

**REFUGEE STATUS APPEALS AUTHORITY**  
**NEW ZEALAND**

**REFUGEE APPEAL NO 75821**

**AT AUCKLAND**

**Before:** V J Shaw (Chairperson)  
S L Murphy (Member)

**Counsel for the Appellant:** R McLeod

**Appearing for the Department of Labour:** No Appearance

**Date of Hearing:** 2 May, 9 June and 17 July 2006  
and 17 April 2007

**Date of Decision:** 12 December 2007

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**DECISION**

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[1] This is an appeal against the decision of a refugee status officer of the Refugee Status Branch (RSB) of the Department of Labour (DOL), declining the grant of refugee status to the appellant, a national of Iran.

**INTRODUCTION**

[2] The appellant is a young woman aged 25 years, who arrived in New Zealand on 7 November 2005 and immediately requested refugee status.

[3] Three of her five brothers had preceded her to New Zealand during early 2003. All three were granted refugee status by the RSB on the basis of their conversion to Christianity while living in an Asian country (country ZZ) and the additional risk to them because of their family association with the oldest son of the family, AB, who was said to be wanted by the Iranian authorities because of participation in an inter-faith prayer festival in Y in October 2002.

[4] The appellant's sister-in-law (the wife of AB) and her young child also entered New Zealand during November 2004. Although born in country MN she

This is an abridged version of the decision. Some particulars have been removed from or summarised in the decision pursuant to s129T of the Immigration Act 1987. Where this has occurred, it is indicated by square brackets.

claimed to have lost her MN nationality and to have become an Iranian national. She too claimed to be at risk of persecution from the Iranian authorities based on her conversion to Christianity while living in ZZ and her relationship to her husband AB. The RSB declined the sister-in-law's refugee claim and she subsequently appealed to this Authority. In support of her appeal, she filed various written statements from AB who is currently living in Asia.

[5] The hearing of the sister-in-law's appeal commenced on 1 December 2005, by which time the appellant had arrived in New Zealand and had submitted to the RSB a written statement outlining her own refugee claim. Like her three brothers and sister-in-law, she also claimed to have converted to Christianity while living in ZZ and to be at risk from the Iranian authorities because of her Christian faith and her family relationship to AB.

[6] On 14 December 2005, the appellant appeared before the Authority and gave oral evidence in support of her sister-in-law's appeal. In addition, the Authority received a written statement from her plus a copy of the written statement she had provided to the RSB. At the time, the Authority was not made aware that counsel acting for the sister-in-law had not been instructed to represent the appellant in her refugee claim. Rather, she had instructed other counsel.

[7] The Authority entertained serious concerns about a number of the claims made by the sister-in-law and initiated enquiries with the MN and ZZ authorities.

[8] When the present appeal was first set down for hearing on 3 May 2006, the Authority's enquiries were still underway. It was however clear to the Authority that because of the appellant's family connection with her sister-in-law and the common features and evidence in the two appeals, aspects of the sister-in-law's and AB's evidence in that appeal were relevant and potentially prejudicial to the appellant's appeal. On 3 May 2006 therefore, the Authority requested that the sister-in-law's counsel appear as well as counsel. It was agreed that because of the overlapping evidence the hearing of the two appeals would henceforth proceed together although the two appeals would be treated as separate and distinct. It was further agreed to adjourn the hearing until 6 June 2006 so as to give counsel the opportunity to familiarise himself with the oral and documentary evidence that had already been received in the course of the sister-in-law's appeal, including that received from the present appellant and the evidence from two of her brothers, GH and CD.

[9] When the hearing resumed on 6 June 2006 with both counsel present, the Authority heard briefly from the sister-in-law who soon requested to be excused because of a migraine. The Authority then heard evidence from the appellant. The hearing was then adjourned to 17 and 18 July to allow counsel to obtain evidence in response to information received from the ZZ authorities in respect of AB's travel movements.

[10] On 17 July, the Authority heard further evidence from the appellant, followed by her brother GH and the minister from the church attended by the appellant and GH. On 18 July, the Authority heard further evidence from the sister-in-law.

[11] At the completion of the hearing on 18 July, counsel were given leave to file final written submissions which were received on 4 August 2006.

[12] The Authority subsequently forwarded to counsel a copy of *Refugee Application No 75376* (11 September 2006) which reviewed recent country information in respect of the treatment of Christians in Iran and invited comments. Further written submissions addressing the decision in *Refugee Application No 75376* were received on 13 October 2006.

[13] On 30 October 2006, the Authority received a letter from counsel advising that further evidence had just come to hand relating to the issue of AB's travel to and from ZZ and requesting leave to file the evidence by 10 November 2006. The Authority agreed to this request and, on 10 November 2006, duly received further evidence in the form of a written statement from GH, dated 10 November 2006, a written statement from AB, dated 6 November 2006, and various other financial records and lease agreements pertaining to AB's activities in ZZ. Translations of these documents were received on 3 January 2007 and, on 19 February 2007, a further statement from AB, dated 28 December 2006, was provided. Also received from counsel on 5 March 2007 was information obtained from Iran Air in ZZ in respect of ticket sales to AB.

[14] In the meantime, the Authority had requested the DOL to make inquiries of the ZZ authorities as to any records it held as to the appellant's entry and exit and her immigration status in that country. The appellant co-operated with this inquiry by providing a signed authorisation. A response was received from the DOL on 8 March 2007. The Authority then reconvened the hearing on 17 April 2007 to

discuss with the appellant the information received from the ZZ immigration authorities and the other information submitted by counsel between November 2006 and March 2007.

[15] Subsequently, on 30 April 2007, counsel requested full disclosure of all correspondence between the DOL and the ZZ immigration authorities. This request was referred to the DOL. The Authority did not receive the information from the DOL until 15 August 2007. It was then forwarded to counsel on 20 August with a request that he submit any further information within 14 days.

[16] On 3 September 2007, counsel provided the Authority with a further written statement from the appellant, dated 3 September 2007. Also provided were copies of his correspondence with Iran Air in Y, seeking advice as to whether the appellant had purchased any tickets for travel between 2003 and 2006, and his correspondence with the Iranian Embassy in Wellington seeking confirmation of the date of the appellant's last exit from Iran. No replies had been forthcoming from either Iran Air or the Embassy and counsel requested further time to pursue his inquiries and possible further inquiries with the ZZ immigration authorities. He also requested that the Authority provide a copy of information it had provided to UNHCR in QR in respect of AB and his family members in New Zealand, to which the Authority responded on 15 October 2007. On this date, the Authority recorded its concern to finalise the appeal and requested that counsel file any further information by 5 November 2007.

