



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

Appeal Number: DC/00019/2017

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 6 March 2018**

**Decision & Reasons Promulgated  
On 02 May 2018**

**Before**

**UPPER TRIBUNAL JUDGE CRAIG  
UPPER TRIBUNAL JUDGE RINTOUL**

**Between**

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

Appellant

**and**

**MR ABDUL MAJID NASSOUR  
(ANONYMITY DIRECTION NOT MADE)**

Respondent

**Representation:**

For the Appellant: Mr T Melvin, Home Office Presenting Officer

For the Respondent: Mr P Richardson, Counsel, instructed by Gordon Dadds LLP.

**DECISION AND REASONS**

1. This is the Secretary of State's appeal against a decision of First-tier Tribunal Judge Pooler, who in a Decision and Reasons promulgated on 2 November 2017 following a hearing at Taylor House on 12 October 2017 allowed Mr Nassour's appeal against the decision of the Secretary of State to revoke his UK citizenship. For ease of convenience we shall throughout

this decision refer to the Secretary of State, who was the original respondent, as “the Secretary of State” and to Mr Nassour, who was the original appellant, as “the claimant”.

2. The claimant is, or certainly was, at all material times a national of Lebanon who was born on 9 April 1963. In March 2004 he applied for registration as a British citizen. Within that application he stated correctly that he was a British overseas citizen (his application for that having been granted in 1995) but in response to the question “have you ever held, or do you now hold, any other citizenship or nationality?” he had answered no. It is and has always been agreed between the parties that that statement is not factually correct. In 2015 the claimant applied to renew his British passport and in the course of that application he disclosed a copy of his Lebanese passport, which had been issued on 6 March 1995.
3. The Secretary of State made a decision to revoke his British citizenship on the basis that this had been acquired fraudulently, relying on Section 40 of the British Nationality Act 1981, the relevant passages of which are as follows:

“40. Deprivation of citizenship

(1) In this Section a reference to a person’s ‘citizenship status’ is a reference to his status as -

(a) a British citizen,

...

(3) The Secretary of State may by order deprive a person of a citizenship status which results from his registration or naturalisation if the Secretary of State is satisfied that the registration or naturalisation was obtained by means of -

(a) fraud,

(b) false representation, or

(c) concealment of a material fact”.

4. The background to this decision was that in 1995 when obtaining his British overseas citizen passport the claimant had submitted with that application a copy of his Lebanese passport whereas in 2004 he had claimed that he had never had any other nationality. In support of his 2004 application the claimant had supplied a letter from the Lebanese Embassy in Kinshasa which stated as follows (in the version within the file translated from the French):

“To whom it may concern

In view of the absence in its files of any file in the name of Mr Nassour Abdul Majid [which we note does not seem in any event to be his name but probably nothing turns on that], the Embassy of the Lebanese Republic in the Democratic Republic of Congo (Consular Department) hereby certifies that it has not issued or renewed a Lebanese passport in his name.

This certificate has been granted to Mr Nassour Abdul Majid, born in Haris, Lebanon, on 9/4/63, the holder of a British passport number 790014994, issued in Brussels on 12/2/02, for any lawful purpose ...”.

5. We note in passing that the letter itself probably does not comply with the requirements set out in section 4 of the guidance to applicants for British nationality, which states that an applicant is required to provide documentary evidence that such an applicant does not hold or has not after 4 July 2002 renounced, voluntarily given up or lost by any action or inaction any other citizenship or nationality, which evidence must be “a letter from the authorities of the country in which you were born saying whether you have ever held that country’s citizenship or nationality”. This goes on to state that: “If you have at any time held that country’s citizenship or nationality but no longer hold it, the letter should also state the date on which you ceased to hold it and why”.
6. As already noted, all that is said in this letter is that the Lebanese Embassy in the DRC had not issued or renewed a Lebanese passport. It is clear that in 2004 the claimant accordingly must have addressed his mind to the issue of whether or not he had ever held a Lebanese nationality. This is not a case where his answer in the form that he had not can merely be explained as an oversight. We note that in his witness statement he attempted to explain the mistake as an error made by his solicitors, but the relevance of the letter from the Kinshasa Embassy was not whether or not technically it was correct that a passport had not been issued by that embassy but that it went to establish his awareness of the need to provide documentation to support his claim that he had not had any other nationality previously which had he addressed his mind properly to it he must have appreciated that he had. The difficulty with the decision now under challenge is that although the letter from the Lebanese Embassy is referred to within the decision itself at paragraph 6(b) nowhere within the decision does Judge Pooler consider the relevance of this evidence.
7. In these circumstances we are satisfied that notwithstanding that the claimant knew at the time of the application that he not only previously but still held Lebanese nationality and therefore had he addressed his mind to it the answer on the form that he had not was untrue and he knew it was untrue.
8. This was a matter which on its face would suggest that his answer was not only incorrect but also made dishonestly. If the judge was to disregard this evidence it was incumbent on him in the circumstances of this case to give proper reasons for so doing. In our view this was clearly a material

error because had the judge considered this evidence properly it certainly cannot be said that he would have been bound to reach the same conclusion, namely that the claimant had not been dishonest when saying he had never had any other nationality and so the decision must be set aside.

9. We have regard to the decision of our current President in the reported decision in *Deliallisi (British citizen: deprivation appeal: Scope)* [2013] UKUT 00439, in which the head note is as follows:

*“(1) An appeal under Section 40A of the British Nationality Act 1981 against a decision to deprive a person of British citizenship requires the Tribunal to consider whether the Secretary of State’s discretionary decision to deprive should be exercised differently. This will involve (but not be limited to) ECHR Article 8 issues, as well as the question whether deprivation would be a disproportionate interference with a person’s EU rights.*

*(2) Although, unlike Section 84(1)(g) of the Nationality, Immigration and Asylum Act 2002, Section 40A of the 1981 Act does not involve any statutory hypothesis that the appellant will be removed from the United Kingdom in consequence of the deprivation decision, the Tribunal is required to determine the reasonably foreseeable consequences of deprivation, which may, depending on the facts, include removal.*

*(3) A person who, immediately before becoming a British citizen, had indefinite leave to remain in the United Kingdom, does not automatically become entitled to such leave, upon being deprived of such citizenship.”*

10. Clearly, because the judge reached his decision having made a finding that the Secretary of State had not established that the claimant had been dishonest when he made the factually false statements contained in the application he did not go on to make any findings with regard to the Article 8 issues as set out within *Deliallisi*. These findings will in due course have to be made and in these circumstances the appropriate course is to remit this appeal to the First-tier Tribunal for rehearing by any judge other than Judge Pooler. We accordingly make the following decision:

### **Decision**

**We set aside the decision of First-tier Tribunal Judge Pooler as containing a material error of law and remit the appeal to be reheard at Taylor House by any judge other than Judge Pooler.**

No anonymity direction is made.

A handwritten signature in black ink on a light blue background. The signature reads "Ken Craig" in a cursive, slightly slanted script. The "K" is large and loops back, and the "C" in "Craig" is also large and loops back.

Upper Tribunal Judge Craig  
2018

Date: 30 April