



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

Appeal Number: EA/00453/2019

**THE IMMIGRATION ACTS**

**Determined at Field House without a  
hearing  
On 16 July 2021**

**Decision & Reasons  
Promulgated  
On 29 July 2021**

**Before**

**UPPER TRIBUNAL JUDGE RINTOUL**

**Between**

**VIORCIA STANCIU  
(NO ANONYMITY ORDER MADE)**

Appellant

**and**

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

Respondent

**DECISION AND REASONS**

1. On 28 May 2021 I gave the following directions:-
  1. I have reviewed the file in this case.
  2. The first ground of appeal is that there should have been an oral hearing of the appeal. In her rule 24 letter response, the Home Office accepts that this is arguable.
  3. Having considered the file, it is my preliminary view that the First-tier Tribunal did err in not holding an oral hearing, given that there are facts in dispute. It is also my preliminary view that, as a result, the decision of the First-tier Tribunal was wrong in law and should be set aside.

4. It is also my preliminary view that as the error of law identified means that, in effect, the appellant did not have a fair hearing, this appeal should be remitted (sent back) to the First-tier Tribunal for a fresh oral hearing on all issues. None of the findings made by Judge Dunne will be preserved.
  5. Accordingly, unless within **ten working days** of the issue of these directions there is any written objection to this course of action, supported by cogent argument, the Upper Tribunal will proceed to determine the appeal without an oral hearing and will remit it to the First-tier Tribunal to be heard again by a judge other than Judge Dunne. This means that there will be no need for a hearing in the Upper Tribunal.
  6. In the absence of a timely response by a party, it will be presumed that it has no objection to the course of action proposed.
2. There has been no response to these directions by either party. Accordingly, I am satisfied that neither party objects to the matter being determined without a hearing and has nothing further to say. I am satisfied that that the determination of the First-tier Tribunal did involve the making of an error of law for the reasons set out above, and must therefore be set aside. In the circumstances, given that the assessment of credibility was flawed, it will be necessary for all the contested findings of fact to be remade, and thus, it is appropriate for the appeal to be remitted to the First-tier Tribunal to be heard again de novo by a judge other than Judge Dunne.

### **Summary of conclusions**

1. The determination of the First-tier Tribunal did involve the making of an error of law and I set it aside.
2. I remit the appeal to the First-tier Tribunal for a fresh decision on all issues

Signed

Date: 16 July 2021

Jeremy K H Rintoul  
Upper Tribunal Judge Rintoul