[17] On 5 November 2007, counsel advised that no response had been received to his requests made to Iran Air and the Iranian Embassy and that there was no further information that the appellant wished the Authority to consider.

[18] *[An earlier decision made by the Authority declining the appellant's sister-in-law and her child for lack of credibility were noted as was the need to read this decision in conjunction with the current appeal.]*

## **THE APPELLANT'S CASE**

[19] The following is a summary of the account provided by the appellant and other family members. An assessment of the appellant's credibility will follow.

### Family background and problems in Iran

[20] The appellant is one of six children; besides her three New Zealand resident brothers and her brother, AB, she has a fifth brother who, along with his wife, went to ST during 2002 where they obtained refugee status.

[21] After the Revolution, her father was dismissed from his position as an army officer and for some years was subject to harassment from the Islamic regime. His negative profile led to his older sons being excluded from study at a state university or employment in the state sector.

[22] The appellant's schooling passed without incident and she entertained hopes of studying at university. She completed high school in 2000 then undertook pre-university studies.

[23] The first of the appellant's brothers to leave Iran was AB who departed around 1991 to live in Asia. During 1999-2000, three further brothers also departed to find work in Asia, leaving only the appellant and her younger brother, CD, living at home. A brother returned to Iran during early 2002 only to be detained for one month for reasons unknown to the appellant. Some months after his release, he and his wife departed Iran for ST.

[24] On 3 October 2002, AB, who was living in Y, was a participant in the prayer festival which involved various activities around the theme of peace and was hosted by ZZ. AB was one of four people, the others being a person of UV nationality, a person of WX nationality and one of ZZ nationality, who each said a prayer for peace. The festival was recorded and later broadcast, including on the Internet.

[25] One week later, the appellant's father and youngest brother, CD, were taken for questioning by the *Ettela'at*. Their home was also searched and a satellite dish confiscated. Her father and CD were released that evening.

[26] On his return, the father complained about the insults he had received. He asked CD about AB's speech as he had been questioned about it by the *Ettela'at*. CD showed the family a DVD of the speech that he had copied from the Internet after AB had telephoned to advise him of the event.

[27] Neither the appellant nor her mother were privy to the details of the questioning of her father and brother as they are women and therefore, in accordance with Iranian custom, "had no rights to interfere" and were "excluded from family discussions of any sort". Nonetheless, despite the absence of any open conversation about the incident, she was aware that the *Ettela'at* wanted her father to try to encourage her brothers to return to Iran as their conversion to Christianity had become known to the *Ettela'at*.

[28] Thereafter the father suspected that the telephone was being tapped and the house subjected to surveillance.

[29] The appellant does not know if her father was questioned again by the *Ettela'at* in the period up to her departure from Iran in October 2003. Neither her father or mother ever mentioned him being questioned nor did she consider it her prerogative to enquire. The appellant thinks it possible her father was "asked to go to places" rather than being taken away for questioning because of the fact that he sometimes appeared to be stressed and ill. To her knowledge, her father was comfortably off with no financial or other worries that might have accounted for his stress.

[30] In early December 2002, CD, who was due to begin his military service the following year, departed Iran. CD did not wish to perform his military service. His father was also increasingly concerned for his son's safety because of the *Ettela'at's* displeasure with AB. He therefore arranged for an agent, E1, to organise CD's unlawful departure from Iran on an Iranian passport in a false name and for CD to travel to ZZ where he met up with his brothers, AB and EF. In Y, CD was soon introduced to his brothers' church and took the opportunity to learn more about Christianity. A month later, in early January 2003, he and EF travelled together to New Zealand using false passports provided by E1.

[31] GH, who had been working in QR, returned to Y soon afterwards and, on 16 March 2003, he and AB were baptised at a Presbyterian church. In early April 2003, GH followed his two brothers to New Zealand travelling on his brother, EF's,

Iranian passport although he was unaware of this as E1, who had likewise organised GH's travel, had told him not to look at the passport and had also suggested that GH take out his contact lenses for the duration of the trip to prevent his eyes becoming dry and sore, making it difficult for GH to read.

[32] In 2003, the appellant, having passed the university entrance examinations, made an application to study at a state university in Tehran. Her application was declined by the *Herasat*. No explanation was forthcoming, however, her family assumed that her rejection was related to her father's background and her brothers' conversion to Christianity.

[33] The appellant considered applying to study at a private university, as her brother, GH, had done, but decided against such a step as she assumed, again like GH, that she might still be excluded from employment in the state sector despite having a degree. This fear was confirmed when she unsuccessfully applied for a position in a state bank and was told that she was not permitted to hold such a position.

[34] The appellant decided to follow the example of her brothers and leave Iran. Her father also encouraged her to do so as he was concerned that as the only remaining child of the family left in Iran, she risked being harassed and ill-treated by the *Ettela'at*.

[35] The appellant applied for and received an Iranian passport in her own name. She encountered no difficulties obtaining this passport through normal channels. In October 2003, she legally departed Iran for ZZ without problems, travelling on her own passport.

#### Living in ZZ – conversion to Christianity

[36] In ZZ, the appellant lived with her brother AB, whom she had not seen since 1991, and his wife and child in their small one-room apartment. Her sister-in-law and child had come from MN to join AB during August 2003.

[37] The appellant learned from AB that subsequent to her departure, her father had been taken for questioning by the *Ettela'at* on several occasions.

[38] In Y, the appellant was introduced to Christianity for the first time. AB, she learned, had converted to Christianity some years prior and was attending a

church in Y and all of her brothers had also recently converted. Her sister-in-law was also developing an interest in Christianity and had attended several services at her husband's church.

[39] Within a week or so of her arrival, several women from a local branch of the A1 Church visited their home as part of their preaching activities. They invited the appellant and her sister-in-law to attend a service – held on Saturdays – at their church located approximately 25 minutes' walk away. The sister-in-law proposed that they should visit the A1 Church which they duly did. Thereafter they regularly attended the Saturday services. AB also provided the appellant with a Farsi Bible to assist her understanding of the new faith.

