



**Upper Tribunal  
(Immigration and Asylum Chamber)  
DA/00162/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at The Royal Courts of Justice**

**On 17 January 2017**

**Decision  
Promulgated**

**On 3 May 2017**

**& Reasons**

**Before**

**UPPER TRIBUNAL JUDGE CLIVE LANE**

**Between**

**AS**

**(ANONYMITY DIRECTION MADE)**

Appellant

**And**

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

Respondent

**Representation:**

For the Appellant: Ms A Weston

For the Respondent: Ms Brockelsby-Weller, Senior Presenting Officer

**DECISION AND REASONS**

1. The appellant, AS, is a female citizen of France. She appealed against a decision of the Secretary of State dated 4 December 2015 to deport her from the United Kingdom. The First-tier Tribunal (Judge Moore), in a decision promulgated on 31 October 2016, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. At the initial hearing on 17 January 2017, the representatives for both agreed that the decision of the First-tier Tribunal should not stand. I refer

to the grant of permission (Judge Ford) at [3-4] and agree that the decision is unclear as regards the length of the appellant's residence in the United Kingdom. Because the judge has failed to make unequivocal findings on this fundamental issue, his application of the relevant tests under the Immigration (European Economic Area) Regulations 2006 is unsafe. In addition, again concerning the appellant's length of residence, it is not clear why the judge has failed to accept evidence of the appellant which was not challenged before or at the First-tier Tribunal hearing by the Secretary of State or the Tribunal. The next Tribunal will need to make clear and unequivocal findings of fact, in particular as regards the appellant's length of residence, and to apply the relevant law to those findings.

### **Notice of Decision**

The decision of the First-tier Tribunal which was promulgated on 31 October 2016 is set aside. None of the findings of fact shall stand. The appeal shall be returned to the First-tier Tribunal for that Tribunal to remake the decision.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 2 April 2017

Upper Tribunal Judge Clive Lane