REFUGEE STATUS APPEALS AUTHORITY
NEW ZEALAND

AT AUCKLAND **REFUGEE APPEAL NO 76164**

Before:	B L Burson (Chairperson) M L Robins (Member)
Counsel for the Appellant:	I Uca & C Curtis
Appearing for the Department of Labour:	S Houliston
Dates of Hearing:	17, 18 & 19 September 2008 and 8, 9 & 10 March 2009
Date of Decision:	6 October 2009

DECISION DELIVERED BY M L ROBINS

INTRODUCTION

[1] This is an appeal against a decision of a refugee status officer under s129L(1)(b)) of the Immigration Act 1987 ("the Act"), to cancel the grant of refugee status to the appellant. The decision followed a finding that the recognition of the appellant as a refugee may have been procured by fraud, forgery, false or misleading representation or concealment of relevant information (hereafter referred to collectively as "fraud").

[2] The appellant was granted refugee status in 1993. The cancellation proceedings commenced in 2007 when it came to the attention of the Refugee Status Branch (RSB) that since 1995 the appellant, in his dealings with various government departments (including the Department of Internal Affairs (DIA), the New Zealand Police and Immigration New Zealand (INZ) (of the Department of Labour (DOL))), had asserted numerous different biographical facts, all inconsistent with the biographical data provided by him and upon which his refugee status was granted. It appeared that, since 1995 he had, through at least four gradual changes, altered his name from a distinctly Iranian name to a

distinctly Italian name. He had also, through four gradual changes, reduced his age by four years.

[3] Ultimately he claimed that he was born in Italy, contrary to his evidence to the RSB in 1992 which was that he was born in Iran. The purpose of his correspondence with the Departments of Labour and Internal Affairs was to persuade DIA officials that he was Italian by birth and to grant him New Zealand citizenship on that basis. We observe here that the appellant would have been equally entitled to a grant of New Zealand citizenship had he continued to assert he was born in Iran.

[4] The appeal was originally set down for hearing over three days, 17-19 September 2008. On 11 August 2008, Ms Uca filed a report by psychologist Amanda McFadden. In this report, Ms McFadden asserted :

> "It is of concern to the writer that [the appellant] may no longer be able to determine fact from fantasy himself and that for this reason our own efforts to do this within the [refugee] investigation would be flawed."

[5] At the commencement of the hearing, counsel for the DOL, Mr Houliston, raised as a preliminary issue whether the appellant had the capacity to give evidence in his appeal. In order to provide a degree of clarity about the appellant's psychological condition, the Authority heard evidence from Ms McFadden.

[6] After hearing Ms McFadden's evidence and counsels' submissions, the Authority issued a Minute (24 November 2008) in which it concluded that the appellant's capacity to give evidence is "not ... a preliminary one to be decided by experts" but rather "a substantive one to be decided by the Authority alone – whether the appellant is a competent and credible witness". The Authority directed that the appeal be set down for the hearing to resume.

[7] The hearing recommenced on 8 March 2009 and continued until 10 March 2009.

[8] The central issue on appeal is whether the appellant's assertions from 1995 onwards are evidence that he may have procured his refugee status in 1992 by fraud, or whether they are the fanciful delusions of a psychologically unwell man which should be disregarded. If our finding on this issue is the latter, the next question is whether there is other evidence that the 1992 grant of refugee status may have been procured by fraud.

THE 'CANCELLATION' JURISDICTION

[9] Section 129L(1)(b) of the Act provides that the functions of refugee status officers include:

> "…determining whether a decision to recognise a person as a refugee was properly made, in any case where it appears that the recognition given by a refugee status officer (but not by the Authority) may have been procured by fraud, forgery, false or misleading representation, or concealment of relevant information and determining to cease to recognise the person as a refugee in such a case if appropriate:"

[10] Thus, a refugee status officer has a duty to determine whether to cease to recognise a person as a refugee if it appears that the original grant of refugee status by the RSB may have been procured by fraud.

[11] Where a refugee status officer ceases to recognise a person's refugee status, that person may appeal to the Authority against that decision. See s129O(2) of the Act, which provides:

> "A person who is dissatisfied with a decision of a refugee status officer on any of the matters referred to in section 129L(1)(a) to (e) and (2) in relation to that person may appeal to the Refugee Status Appeals Authority against the officer's decision."

[12] There are thus two stages to the enquiry. The Authority must first determine whether the grant of refugee status may have been procured by fraud – recognised to be a low threshold. If so, it must then determine whether the person should cease to be recognised as a refugee. This is, in effect, the Authority's usual forward-looking enquiry as to whether, on current circumstances, the appellant faces a real chance of being persecuted for a Convention reason on return. The second stage of the enquiry is engaged, however, only if the first element – that the grant of refugee status may have been procured by fraud – is established.

[13] We observe here that the principles guiding the Authority's jurisdiction in cancellation cases are set out in *Refugee Appeal No 75574* (29 April 2009) paras [27]-[99] and [104].

[14] As to the present appeal, it is now necessary to record:

(a) The appellant's original refugee claim;

(b) The granting of refugee status; and

(c) The subsequent 'notice of intended determination concerning loss of refugee status'.

THE APPELLANT'S ORIGINAL REFUGEE CLAIM

[15] The account which follows is a summary of the evidence given by the appellant in support of his original refugee claim in 1992.

The appellant's airport statement

[16] On arrival at Auckland Airport in September 1991, the appellant gave his name as AA. He arrived with a woman whom he claimed was his wife, and two girls (aged 11 and 5 years) whom he claimed were their daughters. He gave his year of birth as 1962 which was the year of birth in the false Greek passport he used to enter New Zealand.

[17] The appellant claimed to be a member of the "majority Communist Party" in Iran, called *Aksariat,* and asserted that he had been imprisoned for 18 months in 1980 because of his political activities in support of *Aksariat.* He said that after five years of study at the University of Tehran (1984 to 1989) he began his career as a judo instructor.

The appellant's first and supplementary written statements

[18] In October 1991, the appellant sent to the RSB a detailed written statement ("the first statement") in which he claimed that his name was BB, born on 1 May 1965. He revealed that the woman and girls were not his wife and daughters but, rather, that the woman was the wife of his maternal uncle. She was his aunt and her daughters were his nieces.

[19] In August 1992, just days before his interview at the RSB, the appellant filed another statement ("the supplementary statement") in which he again asserted his name was BB but he now claimed to have been born on 1 May 1971.