[40] The two women also attended study classes held on other days of the week; the appellant would try to go daily, though her sister-in-law's attendance was more restricted because of the need to care for her child. She was not deterred by the fact that the church services and lessons were in ZZ language, a language she did not understand because she had her Farsi Bible and a rudimentary knowledge of English, a language also used by some church members.

[41] The appellant would also occasionally attend Sunday services at AB's Presbyterian church, however her main allegiance was to the A1 Church. AB, when his work allowed him, would also sometimes accompany his wife and the appellant to the Saturday services.

[42] The appellant was aware that several Iranians also attended the A1 Church, however throughout the two years or so that she attended the church, she never spoke to these people as AB warned her against doing so. She was not sure of AB's reason for so warning her but she understood that there were "some problems" with the Iranians.

[43] On 7 May 2004, the appellant, along with her sister-in-law and AB and their child, were baptised in a ceremony at the A1 Church. Although AB had been baptised in March 2003 at a Presbyterian church, he still agreed to be baptised in the A1 Church. The baptism ceremony was recorded on video.



[44] The appellant is aware that her sister-in-law had some problems with her passport at the Iranian Embassy as one day she returned home crying. She does not however have any detailed knowledge of the problem.

[45] It was proposed that the appellant, AB, his wife and child would all leave ZZ and travel to either ST or New Zealand with a view to obtaining refugee status like the brothers. At the agent E1's instructions, they all attended Y airport in early November 2004. E1 had arranged for the sister-in-law and her child to travel separately from AB and the appellant. E1 gave the appellant a foreign passport two days before the scheduled departure date.

[46] The appellant's and AB's departures had to be aborted after AB encountered problems in obtaining a boarding pass. She and AB therefore left the airport and returned to their apartment to wait for E1 to arrange another departure. The sister-in-law and her child successfully made the journey to New Zealand.

[47] The appellant continued to live with AB in Y. She would attend daily lessons and prayer sessions at AB's church, apart from a period of around six months when she took up working for two days a week in a garment factory.

[48] AB would make trips away, leaving the appellant on her own for as long as one to two weeks. He would not say where he was going or his reasons for travelling other than to say it was on business. He would make such trips at least every three months. The appellant does not know if he was travelling within ZZ or outside to another country nor did she consider it appropriate to ask him. When AB went away she had no means of contacting him though he might sometimes contact her. Besides being a martial arts instructor, the appellant was aware that AB was involved in a money exchange business, as well as some other work the nature of which she did not know.

#### Departure for New Zealand

[49] Eventually, at the end of October 2005, E1 arranged a further attempt by the appellant and AB to reach New Zealand. Several days before the planned departure, E1 gave the appellant a photo-substituted foreign passport and instructed her to destroy her own Iranian passport. This time the departure went according to plan and she, AB and E1 travelled together to B from where E1 had arranged that she and AB would travel separately to New Zealand. In the event,

only the appellant was able to depart B three days later, travelling on a flight that first returned to Y then on to another country where she was met by an associate of E1. After three days waiting for AB, she proceeded on to New Zealand alone.

[50] AB had apparently encountered yet another problem which had prevented him travelling to New Zealand on a false passport. Over the following months, he was unsuccessful in finding a means of joining his wife and child and siblings in this country, despite being extremely anxious to do so. Eventually, he ended up in QR where, in May 2006, he requested refugee status from UNHCR.

#### Church attendance in New Zealand

[51] In New Zealand, the appellant has been regularly attending the Sunday services held at her brother, GH's, church. GH's wife, who was granted residence enabling her to join her husband in this country, remains a Muslim. In mid-2006, the appellant also commenced attending Bible study classes that the church had recently initiated. On occasions, she has attended a Saturday service at a local A1 Church which her sister-in-law had joined, although as it is some distance from GH's home where she lives, she has had only limited opportunities to attend.

[52] The appellant has not told her parents that she is now a Christian. She has no particular reason for not telling them and thinks that her religion would not make any difference to them. They are Muslims and believe in Islam though are not fanatics. Her father has always told his children that everybody is responsible for their own lives and they can choose their religion. She does not think her parents would want anything for their children other than that they are successful and prosperous and living in a safe and secure country where their rights are respected.

[53] She and her brothers maintain reasonably regular telephone contact with their parents in Iran. More recently, her parents have sold their home in Tehran and moved back to their home village some three and a half hours' drive away. The appellant considers that this is indicative of the pressure her father has been under because of the Iranian authorities' displeasure with AB and their knowledge of her brothers' and, presumably, her own conversion to Christianity. The village has only limited medical facilities and, as her father suffers from poor health, the appellant does not believe he would willingly have chosen to give up living in

Tehran unless he felt under pressure from the regime. He had also been refused the renewal of a licence in relation to his business.

[54] The appellant is afraid to return to Iran. She is sure that she will be in serious trouble and will be arrested and detained because of the interest the Iranian authorities have in her brothers. They will know that she has been living overseas with AB and will certainly assume she has converted to Christianity, which in Iran is regarded as apostasy. Nor will she be able to practise her Christian faith without risk of being persecuted.

#### Other witnesses and documentation

[55] The Authority heard evidence from the minister at a local Presbyterian church attended by the appellant and GH, who had also supplied a letter in support of the appeal dated 30 March 2006. The minister was able to confirm that both the appellant and GH had been received into full membership of the church. In the case of the appellant, this had taken place in December 2005 on the basis that she had already converted to Christianity and been baptised in ZZ and was willing to make the requisite declaration of faith. Her attendance at church services had been regular and she was now attending a Bible study group every second Sunday afternoon.

[56] The minister's discussions with the appellant about religion had been limited by the appellant's poor English, though her language was improving and she was asking questions about the Bible in the study group.

[57] Although the witness acknowledged little experience with Iranian converts seeking refugee status, he considered that the appellant's profession of Christian faith to be genuine. In particular he placed weight on the fact that her brother, GH, was an active church member and, as a New Zealand resident, he could have no ulterior motive for attending church. The appellant had given him no cause to doubt the genuineness of her Christianity and she asked questions typical of people in an early stage of faith.

