



IAC-FH-AR-V2

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

Appeal Number: AA/09234/2014

**THE IMMIGRATION ACTS**

**Heard at Newport**

**On 10 February 2016**

**Prepared 10 February 2016**

**Decision & Reasons  
Promulgated  
On 9 March 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVEY**

**Between**

**[M J]  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Neale, Counsel instructed by Migrant Law Project  
(Cardiff)

For the Respondent: Mr I Richards, Senior Presenting Officer

**DECISION AND REASONS**

1. The Appellant a national of Iran, date of birth [ - ], appealed against the Respondent's decision of 17 October 2014 to make removal directions. His appeal against that decision came before First-tier Tribunal Judge E Davidge (the judge), who, on 7 July 2015, dismissed his appeal under the Refugee Convention and Articles 2 and 3 ECHR as well as under the

Humanitarian Protection provisions derived from the Qualification Directive set out in the Immigration Rules.

2. The parties were agreed that adverse points raised by the judge which related to credibility and to the assessment of the Appellant's knowledge of Christianity are based upon a misunderstanding by the judge that the Appellant had been baptised in Greece in 2012 whereas it was clear he was baptised in London in 2014. Similarly there appeared to be some misunderstanding that whilst the Appellant had undertaken some of an Alpha course in Greece for he had otherwise attended Alpha courses in the United Kingdom at a later date. Those misunderstandings affected:- first, the credibility findings made by the judge but also bore on the judge's assessment of the knowledge that the Appellant had of Christianity and aspects of its faith which she had understood should have occurred over a far longer period than as in fact had been the case.
3. Therefore it was agreed by the parties that on a relatively narrow issue, but one which went to the core of the assessment of the Appellant's claim to be at risk as a Christian on return to Iran, that the error was fundamental and undermined the adverse credibility findings made by the judge. It was common ground between the parties that this flaw in the decision meant that in effect it is not possible to cherry pick amongst the findings the judge made to preserve some. Rather the appropriate and better course was for the matter to be remade in its entirety and that no findings of fact or findings derived from those facts should stand. I was satisfied for my own part that the misunderstanding, which was extremely unfortunate, adversely affected the judge's assessment of the evidence. I make no comment whatsoever upon what the outcome of a rehearing may be.
4. The judge made an anonymity direction and in the circumstances it seemed to me appropriate and necessary that that direction should continue and it will be a matter for the judge in the First-tier Tribunal to decide what if any further order should be made.

### **NOTICE OF DECISION**

The Original Tribunal's decision cannot stand. The matter is returned to the First-tier Tribunal, in accordance with the presidential statement paragraph 7.2, for it to be made again.

### **DIRECTIONS**

Any further bundles relied upon, pertinent to the issues, to be served not later than ten working days before the further hearing and served on the IAC as well as the opposing party.

### **ISSUES**

Risk under the Refugee Convention on the grounds of religious faith, in relation to imputed political opinion and in relation to Articles 2 and 3 ECHR.

The Appellant's representatives to notify the Tribunal in advance if Article 8 ECHR issues have been raised and to provide any relevant documentation relied upon in support of such a claim ten working days in advance of the further hearing date.

**DIRECTIONS**

- (1) Time estimate 2 hours
- (2) Farsi interpreter required. Appellant's representatives to notify the Tribunal if any other interpreter is required and/or if the Farsi interpreter continues to be required.
- (3) List in First-tier Tribunal (IAC) in Newport before any judge other than Judge Davidge and Judge Davey.

Signed

Date 27 February 2016

Deputy Upper Tribunal Judge Davey