[20] In this supplementary statement, the appellant amended virtually all the dates in his first statement to coincide with his new, 1971, birth date. He also made numerous other amendments, for example in the first statement he claimed

that he and his uncle were arrested in February 1981, that the appellant was released in June 1982, but that his uncle had not, at the time of writing the first statement, been released. In the supplementary statement he asserted that only his uncle was arrested in February 1981 and that he (the uncle) was held in custody until May 1982. He said that both he and his uncle were arrested in March 1986, that he (the appellant) was released in December 1988 and that his uncle remained in prison.

[21] The supplementary statement was accompanied by a letter written by a lawyer at the law firm of Marshall Bird (not current counsel). In that letter the lawyer explained that the reason for the corrections in the supplementary statement was because the appellant had been told by the agent in Malaysia to say that his aunt was his wife and her daughters were his children, and that he now wanted to tell the truth. As we have just noted, the appellant had already, in his first statement, disclosed that he was not the husband of his aunt or the father of her daughters.

The RSB interview

[22] At his RSB interview in August 1992, the appellant again gave his name as BB. He confirmed he was 21 years old, having being born in Tehran on 1 May 1971. He gave the following account.

[23] His father (HH), his mother (II) and his two brothers (JJ and KK) were, at the time of the RSB interview, all living together in an apartment block in Tehran. His maternal uncle and his family lived in the same apartment block.

[24] In February 1979, the Shah of Iran was deposed as a result of the Islamic Revolution. In that year, the appellant was a school student. His uncle was an active member of the illegal Communist Party. Through him the appellant became interested in and, in 1979, joined the Pioneer Students Organisation which was affiliated to the Communist Party. In 1980 the Communist party split into two factions, *Aksariat* and *Aghalleat*. The appellant followed his uncle who joined *Aksariat*.

[25] In 1981, at the beginning of Iran's war with Iraq, the appellant began to help his uncle distribute anti-war pamphlets. In that year his uncle was arrested,

imprisoned and eventually released in 1982. After his release, the pair continued to distribute *Aksariat* pamphlets and to put up posters and anti-Khomeini graffiti.

[26] In March 1986 they were both arrested while delivering pamphlets. The appellant, aged nearly 15 years, was taken to *Komiteh* headquarters where he was beaten every four or five hours for half an hour at a time. Then he was transferred to Evin Prison.

[27] Ten days after his arrest he refused to sign a declaration of support for the Islamic Republic. As a result he was blindfolded and beaten with a wooden bat. He was held in Evin Prison for 18 months during which time he was interrogated and beaten three or four times a week. He was placed in a crowded and insanitary cell. He witnessed the torture of other prisoners. In his first month in that cell he also witnessed the execution, by gunshot to the head, of more than ten prisoners. He described how the cell walls were spattered with blood and how the floors were often awash with the blood of dying men. The appellant did not witness any executions after that first month but he was so horrified by the experience and the fear that he might be next that he suffered nightmares.

[28] In September 1988, three months before his release in December 1988, he relented and signed the declaration. A condition of his release was that he must report every 15 days to *Komiteh* Headquarters at Evin Prison. He continued to comply with this reporting requirement until he left Iran two and a half years later. In the year following his release, *Komiteh* guards frequently raided his family home. His uncle had not, at the time of the appellant's refugee interview, been released.

[29] In the middle of 1989, the appellant began studying for a degree in physical education at Tehran University under strict conditions which were that if he was seen talking to more than two people at a time he would be questioned by the Islamic Students' Association. If he was discussing politics, he would be expelled. In December 1989 he resumed his *Aksariat* involvement.

[30] In early 1990, there was renewed tension between Iran and Iraq as Iran took steps to regain disputed territories. This caused uproar among the students. The appellant began putting up posters which called on students to boycott classes on 26 February 1990 and to join the anti-government demonstration that day outside Tehran University.

[31] On 26 February 1990, the appellant attended the demonstration with 700 others. He distributed pamphlets and organised slogans. The demonstration was broken up by armed *Komiteh* guards and the appellant escaped. Frightened that his involvement had been noticed by the authorities, he caught a bus to Gorgan where he went into hiding at his friend's house.

[32] In December 1990, the appellant learned that, after his escape from Tehran on 26 February, guards came looking for him. They arrested his father but released him a month later on payment of a bribe. The appellant also learned that an arrest warrant had been issued against him (the appellant) and that his uncle remained in prison. He presented to the refugee status officer two photocopied documents written in Farsi plus their English translations. Both documents were issued by the "Ministry of Culture and Advanced Education: Students Central Disciplinary Committee". The first document was a notice informing the appellant (named as BB) that he would not be issued a certificate for his university studies. The second was addressed to "Tehran University" advising that BB had been "found to be ineligible to complete his education".

[33] When the appellant learned that an arrest warrant had been issued against him he decided he had no choice but to leave Iran. In the same month, December 1990, his uncle's wife and two daughters arrived in Gorgan. They also wanted to escape from Iran. The appellant arranged for their departure by air from Iran in July 1991. Because of the arrest warrant it was too dangerous for him to leave Iran with them through an airport so, on 15 July 1991, he went to Zahedan, about 1,000 kilometres away, to organise his departure. Two days later he crossed the Iranian border into Pakistan and eventually arrived in Malaysia on 25 August 1991. In Kuala Lumpur he met up with his uncle's wife and her two daughters, as arranged. From Kuala Lumpur they travelled to Indonesia by ship and arrived in New Zealand on 10 September 1991.

[34] At the RSB interview, the refugee status officer asked the appellant why he had made so many changes to his original written statement. The appellant explained that he was "now settled" and could "trust others" and that he wanted to tell the truth.

[35] He asserted that he was afraid of being arrested and subjected to indefinite detention or execution if returned to Iran. He said that the reason why he had

been and would be subjected to this treatment was because of his political opinion.

GRANT OF REFUGEE STATUS

[36] In his decision dated 28 October 1992, the refugee status officer concluded that "While [the appellant's] activities initially were quite limited his participation in the [Communist Party] acts … increased as he became older". The refugee status officer observed; "While it does seem strange that [the appellant] was able to go to university given his political background, he was the subject of severe sanctions while he was there including not being allowed to have contact with anybody. In 1991 he was dismissed from university".

[37] The refugee status officer concluded:

> "I believe there is a real chance he would face persecution in the future should he return".