[58] *[The Authority heard evidence from the appellant's sister-in-law and her brothers CD and GH and noted a summary of their evidence, documents, videos and photographs within the sister-in-law's decision.]*

[59] Various documents in support of the appeal were filed with the RSB. These consisted of:

- (a) Copies of the appellant's baptism certificates. One is in ZZ language and the other in English although they appear to be slightly different in content. The English version states:
 

“The above person, who has converted from Islam to Christianity, attended Bible study meetings on weekdays and services every Sabbath Day (Saturday) and he (*sic*) showed strong faith and love to God and all the church members.

Therefore the [ Church ] strongly confirms his (*sic*) faithfulness as a sincere christian”.
- (b) Transcript of the prayer festival in Y in October 2002. The prayers are not specifically Christian in context.
- (c) Photographs of the appellant taken during her baptism ceremony in May 2004.
- (d) Copy of the appellant's birth certificate.

[60] Five written statements have been received from AB, dated 21 November and 8 December 2005, 3 July, 6 November and 28 December 2006, plus various documents relating to him, including complete copies of two expired Iranian passports issued to AB during 2000 and 2001, copies of his baptism certificate from a Presbyterian church in Y and church membership card, photographs and his Iranian birth certificate.

[61] The earlier two statements provide corroboration of his wife's refugee claim and were summarised in the sister-in-law's decision. In his three later statements AB primarily seeks to rebut information received from the ZZ authorities as to his having travelled on a direct flight from Y to Iran on five occasions during 2003 and 2004. If true, such travel by AB would be inconsistent with him being in trouble with the Iranian authorities because of his October 2002 speech as claimed by the appellant and her brothers.

[62] AB's latest statements were also accompanied by a range of business and banking documents, tenancy agreements relating to AB and dating from 2003-2004 and information from the Iran Air office in Y stating that no tickets for travel to Iran had been issued to AB during the years 2003-2006. AB's written statements

and the associated evidence will be discussed in greater detail below in the credibility assessment.

[63] The Authority has already noted that a further written statement dated September 2007, was received from the appellant. Details of this statement will be referred to below.

[64] Finally, the Authority acknowledges that it has received written submissions from counsel dated 26 April, 14 July, 4 August and 13 October 2006, along with accompanying country information.

## **THE ISSUES**

[65] The Inclusion Clause in Article 1A(2) of the Refugee Convention provides that a refugee is a person who:

"... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

[66] In terms of *Refugee Appeal No 70074/96* (17 September 1996), the principal issues are:

- (a) Objectively, on the facts as found, is there a real chance of the appellant being persecuted if returned to the country of nationality?
- (b) If the answer is yes, is there a Convention reason for that persecution?

## **ASSESSMENT OF THE APPELLANT'S CASE**

[67] The Authority must first consider the credibility of the appellant's evidence.

[68] There are two limbs to the appellant's claim to have a well-founded fear of being persecuted by the Iranian authorities. First, she says she fears persecution because of the profile of her brothers and their conversion to Christianity and, in particular, AB's participation in the October 2002 ceremony in the company of the two people of UV and WX nationality. Second, she claims to fear persecution

because of her own conversion to Christianity in which AB played a key role. Both limbs raise serious credibility issues.

[69] Pivotal is the evidence about and/or received directly from AB. The Authority has numerous concerns about AB and his role in the refugee claims of the appellant and her family members. We turn therefore to address this evidence followed by an assessment of the appellant's claims about her own activities in the two years prior to arriving in New Zealand and her conversion to Christianity.

#### The activities of AB

[70] AB features prominently in the refugee claims of his four siblings and his wife. He was present at the baptisms of his brothers IF and GH and his wife and sister *[Deleted.]* It is his participation in the October 2002 speech in Y plus the Iranian authorities' knowledge of his conversion to Christianity that allegedly persuaded IF and GH not to return to Iran but to come to New Zealand to claim refugee status. His activities also prompted CD's and the appellant's departure from Iran for ZZ, where AB encouraged their interest in Christianity.

[71] AB, it is claimed, attempted to leave Y airport in November 2004 along with his wife and child and the appellant to travel to New Zealand but his and the appellant's journey had to be aborted, leaving the wife to come alone to New Zealand. AB, it is claimed, also tried to come to New Zealand with the appellant in November 2005 but his journey on the leg from B had to again be aborted leaving the sister to come alone to New Zealand. His expected arrival has never materialised.

[72] Another common feature of the stories told by all five family members (and AB) is the role of the agent E1 in organising their travel. The Authority disbelieves most of the claims made about this man and considers that E1 is the likely creation of AB on a par with his other inventions.

[73] In the decision regarding the appellant's sister-in-law the Authority set out its reasons for rejecting the evidence of AB's wife, the appellant's sister-in-law, and concluded that her account was "an elaborate and meticulously crafted web of lies". There is no doubt that AB played a key role in instigating and orchestrating what was an audacious and sophisticated attempt to deceive this Authority into accepting that his wife, in reality a MN national who travelled to this country, not on

a false MN passport provided by E1 as claimed, but on her own genuine MN passport, should be given refugee status on the basis of her being an Iranian national at risk of being persecuted by the Iranian authorities.

[74] AB assiduously backed up his wife's claims in his various written statements. However enquiries with the MN authorities established unequivocally the falsity of his and his wife's claims concerning their dealings with the MN authorities in respect of their marriage and the birth of their child and their dealings with the Iranian Embassy in Y.

[75] There emerged further concerns about AB. All too apparent was the incongruity of all of AB's siblings, and his wife and child, progressively coming to New Zealand (or ST) to claim refugee status largely because of the risk to themselves stemming from their family association with AB, while AB himself was seemingly unmotivated to seek refugee status.

[76] AB, alerted to the problem, endeavoured to explain the situation by reference to a crippling psychological anxiety which he said would overcome him on every attempt to travel on a false passport to New Zealand or ST. He even registered with the UNHCR in QR in May 2006 in an endeavour to deflect the Authority's increasing scepticism. We find that AB's claimed incapacitating anxiety over the use of a false passport that has undermined his various endeavours to come to New Zealand since early 2003 is implausible in the extreme and contradicted by the evidence of his being a seasoned traveller and a proven sophisticated liar.

[77] With respect to AB's travel, the Authority received through the Department of Labour informal advice from the ZZ immigration authorities that their records showed that AB had travelled in and out of ZZ more than 12 times between September 2002 (the date of the last stamp in his cancelled passport issued in 2001) and December 2005 using five different Iranian passports in his own name, the numbers of which were provided. Three of those numbers coincided with the numbers of the two passports copies of which were provided to the Authority and a third passport number recorded on AB's ZZ church membership card.

