dated).
  - (vi) The interlocutor of the Court, dated 13 June 2019, remitting the case to the UT to reconsider the grant of permission to appeal to itself.
  - (vii) The grant of permission by the UT, dated 22 January 2020, in light of the interlocutor of the Court [and of the joint minute].
  - (viii) The various directions of the UT (in particular, directions issued on 19 August 2020).
  - (ix) The submission for the appellant, dated 22 May 2020
2. I conducted the hearing on 17 November from George House. Representatives attended remotely. No members of the public attended, either in person or remotely. The technology enabled an effective hearing.
  3. The joint minute is based on the UT not having provided "sufficient reasons to support the FtT's finding that the [appellant's] expert had no expertise of authenticating documents from the Gambia". The FtT at [19] found that the expert did not have such expertise, overlooking that his methods were explained at pages 9 - 11 of the report. There was no agreement on other grounds of appeal, but they were not excluded from consideration.
  4. The submission for the appellant dated 22 May 2020 contended at [4] that in terms of the minute "the respondent accepted that the FtT erred in law" on ground 1 (i) (the expert report).
  5. The UT's directions issued on 19 August 2020 required the respondent to clarify whether, as stated by the appellant, she conceded error of law by the FtT.
  6. Having heard submissions on ground 1 (1), I indicated my view that it disclosed material error. It is accordingly unnecessary to decide the precise intention of the joint minute.
  7. Parties agreed that the result, on that view, should be a fresh hearing in the FtT.
  8. The judge erred at [19] in holding that the report did not suggest that the author had any expertise in authenticating documents from The Gambia. As stated in the grounds, her (not his) methods are explained at 2.1, 2.3, pp. 9 - 11 of the report.

9. The judge might have been entitled to find the report of limited assistance; but to find it of none went too far, and the reasons for doing so are wrong.
10. In course of submissions I observed a source of confusion. The report was before the FtT in the SSHD's bundle of documents, item G. At page 3 it lists 3 appendices, the first of which is "expert background and statement of methodology". The appendices are not in that bundle and were not produced by the appellant. The respondent made an apparently misleading submission, recorded at [13 (h)] of the decision, on absence of the expert's qualifications and methodology, and the judge does not record whether it was countered for the appellant.
11. The error disclosed by ground 1 (i) requires a fresh hearing, so I did not hear substantially from parties on the remaining grounds. However, it may be useful to record that the judge's apparent acceptance at [24] that a new law on FGM made a significant difference appears to be based on rather cursory reasons. The question was not whether the appellant's position on that issue was based on "objective evidence", but whether there was evidence that the law had made a significant difference, bearing on country guidance set prior to that change.
12. It would help the FtT if parties were to agree on an updated, unified and complete set of documents for reference at the next hearing.
13. The decision of the FtT is set aside. The case is remitted to the FtT for a fresh hearing, not before Judge McFatridge.
14. No anonymity direction has been requested or made.



18 November 2020  
UT Judge Macleman

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#### NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent.
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.

3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically).**

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically).**

**5. A “working day” means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.**

**6. The date when the decision is “sent’ is that appearing on the covering letter or covering email.**