[38] The appellant lodged an application for permanent residence on 10 May 1993. That application was approved and he was granted permanent residence on 29 June 1993.

[39] On 6 June 2007, almost 12 years later, a different refugee status officer issued a 'Notice of Intended Determination Concerning Loss of Refugee Status' ("the notice") to the appellant, commencing what are known colloquially as 'cancellation' proceedings.

NOTICE OF INTENDED DETERMINATION CONCERNING LOSS OF REFUGEE STATUS

[40] The notice advised the appellant that the refugee status officer intended to make a determination in accordance with s129L of the Act which might result in the loss of his refugee status. The grounds relied upon were, in essence, that evidence had been discovered that:

> "…suggests that your claim to the Refugee Status Branch ("RSB") may have been false:
>
> - In the course of your claim for refugee status, application for New Zealand Citizenship through the Department of Internal Affairs ("DIA") (including an

> interview with Identity Services), an application to join the New Zealand Police, and correspondence with Immigration New Zealand ("INZ") and the Department of Internal Affairs ("DIA"), you have given the following variants of your name and date of birth and country of birth:
>
> - AA DOB: 1 May 1962
> - BB DOB: 1 May 1965
> - BB DOB: 1 May 1971
> - CC DOB: 1 May 1972
> - CC DOB: 1 May 1973
> - DD DOB: 1 May 1973
> - DD DOB: 1 May 1974
> - EE DOB: 1 May 1975
> - and also, two different countries of birth, Iran and Italy.
>
> • In an interview with DIA Identity Services on 18 April 2007 you stated that your date of birth was 1 May 1975 and your place of birth was Palermo, Italy, having previously provided evidence that your place of birth was Tehran, Iran.
>
> • You have been unable to provide verifiable evidence to confirm your identity and investigations by INZ have also failed to locate evidence to authenticate claims made by you regarding your identity."

[41] The refugee status officer advised that he intended to determine whether or not the refugee status of the appellant may have been obtained by fraud and, if so, whether it should be cancelled.

LOSS OF REFUGEE STATUS

[42] On 7 August 2007, the appellant attended a 'cancellation' interview with the refugee status officer.

[43] Following the interview, the refugee status officer issued a decision on 14 November 2007, concluding that:

(a) The appellant's refugee status may have been procured by fraud; and

(b) He ought to cease to recognise the appellant's refugee status.

[44] A decision was duly delivered to that effect, against which the appellant now appeals.

THE RESPONDENT'S CASE

[45] The respondent's case on appeal was that which had been set out in the notice. It relied on events which took place after the appellant was granted permanent residence on 29 June 1993. The events which led to the issue of the cancellation proceedings took the form of various written and oral statements the appellant made to a number of officials in various New Zealand government agencies. These statements were included in the file prepared by the DOL for these proceedings. They are now described.

[46] In July 1995, the appellant, in the name CC, date of birth 1 May 197*2*, submitted a lost property report to the New Zealand Police claiming he had lost his refugee Certificate of Identity and all his immigration papers. On the same day he declared, pursuant to the Oaths and Declarations Act 1957, that he was CC, date of birth 1 May 1972 and that his place of birth was Tehran. He submitted these two documents to INZ plus a translation of an Iranian birth certificate certifying this biographical data, and asked INZ to issue him with a new Certificate of Identity. On 25 July 1995, INZ issued the appellant with a replacement Certificate of Identity document containing this new biographical data: CC born in Tehran on 1 May 1972.

[47] A month later, in August 1995, the appellant filed with the DIA an application for New Zealand citizenship in which he gave the following details:

(a) His name was CC date of birth 1 May 197*3*.

(b) His mother's name was LL, born in Tehran, maiden family name MM (the same family name as Uncle).

(c) His schooling years started in 1977 (primary school) through to 1990 (at which point he had completed one year at Tehran University studying dentistry and physical education.

(d) In answer to the question whether he had any "Other names (unmarried name, name change, alias, etc)" he answered "NO".

[48] He declared his application true and correct pursuant to the Oaths and Declarations Act 1957. In July 1996 the DIA declined his application for

citizenship on the ground that he had been convicted of an offence in New Zealand. The DIA suggested that he might like to apply again in March 1998.

[49] The appellant filed a fresh citizenship application in April 1999. In this application he claimed that his name was DD born in Palermo, Italy on 1 May 1973. The DIA asked the appellant to provide his original Italian birth certificate to establish this was his true identity. The appellant wrote numerous lengthy letters to DIA officers during 1999 and 2000, trying to persuade them he was Italian. In April 2000 the DIA provided the appellant with contact details for the Italian consulate and suggested the consul might be able to assist him to obtain his Italian birth certificate. Ultimately, in July 2000, the appellant advised the DIA that the Italian authorities said they did not have a record of him.

[50] In December 2000, a DIA officer contacted an Italian consulate official to ascertain what steps could be taken by an Italian-born person to establish they were born in Italy. The official replied that if the DIA officer was referring to an Iranian man who was seeking to establish his Italian birth, he (the consulate official) "had already written to Palermo and asked whether there was a birth record for him. They had checked many years and there was no record".

[51] In May 2001 the DIA advised the appellant that, before the DIA could recognise the appellant's claimed Italian birth, INZ would have to alter their records to reflect that he was born in Italy. This prompted numerous letters from the appellant to INZ in which he described the circumstances of how he was born in Italy. In one of those letters (in July 2001) he claimed he was born in Palermo on 1 May 1974.

[52] In January 2002, the appellant (calling himself CC) declared (again pursuant to the Oaths and Declarations Act 1957) that he was born in Palermo in 1975. In the declaration, he stated "I was born in Palermo Italy in 1975 but I grow up in Iran since 1996 till end of 1990" *(sic)*. Four days later (describing himself as "FF", born CC in Palermo on 1 May 1972) he applied to the Registrar of Births, Deaths and Marriages to change his name to GG. On the Change of Name Declaration form he spelt "FF" at the top but "GG" at the bottom.

[53] In May 2002, the appellant wrote a lengthy letter to INZ, again explaining the circumstances of his Italian birth and asking INZ to alter their records accordingly.