[78] Also revealed was that the ZZ records show AB returning to Iran on a direct flight on five occasions, namely, during September 2003 and during March, July, August and September of 2004. If correct, this latter information completely

undermines the claim that AB incurred the disapproval of the Iranian authorities and is at risk of being persecuted by them because of his October 2002 speech alongside a UV national and a WX national.

[79] Unsurprisingly AB and his family members have devoted much energy trying to rebut the evidence of AB's travel to Iran, the latest efforts including further written statements from AB and GH received in November and December 2006 and the appellant's further written statement dated 3 September 2007.

[80] In brief the explanations revolve around AB's claims never to have purchased a ticket for a direct flight between Y and Iran which he says can be verified by the Iran Air office in Y, the only agent, he says, that sells such tickets in Y, and the practices of people smugglers, which can lead to a mismatch between official passport and flight details, which show a departure for Iran when in fact the person did not actually board the flight to Iran.

[81] In his statement of 3 July 2006 at paragraphs 7 and 8, AB explained the illegal practice of Iranians when travelling through Asia on their way to a European country. He states that initially they use their own Iranian passport or an Iranian passport in another name in which their own details and/or photograph is substituted, plus a ticket, usually for Iran, to obtain a boarding pass and exit stamp. Once in the transit area the agent provides them with a false passport and boarding pass for their intended destination in a European country.

[82] In accordance with this practice, AB claims that the agent E1, when endeavouring to send him to New Zealand or ST, provided him with false passports, including Iranian passports, the first page of which was substituted with his photograph and details from his own passport, which he then used to obtain a boarding pass and exit stamp from Y by showing a ticket with Iran or another Asian country as his destination. Once in the transit area, however, he exchanged this passport and ticket for another false passport and a ticket for his intended destination. If he proved unable to pass the gate and actually get on the plane (as happened on these five occasions) he would simply re-enter ZZ or would sometimes travel to a neighbouring country and from there return to ZZ without stopping.

[83] More recently in his statement of 6 November 2006, AB has adopted a new strategy to persuade the Authority that the ZZ information is not reliable. This time



he says he explained his problem about the incorrect ZZ information to E1, who has been responsible for arranging the travel of all family members, including AB's various unsuccessful attempts to travel to New Zealand described above. Helpfully E1 told him:

"... that according to the information held at Internal Affairs in [ZZ], I left [Y] on passport no [XX] on 23 January 2003 and returned on 26 August 2003 on the same passport. He said according to this information, I should not be in [ZZ] during that time but my documents show that I have been living there and only my passport had exited and returned to [ZZ].

Richard how E1 found out about this information is not important for me so I did not ask where he got this information from.

When E1 is able to obtain visas and exit or enter stamps in people's passports without physically moving these people, then he is able to provide information about these dates too."

[84] AB requests the Authority to "unofficially" seek confirmation from the ZZ authorities that records exist for his exit and re-entry on the nominated dates – presumably because he is confident such records do exist.

[85] The Authority rejects AB's endeavours to establish that the ZZ information is subject to error or inherently unreliable as can be demonstrated by there being a record of him departing ZZ on 23 January 2003 and returning on August 2003 when in fact he was living in Y throughout this period.

[86] AB refuses to authorise the Authority to receive a *full* record of his travel movements from the ZZ authorities for the period after September 2002 (the Authority has copies of his Iranian passports issued in November 2000 and November 2001). This would establish the dates of his recorded movements in and out of ZZ and destinations, the Iranian passports he used on each trip, length of stay outside of ZZ and permits granted to him on his return.

[87] Instead he has provided information from the Iran Air office in Y in the form of a brief email to his counsel from a person whose position in Iran Air is not given stating in effect that he had checked all the tickets issued in ZZ since 2003 – 2006 and there was no ticket for AB.

[88] The Authority places no weight on the Iran Air information. AB is untrustworthy and it is possible that he could arrange for such information to be provided. In any event, even if he did not buy his tickets through the Iran Air office in Y, as claimed, it does not follow that he did not purchase tickets through some other Iran Air office or travel agency. Indeed if, as AB says, the ZZ records

correctly show that on five occasions he presented a (false) Iranian passport in his own name and a corresponding ticket to Iran (although he did not actually board the flight) it follows that Iran Air tickets in his name must have been issued.

[89] In the absence of any proper reason for AB's refusal to allow full disclosure of his ZZ immigration records – the logical and most relevant evidence to prove his claims, along with copies of all his passports – the Authority does not accept AB's (and the appellant's) denials that he has not travelled from Y to Iran on five occasions during 2003 – 2004 as recorded by the ZZ authorities.

[90] Similarly AB's wife has also refused to provide an authorisation for the ZZ authorities to produce a record of her travel movements in and out of ZZ which would enable the Authority to establish if she too had travelled to Iran. Like AB she has vehemently denied doing so. However, the Authority noted her initial advice in her airport interview on arrival that her reason for going to the Iranian Embassy in Y was that she had thought to visit her parents-in-law in Tehran.

[91] The Authority also notes the absence of any mention of repeated attempts by AB to leave ZZ between September 2003 and September 2004 in the evidence of his wife or the appellant, both of whom say they were living in Y with AB during this period. It is implausible that he would have been making repeated unsuccessful attempts to reach New Zealand or ST without their either knowing about it or there also being plans in place for them to accompany him as they say was the case in both November 2004 and 2005.

[92] Another matter which the Authority considers lends weight to the ZZ information about AB's travel to Iran is the evasiveness of the appellant when questioned about her knowledge of AB's travel. When she initially appeared before the Authority in December 2005 she stated that at least every three months AB would make regular business trips from Y of between one to two weeks duration. She claimed not to know whether these were trips to other places in ZZ or to foreign destinations. She also said that besides his martial arts AB was involved in an unofficial money exchange business, evidence confirmed by GH who stated that AB provided a money changing service for Iranians.

[93] In June 2006, when again questioned about details of AB's travel, the appellant was evasive to the point of refusing to answer questions citing as the

reason “I’d be in trouble”. It was clear that the appellant had far more knowledge of AB’s activities and his travel than she was prepared to admit.