[54] The appellant then appears to have taken little or no action for two and a half years. In December 2004 he applied again to the DIA for New Zealand citizenship. His application form recorded that his name was "CC" and under "Other names" he wrote "[first Christian name of GG] my middle name", Date of birth "01 05 1973". In January 2005 he wrote to the DIA requesting that they correct their records to reflect his 1975 year of birth and his official change of name to "GG". He signed the letter "FF". There are 16 separate items of correspondence between the appellant and the DIA in 2005 in which he continued to try to persuade the DIA of his Italian birth. The correspondence on the file finishes with a letter dated 8 December 2005 in which the appellant complains bitterly about the obstacles put in his way by various New Zealand government departments. He ends the letter by saying:

> "I would like to countiniu with my New Zealand citizen ship but i need to have my correct date of Birth which is 01/05/1975 so i can have true and corect life." *(sic)*

[55] Then, in 2007, the DIA asked the appellant to attend an Investigative Interview. It was conducted on 18 April 2007 by Ms Mireille Giaccherini. At the Authority hearing, the appellant maintained that his name was UU born in Palermo on 1 May 1975.

Respondent's witness statements and submissions

[56] At the appeal hearing, the DOL submitted two written statements of evidence:

(a) Statement by Mr Robin McMurray (the refugee status officer who issued the decision to cancel the appellant's grant of refugee status).

(b) Statement by Ms Mireille Giaccherini (DIA investigative officer who interviewed the appellant in April 2008).

[57] Mr McMurray confirmed on oath that the evidence he had prepared on behalf of the respondent in these cancellation proceedings was true and correct. Ms Giaccherini's written statement was admitted by consent.

[58] At the appeal hearing, Mr Houliston addressed his written submissions dated 16 May 2008. He argued, in relation to the first stage of the test (that is, whether the appellant's grant of refugee status may have been procured by fraud):

(a) Given the variations in name, place and date of birth, the appellant's true identity remains unknown;

(b) The credibility of the appellant was a factor for the refugee status officer in determining his refugee claim. The numerous variations undermine the appellant's credibility to such an extent that the original decision was not properly made;

(c) The appellant concealed his Italian nationality, thereby depriving the refugee status officer of the opportunity to consider whether the appellant could avail himself of the national protection of Italy as opposed to the international protection of New Zealand;

(d) The appellant concealed significant information that would have been relevant to the refugee status officer's decision whether or not to grant refugee status;

(e) The production by the appellant of a fraudulent Iranian birth certificate establishes that the appellant is not credible.

[59] Mr Houliston referred the Authority to a passage from J C Hathaway *The Law of Refugee Status* (Butterworths, Toronto, 1991) p57 in which the author stated at 2.5.1 (in relation to the subject of "Persons with Dual or Multiple Nationality"):

> "It is an underlying assumption of refugee law that wherever available, national protection takes precedence over international protection. …
>
> Even if an individual has a genuine fear of persecution in one state of nationality, she may not benefit from refugee status if she is a citizen of another country that is prepared to afford her protection."

[60] Mr Houliston also referred the Authority to *MN v Refugee Status Appeals Authority and Anor* HC AK CIV 2007-404-007932 (26 August 2008) Priestley J and specifically para 51 in which His Honour observed:

> "If a refugee claimant has spun a totally false story about his or her identity then that would, in most cases, be reason enough to discard the broader narrative as false. Refugee status is designed to protect the individual as a specific person. A claimant seeking the protection of a country is obliged to be candid and truthful about his or her identity, even if a false identity was used to arrive at a safe haven."

[61] Mr Houliston submitted that the evidence presented by the DOL met the first limb of the test; that is that the appellant's refugee status may have been procured by fraud, and that the primary issue for the Authority to determine was

whether the appellant is a refugee now.

THE APPELLANT'S CASE

[62] The account which follows is a summary of the evidence given by the appellant at the appeal hearing. It is assessed later.

[63] The appellant does not deny that he wrote the various letters and made the various statements relied on by the respondent as outlined in paras [45]-[54] above.

[64] The appellant maintains that the account he gave in respect of his original claim to refugee status was untruthful. He asserts, primarily but by no means solely, that he was born in Palermo, Italy in 1975, not in Tehran, Iran in 1971. In oral submissions at the appeal hearing the appellant's counsel submitted that it did not follow from this concession by the appellant that his refugee status may have been procured by fraud. By way of explanation counsel submitted that the appellant was so psychologically traumatised upon arrival in New Zealand that he cannot be held responsible for giving an untruthful account. In other words, he did not intend to defraud.

[65] The appellant asserts on appeal that his father (HH, born in Iran) was a helicopter pilot in an elite force of the Shah of Iran (there being only 14 such pilots in the Royal Army). His mother (NN, born in Italy) was an artist and businesswoman. In support of his claim the appellant referred to a certificate he had given to the DIA in June 2003. This certificate, written in the Italian language, was issued by *"Aeronautica Militare Italiana"* in July 1971. It certifies that HH completed a pilot's course at that institution.

[66] The appellant does not know his parents' dates of births. He does not know where or when they met, when or even if they actually married although he recalls photographs of a ceremony in Italy that appeared to be their wedding. At the time of their marriage the appellant's father converted to Catholicism and after baptism was given the name OO. The appellant's father did not disclose his marriage to the Royal Army because these elite officers were prohibited from getting married during the first five years of their employment.

[67] The appellant's father took the appellant's mother to Iran. A son (formally named JJ, but called PP) was born in 1971. A girl (QQ) was born in 1973. In 1974, the appellant's parents returned to Italy and in 1975 the appellant was born in Palermo. In approximately 1977 the family returned to Iran and moved into a substantial villa in Tehran Pars, an affluent suburb of Tehran where other senior air force and military personnel were their neighbours. Another son, RR, was born in 1978.

[68] The appellant's mother sold her ceramics, paintings and sculptures, mainly to wealthy American tourists who visited the family home. She also sold ceramics she imported from Italy.

[69] The appellant's mother home-schooled the children. The family spoke Italian at home, including the appellant's father. The appellant's mother was a committed Catholic who prayed regularly and instilled in her children an understanding of Christianity. The appellant's mother told him that he had been baptised a Catholic.

[70] The family was shocked by the Revolution, particularly the events which followed the departure of the Shah and the arrival of Ayatollah Khomeini in early 1979. The family was placed under house arrest. A Royal Army officer was hanged in front of their house and interrogations of other Royal Army officers were broadcast on television. Students occupied the American Embassy in November 1979. A few months after this (in early 1980) the appellant's father was arrested from the family home. About four months later, (in mid-1980) the appellant, his mother and PP were blindfolded and taken to a prison room where they saw the appellant's father guarded behind glass. The guards were asking him questions but he said nothing. The guards beat the appellant's mother and PP to pressure the appellant's father to answer the questions.

[71] Six months later (towards the end of 1980), the family was evicted from their villa, stripped of all their belongings and taken to their new accommodation, a two-room apartment. The purpose of this move was to isolate, humiliate and monitor them. The appellant remembers they had only five cups, five spoons and two glasses. For two years after his father was arrested, all family members were taken to the prison at various times. They were forced to watch their father being beaten and he was forced to watch them being beaten. To protect herself, the

appellant's mother pretended she was a Muslim. She was under constant surveillance.

[72] In the apartment block lived a man who was a childhood friend of the appellant's father. The appellant had always called him "Uncle". The appellant said he is the same man who featured in the appellant's original refugee claim and who was described, untruthfully, as his maternal uncle. Uncle was a long-time member of the Communist Party. After the Revolution he continued to attend Communist Party meetings and he took the appellant with him. He also took the appellant with him when he distributed Communist Party pamphlets around the neighbourhood.

[73] In 1986, the appellant and Uncle were arrested at 2am when returning from distributing pamphlets. They were taken to Evin Prison where they were kept for three months. The appellant, aged 11, was severely mistreated during his imprisonment. He was kept in a dirty, dark cell with many other children. The guards sometimes threatened to cut off his hands. Sometimes they blindfolded him and allowed him to walk into walls. He was beaten frequently. Ultimately he was released after agreeing to convert to Islam. He was taken to a mosque where a *mullah* (an Islamic cleric) was nominated as his religious mentor and he was directed to report to this *mullah* every 15 days. He complied with this direction until he left Iran five years later.

[74] Upon his return home the appellant did not speak to any of his family about his experience. He did not see Uncle after the day they were arrested.

[75] In 1987, the appellant's sister, QQ, was aged 14 years. She was a supporter of the *Mujahedin-e-Khalgh ("Mujahedin")*, a banned political group with Islamic/socialist policies. In 1987, a few months after the appellant's release, the *Komiteh* advised the appellant's mother that they had taken QQ into custody. The mother visited the local mosque to plead for QQ's release, to no avail.

[76] In August 1988, QQ turned 15 years of age. A few days after her birthday the *Komiteh* arrived at the family home and took the appellant, his mother and two brothers to 24 Isfand Roundabout. There they saw three people with rice sacks on their heads. These three people were hanged at the Roundabout and then the *Komiteh* announced to the appellant's mother that her daughter was one of those three hanged.

[77] In 1989 the appellant's mother told the appellant and PP that there was $US100,000 buried in the garden of their former house in Tehran Pars. They went to the house one night and dug up this money. The appellant's mother gave $US30,000 each to PP and the appellant and told them to try to leave the country.

[78] In 1990, the appellant graduated from high school aged 15 (having completed four years study in two years by cheating with exam answers obtained through Uncle's contacts). In September 1990, he commenced studying medicine at Azad University. There he became involved with students who held anti-government views. The university authorities kept him under surveillance and prohibited him from talking to other students. He was eventually banned from attending university but he continued to attend lectures anyway.

[79] In June or July 1991, the appellant attended a demonstration. He threw rocks, broke fences and windows. He screamed "Down with Islam". When the authorities opened fire he ran away, jumping on a bus to the north of Iran. He had been carrying the $US30,000 with him for a couple of weeks so he had no need to return home. He stayed with the parents of one of his friends.

[80] A month after his arrival at his friend's house, the friend obtained documents from the appellant's home including two (now misplaced) letters from Azad University (not the two university-related documents he provided to the RSB in 1992). The appellant then went to Zahedan where he found an agent who helped him and two other men walk to Pakistan, a journey which took 20 days. In Pakistan the appellant was detained for two weeks but managed by means of bribes to secure his release. He then purchased an Iranian passport and used it to travel to Malaysia. He intended to travel on to Italy.

[81] At a hotel in Kuala Lumpur he was shocked to meet Uncle's wife ("Aunt") and her two children. He had not seen her since 1986 after he was released from prison. She wanted to go to Canada. An agent told them that it was too dangerous and expensive to go to either Italy or Canada and suggested they go to New Zealand.

[82] The agent advised them to pretend they were a married couple. The appellant and Aunt agreed what they would say on arrival in New Zealand so their stories would match. Essentially they agreed that the appellant would adopt and

adapt the life story of Aunt's husband hence, for example, the appellant's false claim at the airport that he was a judo instructor.

[83] After his arrival in New Zealand, the appellant was suspicious of all Iranians and decided not to disclose to anyone his true personal history.

[84] The lawyer wrote their refugee statements and mixed up a number of things but the appellant did not say anything because he did not want to upset Aunt's case. The appellant did not read the statements that the lawyer gave to INZ. There was a kernel of truth in the written statements but mainly they were not true. The lawyer answered the refugee status officer's questions at the RSB interview.

Appellant's documents and submissions

[85] The appellant submitted the following documents to the Authority:

(a) A typewritten statement by him dated 5 May 2008.

(b) A typewritten statement by TT dated 12 September 2008 (admitted by consent).

(c) A psychological report by Amanda McFadden (registered clinical psychologist) dated 28 July 2008 (submitted on 11 August 2008).

(d) The appellant's new business card on which he had spelt his name "SS".

The evidence of TT

[86] TT is Aunt's daughter. She was not called by the appellant to give evidence. In her statement, TT stated that the appellant is related to her through her father. She said her mother was also close to the appellant. The distinction between the words "related" and "close to" indicated to the Authority that she believed she was related to the appellant by blood. She said she has "horrible memories" of her father and no one speaks of him. She has only ever called the appellant "Amu" (the Persian word for uncle). She said "Amu studied biology or medicine at XYZ University and is working at UVW Hospital, he is doing research." TT stated that the appellant is a "very private person". She said she does not know where he lives; that he moves all the time and he never comes to her

birthday parties because he does not like people much. She said she has never met any of his friends and cannot recall him mentioning any.

The evidence of Ms McFadden

[87] Ms McFadden's report was prepared for the appellant's appeal which was initially set down for three days in September 2008. As already indicated (at paras [4] and [5] above), the Authority heard evidence from Ms McFadden on 17 September 2008 when we sought to clarify the appellant's psychological status before we embarked on the hearing.