[94] That AB was involved in business activities in Y during 2003 and 2004 is confirmed by the documents received in November 2006. Included was a bank form headed “Foreign Investment Notification for the Acquisition of Newly Issued Stock” dated 1 August 2003, which records AB’s acquisition of 10,000 stock (being 100 per cent of the shareholding) for the sum of US\$43,000. There is also a residential tenancy agreement commencing on 20 March 2003 and a tenancy agreement dated 1 May 2003 for AB’s company office for a two year period for which he paid the full rental in one lump sum and copies of extracts from what is described as AB’s company bank accounts for 2003-2004 (including foreign currency account) with a Y bank which record deposits and withdrawals between January and August 2003.

[95] Clearly AB was engaged in business in Y during 2003 and 2004. If, as stated by the appellant and GH, he was at this time operating an unofficial money exchange business, which are frequently utilised by Iranians to send funds to Iran, this could possibly explain his frequent trips between Y and Iran during 2003 – 2004. That AB would enter a two year tenancy agreement for business premises in May 2003 and purchase 100 per cent of the shareholding in an existing ZZ company in August 2003 also does not sit well with his description of himself as desperately trying over this period to finding a means of leaving Y and coming to New Zealand or ST to claim refugee status.

[96] As for the suggestion that the ZZ records incorrectly record AB’s absence from ZZ between January and August 2003 when he was in fact living in Y throughout the period as evidenced by his entering lease agreements, transactions in his bank records and his baptism with GH in March 2003, the issue of AB’s lawful travel movements in and out of ZZ during 2003 can be resolved by reference to AB’s Iranian passport XX. This is the passport, AB, in his 6 November 2006 statement, says E1 told him appears in the ZZ records in connection with the 23 January 2003 exit and 26 August 2003 re-entry.

[97] It is also the passport number recorded on AB’s ZZ Presbyterian church membership card valid until December 2003 and would seem to be the passport issued to AB to replace his passport issued in November 2001 and which was completely full by September 2002, that is, less than a year later. AB in his

statement of 3 July 2006 says that, besides his two passports issued in 2000 and 2001 copies of which he has provided, he has held only one other Iranian passport which he had in his possession when he left Y in October 2005, (although he says in his statements of 28 December 2005 and 3 July 2006 that he departed using a false foreign passport) and that he had it in his possession when he entered QR (again he says using a second false foreign passport, a copy of which he says he gave to UNHCR but will not release to the Authority).

[98] AB has declined to produce a copy of his most recent Iranian passport to the Authority. He claims in his statement of 3 July 2006 that this is because the passport was seized by the Iranian Embassy in QR during 2006 when he endeavoured to have it extended and that he was told if he wanted his passport he should return to Iran. The Authority does not believe that he has had only three Iranian passports since 2000 and that the third, passport XX, was seized by the Iranian Embassy in QR in early 2006.

[99] The ZZ authorities record AB travelling on *five* different Iranian passports between September 2002 and December 2005. Passport XX would have been issued around September/October 2002. On his prior record of filling two passports in less than two years during 2000 and 2001 it would be surprising if AB did not need to replace passport XX until 2006.

[100] Further if, following AB's October 2002 speech, the Iranian authorities were as intent on securing his return to Iran as claimed, it is implausible that the Embassy in Y did not take the opportunity to confiscate AB's passport XX when it had the opportunity to do so in 2003 when he approached the Embassy to get his wife and child included on his birth certificate. This was the Embassy that would have played a primary role in investigating AB if his activities in Y, including his October 2002 speech, had genuinely been regarded as contrary to the interests of the Islamic regime.

[101] The Authority concludes that AB's claims that he has made repeated unsuccessful attempts to travel to New Zealand and/or ST on false passports since 2003 and his denials that he has travelled from Y to Iran during 2003-2004 are untruthful. We decline to set aside as unreliable the ZZ information as to AB's travel to Iran as urged to do by AB and the appellant. AB's desperate resort to implausible, contradictory, contrived and disingenuous explanations while

resolutely avoiding full disclosure of his ZZ immigration records and his passport XX can be explained only by AB's desire to conceal the truth.

AB not of interest to the Iranian authorities

[102] If, as the Authority finds, AB made several trips to Iran from ZZ during 2003-2004 on his own Iranian passport, then he cannot be wanted by the Iranian authorities in respect of his October 2002 speech or his or his brother's conversion to Christianity as has been claimed. It also follows that the evidence that the *Ettela'at* have been harassing the appellant's father because of AB, including attempting to get him to make AB and his brothers return to Iran and questioning the father about the appellant's own departure from the country must be rejected.

[103] That AB does not have any reason to fear being persecuted by the Iranian authorities is consistent with the fact that during 2003, he arranged for the Iranian Embassy in Y to update his Iranian birth certificate to include details of his wife and child and for the Embassy to also issue comparable Iranian identification documents for his wife and child. In the decision regarding the sister-in-law, the Authority has rejected the reasons proffered by AB and his wife for why they requested such documents from the Iranian Embassy however, there is no reason to suspect the bona fides of the wife and child's Iranian birth certificates issued by the Iranian Embassy in Y or the copy of AB's birth certificate also provided to the Authority, which includes details of his wife and child that had been added by the Embassy in Y in 2003.

[104] Yet during 2003 AB was allegedly in such disfavour with the Iranian authorities that, according to the brothers' accounts, an *Ettela'at* official had threatened to kill AB (and IF and GH) even in ZZ thereby causing his three brothers to flee to New Zealand. AB and his wife were also allegedly waiting for an opportune time to join them and claim refugee status. In this context it is implausible that AB would simultaneously be drawing attention to himself by appearing at the Iranian Embassy in Y to request the Embassy to update his own birth certificate to include his wife and child and to issue identification documents to his wife and child. The necessity for such documentation is all the more perplexing if, as claimed, neither he nor his wife had any intention of travelling to Iran and were expecting to leave for New Zealand at any time to claim refugee status.

[105] The Authority also has a number of concerns about AB's claimed early conversion to Christianity, the only evidence for which comes from AB and his wife. In his statement of 21 November 2005 AB says he converted to Christianity while living in IJ and was baptised in that country around 1994-1995.

[106] AB's conversion to Christianity is a key strand in his and his wife's untruthful story of why they were prohibited from marrying in MN. However the truth of the matter, as was revealed by official MN records, is that, far from being prohibited from marrying because of AB's Christianity, the couple was married following the wife's conversion to Islam, including her taking an Islamic name. The sister-in-law, when asked about AB's church attendance during the three years they lived together in MN, also stated that to her knowledge he had not attended any church services during this period.

[107] The only direct evidence of AB's Christianity relates to his baptism in a ceremony at a Presbyterian church in Y on 16 March 2003 along with his brother GH. He underwent another baptism at the A1 Church church on 7 May 2004 (supposedly his third baptism), this time with his wife and the appellant.

[108] It is interesting that the "Prayer of Peace" which AB recited at the October 2002 ceremony was along the theme of a universal spirituality, with the prayer addressed *"Not to the Christian God, Not to the Jewish God, Not to the Buddhist God, Nor to the Islamic God...but to the divinity within"*. AB apparently appeared along with a UV national, a WX national and a ZZ national. The official reason for why AB was chosen by the organisers to participate in this event is not known but of the four individuals he was the most likely representative of Islam.

[109] From the evidence overall, the Authority concludes that the claims made that AB is wanted by the Iranian authorities because of his participation in the October 2002 speech, and his conversion to Christianity and proselytizing amongst Muslim Iranians in ZZ are not credible.

[110] That AB was not of special interest to the Iranian authorities post-October 2002 and his family in Iran was not under pressure to secure his, IF's and GH's return to Iran, is also consistent with the ability of the appellant to obtain a passport and leave Iran without difficulty.

[111] The appellant is not the only member of the family able to do so. Her brother CD has not been truthful about his departure from Iran. He claimed that his father arranged for the agent E1 to provide an Iranian passport in a false name which he then used to travel from Tehran to ZZ in December 2002 accompanied by E1, who, on arrival, took the passport from him. At the time of his and IF's departure for New Zealand a month or so later E1 again provided them with false passports but, following E1's instructions, they did not look at the passports so did not know the name in the passport or issuing country.

[112] CD claimed he could not apply for an Iranian passport in his own name because he had not done military service and in any event he would not be allowed to leave Iran. In reality the flight records show that IF and CD travelled to New Zealand on Iranian passports in their own names (and GH used IF's passport to travel to New Zealand three months later). The number of CD's passport that he used to travel to New Zealand is the same passport number which appears on his ZZ church membership card acquired during his brief stay in Y during December 2002. The Authority is in no doubt that CD was not telling the truth when he claimed not to have an Iranian passport and to have left Iran illegally with E1's assistance; he was untruthful because the truth would have undermined the story about AB being wanted by the *Ettela'at* and the consequent risk to himself.

[113] It follows from our findings that AB was not wanted by the *Ettela'at* following his October 2002 speech, that since then he has been able to travel to Iran without difficulty, and that the present appellant has not given truthful evidence in respect of the difficulties she says her family have experienced in Iran because of AB and her brothers' conversions.

[114] In her statement of 3 September 2007 the appellant advised that recently her father was taken by the Iranian authorities and questioned about CD who had given an interview to a ZZ missionary team about his conversion to Christianity and that an article about him had appeared in an international Christian magazine, a copy of which would be forwarded to the Authority. No copy of the article has been forthcoming. Accordingly, and in light of our findings above, the Authority does not accept this most recent claim about the father's difficulties with the Iranian authorities because of her brothers' Christianity.

[115] Against this background the Authority will now consider the credibility of the appellant's further claims about her stay in Y where she says she converted to Christianity.

Stay in Y and conversion to Christianity

[116] The Authority is satisfied that the appellant's departure from Iran was in accordance with a preconceived plan for her to be baptised in ZZ with a view to proceeding, at a later date, to either ST or New Zealand, as her four brothers had before her, and there to claim refugee status on the basis of her new faith and her family relationship with her brothers especially AB who was to be portrayed as wanted by the Iranian authorities.

[117] In early 2007 the Authority received information from the ZZ authorities as to the appellant's travel movements. According to official records she entered ZZ through the main airport on 12 April 2004 and departed two months later on 12 July 2004 travelling on her own Iranian passport. It is further recorded that when she departed in July her destination was Iran travelling on an Air Iran flight. On entering ZZ she held a one month visa which was extended to the maximum 90 days. Nor was there any possibility of her using the Israeli passport to depart Incheon airport as she described.

[118] The Authority re-convened the hearing on 17 April 2007 to receive the appellant's explanation for the discrepancies between her evidence and the information from ZZ. She now acknowledged that the April date was the likely correct date of her arrival in ZZ not October 2003 as previously claimed. Her explanation for why October 2003 rather than April 2004 has always featured in her prior evidence was that it must have resulted from her confusion over dates. When considered against the numerous times the date October 2003 has featured in the appellant's successive written and oral statements made in the course of her refugee claim, the possibility that it is the result of her own confusion or successive Iranian translators mistranslating the appellant is untenable. Not only has the appellant only ever given her date of departure from Iran as October 2003 she has made additional claims that she stayed in ZZ for *two years*. The sister-in-law in her evidence also placed the appellant's arrival in ZZ "around the end of 2003".

[119] It follows that the appellant's baptism on 7 May 2004 took place *less than a month after her arrival* in ZZ and not after attending the church for some 5-6



months as originally claimed. When she arrived in ZZ she acknowledged having had little or no understanding of Christianity. At most, she would have had the opportunity to attend two or three church services at the A1 Church in a language she did not understand before participating in a baptism ceremony also in a language she did not understand. In these circumstances she could have gained only the most superficial knowledge of Christianity. The Authority does not therefore accept that the appellant's baptism was a genuine expression of Christian faith. Rather it was undertaken as an essential first step in her plan to travel to New Zealand and claim refugee status.

[120] As for her recorded departure date of 12 July 2004, (the same date that AB is recorded as also departing Y for Tehran), the appellant has offered a similar explanation to that offered by AB to account for why the ZZ records incorrectly show him travelling on flights to Iran.

[121] When re-interviewed on 17 April 2007 the appellant described how on 12 July 2004 she, AB and E1 were intending to depart ZZ for New Zealand. She presented to officials at Y airport her own passport and an Air Iran ticket for a flight to Tehran in her own name (given to her by E1) which enabled her to pass through immigration checks, receive a boarding pass for the Iranian flight and enter the transit area. There E1 gave her a foreign passport but after some hours E1 told her they could not leave as AB "had problems" the nature of which she was not told so she had to re-enter ZZ using the false passport.