[88] For convenience, the Authority first records its summary of the written and oral evidence Ms McFadden gave at the September hearing (set out in the Authority's Minute dated 24 November 2008):

> "[7] On 11 August 2008 Ms Uca filed a report by a psychologist, Ms Amanda McFadden. In this report, Ms McFadden asserted:
>
> > "It is of concern to the writer that [the appellant] may be no longer able to determine fact from fantasy himself and that for this reason our own efforts to do this within the [refugee] investigation would be flawed."
>
> [8] Ms McFadden recorded in her report that she met with the appellant on two occasions for a total of three hours. During her interviews with him she noted, *inter alia*, that "[w]hen challenged about timeframes and the impact of his change in age on the plausibility of his stated history he quickly provided explanations, and appeared to lack insight into these concerns." He also "appeared to lack insight into the magnitude of his current situation and remained highly focused on proving his Italian identity. His presentation conveyed a degree of "belle indifference"".
>
> [9] Ms McFadden's clinical findings were that the appellant appeared to be suffering from Post Traumatic Stress Disorder as a result of trauma sustained in childhood or adolescence. She concluded that he did not meet the criteria for a "stand-alone diagnosis of psychotic disorder" but that he may be "in remission from a period of psychosis or a series of psychotic breaks".
>
> [10] Ms McFadden then posed the question; "Why would somebody actively seek to endanger themselves by undermining their credibility and legal status as a refugee?" She explored four theories:
>
> 1. The appellant's actions are underpinned by a chronic post-traumatic stress disorder.
> 2. The appellant is in partial remission from a psychotic illness.
> 3. The appellant's behaviour represents a series of false confessions.
> 4. The appellant is a dishonest person who has simply been exposed. He has deliberately misled immigration officials in order to secure refugee status on false or fraudulent grounds.
>
> [11] Ms McFadden examined each of these theories and concluded:
>
> > "In short and put simply these are not the acts of someone who is psychologically well. [The appellant's] actions represent those of someone who has deep-seated psychological difficulties and who has acted in a manner that is self-destructive and carries serious ramifications for his long-term wellbeing.

> It is my opinion that in respect of the four formulations offered it is most likely that [the appellant's] behaviour can be explained in terms of a chronic post traumatic stress syndrome. However, I remain concerned about the possible presence of a psychotic disorder that is in partial remission. It is highly likely that his level of disturbance renders him unable to pick out distortion from truth. In addition there is a very real possibility that these behaviours may continue to recur in the future without adequate intervention."
>
> [12] ...
>
> [13] ... Summarising Ms McFadden's oral evidence, it appears that the human brain sometimes copes with trauma by burying the emotional response. This response ultimately surfaces over time. In the interim, the affected person can describe the event which caused the trauma in purely intellectual, informational terms but cannot process the emotional damage it caused. This then causes the affected person to develop strategies to keep the emotional aspect of the historical trauma at bay. The relevance of this theory to the appellant is that he appears to have suffered trauma in his early life at some point but has buried the emotional issues arising. His coping mechanism has been to engage in a quest for an alternative (Italian) heritage.
>
> [14] Ms McFadden considered that the letters the appellant began writing from the middle of the 1990s onwards, evidence a degree of delusional psychosis which means that, at certain points in time, he is not able to distinguish fact from fiction. He simply does not understand how his actions are perceived by others because at all times he genuinely believes he is telling the single "truth" even though what he is saying conflicts dramatically with what he has said previously."

[89] At the Authority hearing in March 2009, Ms McFadden gave evidence that, in her opinion, the appellant requires therapeutic intervention to unravel chronic Post-Traumatic Stress Disorder and periods of psychosis. She said the appellant appeared to be suffering from "the most concerning severe psychological difficulties".

Submissions

[90] Counsel for the appellant filed written submissions dated 15 February 2008 and 6 May 2008. In her submissions dated 15 February 2008, Ms Uca relevantly:

(a) confirmed the appellant's assertion that he was born in Italy;

(b) indicated her intention to make enquiries with the Italian authorities about

  (i) whether the appellant is entitled to Italian citizenship;

  (ii) whether the Italian government has records for his Italian-born mother;

  (iii) whether there is any record of the father's periods of residence in Italy.

[91] In her 6 May 2008 submissions Ms Uca submitted that there had been no change in the appellant's circumstances since he was granted refugee status in 1992, in that:

(a) he still fears being persecuted in Iran because of his family background; and

(b) he still fears being persecuted because he is not a Muslim and because of his political opinion.

[92] In relation to the contradictory statements volunteered by the appellant in the years since 1995, Ms Uca submitted that his explanation (that his "Italian" claim was true but he had been too nervous to state it outright and therefore had done it gradually) should be accepted. She submitted that the appellant had "nothing to gain by attracting attention to himself, what he has achieved so far is the cancellation of his refugee status" and for that reason his "Italian" claim should be accepted as truthful. The Authority puts "Italian" in quotation marks here to acknowledge that the claim as finally advanced by the appellant in the Authority encompasses much more than a mere claim to an Italian identity and heritage.

[93] As already indicated, at the Authority hearing Ms Curtis submitted that, although the appellant's original claim to refugee status was untruthful, this concession did not establish fraud. She submitted that, at the time of his arrival in New Zealand, the appellant was so psychologically traumatised that he cannot now be held responsible for presenting the untruthful account. The Authority expressed to Ms Curtis its observation that an *intention* to mislead is not required under the New Zealand statutory provisions – that "may have been procured by fraud" does not mean "may have intentionally been procured by fraud". The Authority observed that, therefore, an appellant's concession that the account was untruthful could (and probably would, all things being equal) establish fraud. Ms Curtis maintained her position.

Post-hearing submissions

[94] On 13 July 2009, just before the Authority's decision in this appeal was due to be issued, counsel for the appellant filed extensive "Closing Submissions" and country information about Iran. The submissions further developed the arguments put forward on behalf of the appellant at the appeal hearing. In particular, counsel

submitted that the appellant, having been born on 1 May 1975 was aged only 16 when he arrived in New Zealand in September 1991. He was therefore, in counsel's submission, "under age" when he arrived and he ought, therefore, to have been represented by an adult. Counsel argued that the RSB's failure to treat the appellant as a "minor" in 1992 precludes it now from alleging that the appellant procured his refugee status by fraud. Counsel also submitted that the appellant, having arrived in New Zealand as "an Iranian minor" would – had he told the truth to the RSB – have been granted refugee status because "birth within the Italian territory does not automatically confer citizenship". Counsel also relied on "circumstances which are considered to be "humanitarian"" and argued that the RSB's decision to cancel the appellant's refugee status was "fatally flawed" for failing to take these humanitarian circumstances into account.