[122] The appellant did not previously mention this attempt to leave ZZ for New Zealand with AB, even during questioning about AB's five recorded departures for Iran, while in her written statement of 7 December 2005 she stated that November 2004 was the first time she and AB went to Y airport. Nor in her accounts of this occasion or October 2005 was use made of her own Iranian passport to facilitate her entry into the transit area.

[123] In her written statement of 3 September 2007 the appellant re-iterates her claim not to have actually boarded the flight to Tehran. She relies on the fact that evidence has been produced which she says confirms that the ZZ records of AB's travel to Tehran and his absence from ZZ during 2003 were not correct so the Authority should not therefore rely on the ZZ information about herself. This argument has little merit given the Authority's dismissal of AB's wholly

unpersuasive attempts to convince us of the unreliability of the ZZ records in respect of him.

[124] Additionally she says that the ZZ information is not to be relied on as proof of her actual return to Iran because if she travelled to Iran on 12 July 2004 she “must have bought the ticket from the Iran Air office in ZZ and therefore all my details must be kept with them”. She has invested much effort in trying unsuccessfully to obtain confirmation from the Iran Air office in Y that no ticket for a flight from Y to Tehran was issued for her by that office during 2003-2006.

[125] However such confirmation (and no evidence has been submitted), even if available, would hardly assist the appellant. She has admitted that on 12 July 2004 she presented to officials at Y airport her Iranian passport and an Iran Air ticket in her name for a flight to Tehran which accounts for the information in the ZZ records. Logically this would have been her return ticket, presumably purchased in Tehran, before she departed Tehran for Y on 12 April 2004. As with the evidence of AB the use of the Y Iran Air office is a contrivance to confuse the issue.

[126] The appellant also points to her willingness to give her counsel an authority to request information from the Iranian Embassy in Wellington as to the date of her last departure from Iran as corroborative of her claims that she did not return to Tehran from ZZ on 12 July 2004. Counsel advised in his letter of 5 November 2007 that the Embassy has been unco-operative. There is therefore no evidence before the Authority that contradicts the ZZ information.

[127] The best evidence of the appellant’s last lawful departure date is her Iranian passport which she implausibly claims she destroyed on E1’s advice several days before she left Y in October 2005 travelling on a false Israeli passport. The Authority attaches no more significance to the fact that the appellant was willing to request the Iranian Embassy to supply information about an exit date than it does on AB’s willingness to have the Authority approach the ZZ authorities to confirm his exit and re-entry dates during 2003.

[128] *[Deleted.]*

[129] The Authority finds that the ZZ record of the appellant’s departure on 12 July 2004 is to be preferred over her claim to have stayed continuously in Y up

until the end of October 2005. It follows that if the appellant returned to Tehran in July 2004, as the Authority finds is the case, her claims about her on-going attendance at the A1 Church in Y up until late 2005 are not true. Such claims have been fabricated to bolster her portrayal of herself as a committed Christian. The lies told by the appellant about the duration of her stay in ZZ and her conversion are not peripheral matters; they go to the very heart of her refugee claim and as such seriously undermine her credibility.

#### The genuineness of the appellant's conversion to Christianity

[130] Since being in New Zealand the appellant has been attending a local Presbyterian church with her brother GH. The evidence from the church minister confirms that she has been accepted as a full member of the church.

[131] In his oral evidence the minister acknowledged that he had little experience with Iranian converts (and by implication little familiarity with the motives Iranians might have to adopt Christianity for the purpose of supporting a refugee claim) and that because of the language barrier he had had only superficial conversations with the appellant. He also acknowledged that when the appellant was introduced to the church by GH it was accepted that she had already converted and been baptised in ZZ. He was also coloured in his assessment of the appellant by the fact that GH regularly attended the church and that as a New Zealand resident there would seem to be little motive for him to do so if he was not a genuine Christian.

[132] The Authority does not doubt the sincerity of the minister's evidence. However our findings above that the appellant's baptism was stage-managed specifically for the purposes of supporting her anticipated refugee claim and the falsity of her claims to have regularly attended the A1 Church in Y for some 18 months must limit the weight to be accorded the minister's assessment of the genuineness of the appellant's faith. Nor does the Authority consider that GH's attendance at the church even after he became a resident assists its assessment of the appellant's genuineness. The plan for the appellant to follow her brothers to New Zealand and obtain refugee status as a Christian convert was obviously well-known to GH. Until that objective was achieved, he had every motive to continue to attend church so as not to arouse suspicion and to support the appellant in her claim.

[133] The appellant's Christian faith is her passport to the desired goal of a life outside Iran. Although she has not been truthful about her adoption of Christianity in ZZ, in the Authority's assessment, she is nonetheless strongly motivated to be a Christian in the sense that she associates Christianity with Western freedoms and life style and enabling her to remain in this country. This plus her exposure to Christian doctrine over time may make it artificial to talk of the "genuineness" or "falsity" of her professed adherence to Christianity. It is possible that the appellant sincerely wants to be a Christian and in so wanting can be regarded as such.

[134] The Authority finds, however, that the appellant's Christian faith is essentially instrumental in that it is intimately tied up with her endeavour to create a new life for herself outside of Iran. It has not been pursued for spiritual reasons. If she has to return to Iran she would lose what to date has been the primary motivation underpinning her attraction to Christianity. A Christianity shorn of social benefits or rewards will require real commitment. In such circumstances the Authority finds that the appellant's motivation to continue in her Christian faith would be quickly eroded. It is not a deeply held faith position, the expression of which will bring her to the notice of the Iranian authorities and expose her to a real chance of being persecuted by the Islamic regime.

[135] The Authority has also rejected as not credible the appellant's claim that she is at risk of being persecuted in Iran because of AB's negative profile with the Iranian authorities and their knowledge of his and her brother's involvement with Christianity in Y.

[136] The Authority concludes therefore that the appellant, on her return to Iran, does not have a well-founded fear of being persecuted.

## **CONCLUSION**

[137] For the reasons mentioned above, the Authority finds the appellant is not a refugee within the meaning of Article 1A(2) of the Refugee Convention. Refugee status is declined. The appeal is dismissed.

"V J Shaw"

V J Shaw  
Chairperson