[95] Counsel for the respondent felt obliged to file submissions in reply. They were received by the Authority on 5 August 2009. Mr Houliston submitted that the appellant, having concealed what he now claims is his true age, is to blame for any failure by the RSB to treat him as a minor. Mr Houliston referred to Ms McFadden's report as "fundamentally flawed in that it explicitly accepts the self-serving uncorroborated narrative of the appellant, and forms conclusions based on this evidence". Mr Houliston summarised the factors indicating that the appellant is not a credible witness and reiterated the DOL's fundamental submission that both stages of the two stage test had been met.

ASSESSMENT

Whether the grant of refugee status may have been procured by fraud

[96] The first stage of the cancellation enquiry is whether the refugee status of the appellant may have been procured by fraud. We remind ourselves of the findings in *Refugee Appeal No 75574* that "may have been" signals a standard of proof that is, while lower than the balance of probabilities, nevertheless higher than mere suspicion. It is well established that the phrase neither requires nor implies an intention by the appellant to act fraudulently; see for example *Refugee Appeal No 76151* (15 March 2007).

[97] Whether the refugee status of this appellant may have been procured by fraud depends on the answer to this question: are the appellant's post-1995

assertions evidence of fraud or are they the assertions of a psychologically unwell man which should be disregarded?

[98] For convenience, we will refer to the account upon which refugee status was granted as the appellant's "Iranian" account. We will refer to the post-1995 assertions as the appellant's "Italian" account. Whenever we refer to the Italian account we refer not just to the appellant's assertion of Italian birth and heritage but to all of the assertions which are part and parcel of that account, for example the appellant's father's arrest and torture because of he was a member of the Shah's elite Royal Army corps, the existence and execution of QQ, the description of Uncle as the appellant's father's friend (not his mother's brother), and the finding of $US100,000 which aided the appellant's escape from Iran.

[99] The DOL file contained extensive evidence revealing numerous inconsistencies and implausibilities in statements the appellant had made to New Zealand government departments since 1995. This evidence consisted mainly of the appellant's own letters and sworn statutory declarations.

[100] At the hearing, Mr Houliston, for the DOL, highlighted numerous inconsistencies in the appellant's Italian account. For example, the appellant gave three different accounts of a seminal event – how QQ met her death in 1988. His earliest account is recorded in the DIA interview with Ms Giaccherini in April 2007. The appellant signed the record of this interview as true and correct. He is recorded as saying at that interview that the Iranian government told the family that QQ was killed by accident. In the written statement prepared for the Authority hearing he gave a different account. He claimed that the family recognised QQ with two men at the crossroad. They thought QQ and the two men were going to be lashed but all three were hanged. In his oral evidence at the Authority hearing, the appellant claimed that because the heads of all three victims were covered by rice sacks, they were unaware that QQ was one of the victims about to be hanged until the guards advised them after they were executed.

[101] Mr Houliston put the inconsistency between the DIA statement (QQ died by accident) and the RSAA statements (QQ was executed by hanging) to the appellant. The appellant's answer was that when he said she died by accident he meant that she was, like all the family's children, questioned by the prison guards when they were taken to see their father. He said the rice sack version was the

correct answer. This response, like many of the appellant's answers during the appeal hearing, did not address or resolve the inconsistencies.

[102] We acknowledge that the sheer scale of the discrepancies which are evident in this appeal would, ordinarily, be highly probative of fraud. We have concluded, however, for reasons that follow, that the rationale for the appellant's bizarre and self-destructive post-1995 behaviour is provided by the compelling psychological evidence of Ms McFadden and is supported by the Authority's own assessment of other aspects of the evidence. We note here that Ms McFadden gave unchallenged evidence at the appeal hearing. It was open to the DOL to have the appellant assessed by a psychologist of its choice but it did not do so. We have concluded, for reasons that now follow, that the discrepancies highlighted by Mr Houliston cannot, safely, be taken as evidence that the appellant may have procured his refugee status by fraud.

Ms McFadden's evidence

[103] In the Authority's Minute dated 24 November 2008, we recorded a lengthy excerpt from Ms McFadden's written report dated 28 July 2008 (set out in paragraph [88] above).

[104] In her oral evidence in the appeal hearing in March 2009 Ms McFadden asserted that, in her opinion, the appellant is suffering from "the most concerning severe psychological difficulties" and that he requires therapeutic intervention.

The appellant's communications with New Zealand government departments

[105] The appellant engaged in a series of bizarre and jeopardous communications with New Zealand government departments from 1995. That was the year in which the appellant made his first application to obtain New Zealand citizenship. The purpose of his correspondence with the government departments was to obtain a grant of New Zealand citizenship and for that grant to be made on an understanding and acceptance by the New Zealand government that the appellant was born in Italy.

[106] Having, in 1995, been a permanent resident of New Zealand for the required three years, the appellant was likely, as an Iranian national, to have been granted New Zealand citizenship, subject to him meeting the "good character"

requirements. Upon the grant of New Zealand citizenship he would have been entitled to a New Zealand passport. As a New Zealand citizen and passport holder, he would have been entitled to the protection of the New Zealand government. There was, therefore, a significant risk but no logical advantage to the appellant to assert in his citizenship application that he was Italian.

[107] If the appellant wished to investigate or establish his Italian identity, he could have done this discreetly during or after his application for New Zealand citizenship. He could, for example, have used his New Zealand passport to travel to Italy to investigate his Italian antecedents, to visit Palermo and to make contact with his maternal relatives. If he could establish his Italian birth and heritage, he could then have applied for Italian citizenship. Instead, the appellant embarked on a futile letter writing campaign. It would have been self-evident to a psychologically unimpaired refugee in the appellant's position in 1995, that by asserting a completely different biography and identity he risked undermining the cornerstone of his immigration status in New Zealand which was based on his status as a refugee.

[108] The appellant appeared to us to be a reasonably intelligent man. He has attended university courses in New Zealand and he has maintained himself in employment since his arrival here. Over recent years he has obtained and held a licence to teach learner drivers and several years ago he went into business on his own account as a driving instructor. The fact that he embarked on such a self-evidently risky exercise is a strong indication to us that the appellant was not, and is not, a psychologically well man, despite having a sufficient degree of intellectual and social functioning to enable him to live an otherwise apparently normal life.

The appellant's failure to establish his Italian identity/the credibility of the Italian account

[109] The appellant has not, in 14 years (1995 to 2009), managed to establish his Italian birth. Nor, despite her stated intention to make all necessary enquiries, did Ms Uca manage to find any evidence that the appellant was born in Italy. The only documentary evidence the appellant has to connect him with Italy is the document issued by *Aeronautica Militare Italiana* which certifies that his father trained in Italy to be a pilot. The document appears to be genuine and it is our impression that this document was the inspiration for the appellant's quest for an Italian identity.

[110] A translation of Italy's citizenship legislation is on the INZ file. It indicates that the appellant could establish his right to Italian citizenship through his Italian-born mother. We asked him why he did not pursue this obvious line of enquiry. His reason was that he does not know his mother's date of birth. He said he did not seek his parents' marriage records because he does not know whether they actually married. He acknowledged that he had made no attempt to contact his mother or any member of his family to elicit information or to pursue other obvious lines of enquiry such as his baptismal record in Italy (he claims to have been baptised in Palermo on 4 May 1975). He did not appear to have any insight into the hopelessness of pleading with New Zealand government departments to accept his assertion of Italian birth when he had no proof on which to base his assertion. He also appeared to lack insight into our concern that he had failed to make the most basic enquiries.

[111] The appellant's Italian account had a number of incredible and surreal features. There was, for example, the grandiosity of the appellant's family's intimate connection with the Shah of Iran, their membership of the wealthy and educated socialite set before the Islamic Revolution, and the appellant's mother's reputation as an artist and her connection with wealthy American tourists. Then there was the extraordinary range of political allegiances within the family. For instance, the appellant's parents were monarchists, yet the father's closest friend, "Uncle", had been an active communist for many years, both before and after the revolution. QQ joined the *Mujahedin-e-Khalgh*, an organisation whose fundamentally Islamic and socialist agenda would have been anathema to monarchists and communists alike.

[112] Other aspects of the Italian case heightened its dreamlike quality, for example, the $US100,000 that remained buried for approximately ten years in the garden of the family's previous house, and the $US30,000 that the appellant carried around with him in case he had to escape from Iran. Then there was the incredible coincidence that the appellant, having had no contact with Uncle or Aunt since 1986, should meet Aunt and the children in a hotel in Malaysia.

The appellant's demeanour

[113] Our impression of the appellant's demeanour during the appeal hearing is well described by a phrase in Ms McFadden's written report – that his "presentation [to her when she interviewed him in July 2008] conveyed a degree of

“belle indifference””.

[114] With one or two exceptions when he did appear to be affected by emotion (for example when describing the execution of QQ), the appellant appeared curiously unaffected by the potentially serious ramifications of the proceedings. He remained talkative, pleasant and apparently unconcerned throughout – even when we put inconsistencies to him or otherwise challenged him. His answers to particularly challenging questions were given confidently and without undue hesitation. He appeared either unaware or unconcerned when his answer was manifestly failing to cure an inconsistency or was creating a new one.

[115] For example, he confidently asserted that he and all his siblings had been baptised, even though he had just moments before stated that he did not know if PP or QQ were baptised. Similarly, he claimed that his parents registered PP’s name as “PP” in his Iranian birth certificate, but moments later he asserted that he did not know what name PP was registered under. Another example is when he asserted quite definitely that his mother travelled alone to Italy in 1974 (where she subsequently gave birth to the appellant in 1975) but later said (without any apparent awareness of the inconsistency) that he did not know whether she travelled alone or whether his father accompanied her.

[116] The point we make here is not the existence of inconsistencies but rather the appellant’s blasé demeanour as he gave the inconsistent evidence.

Conclusion

[117] For all of the above reasons, and in particular the evidence of Ms McFadden – supported as it is by our own observations – we have concluded that the appellant is not a psychologically well man. We agree with Ms McFadden’s assessment that he has difficulty establishing fact from fantasy. In reaching this conclusion we have carefully considered the possibility that the appellant, fully aware of the mounting inconsistencies as the hearing proceeded – and the potential impact of them on his credibility – deliberately feigned an air of assurance for authentic effect. However, having closely observed the appellant give his evidence over three days, we confidently discount the possibility that he was deliberately misleading us. We are fully satisfied that his demeanour throughout the appeal hearing was symptomatic of his illness. The statements he

made to New Zealand government departments from 1995 onwards are fanciful delusions. They are not evidence of fraud.

Residual issues

[118] It is now necessary for us to go back and examine the original refugee claim made by this appellant and the reasoning given by the refugee status officer for its acceptance, to see whether there are any residual reasons for concluding that the grant may have been procured by fraud.

[119] The 1992 decision is relatively brief. Having carefully read the decision, the Authority observes that a different refugee status officer or the Authority itself, may well have made more rigorous enquiries or adopted a more rigorous assessment of the evidence. The fact is, however, that the refugee status officer who interviewed the appellant did not consider it necessary to carry out a more rigorous investigation. He had the corroborative evidence of the two documents issued by the Students Central Disciplinary Committee but he did not question the fact that both documents purport to have been written on the non-existent date of 29 February 1991. Based on the evidence before him, the officer was entitled to conclude that there was a well-founded fear.

[120] We must also consider whether the Iranian birth certificate that the appellant presented to INZ in July 1995 is evidence that the refugee status granted to BB, born in Tehran on 1 May 1971, may have been procured by fraud. We have concluded that the birth certificate is false and that it was obtained by the appellant, during a time when he was psychologically unwell, to bolster his assertion that he was CC, born in Tehran on 1 May 1972. It is not evidence that the appellant's refugee status may have been obtained by fraud.

[121] We acknowledge that our finding – that there is no evidence that the original claim may have been procured by fraud – is made in unusual circumstances, in that it is made notwithstanding the assertion of the appellant and his counsel that his original claim was untruthful. Such an assertion, ordinarily, would have been sufficient to satisfy the first limb of the test.

[122] We have found that the first stage of the test has not been met. We therefore do not have jurisdiction to consider the second stage of the test.

CONCLUSION

[123] In view of the foregoing, the following determinations are made:

(a) The evidence does not establish that the grant of refugee status to the appellant may have been procured by fraud, forgery, false or misleading representation or concealment of relevant information.

(b) The appellant is to continue to be recognised as a refugee.

[105] Consequent upon those findings, the Authority continues to recognise the appellant as a refugee. The appeal is allowed.

"M L Robins"

M L Robins
Member