



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-004767

First-tier Tribunal No: HU/50501/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 14th of March 2024

Before

UPPER TRIBUNAL JUDGE HANSON

Between

NOUHAILA ZIANI
(NO ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr C Holmes instructed by Crater Law Solicitors Ltd.

For the Respondent: Mr Diwnycz, a Senior Home Office Presenting Officer.

Heard at Phoenix House (Bradford) on 8 March 2024

DECISION AND REASONS

1. In a determination promulgated following a hearing at Bradford on the 8 January 2024 the Upper Tribunal found a material error of law in the decision of a judge of the First-tier Tribunal, set that decision aside with preserved findings, and gave directions for the future conduct of the appeal. The matter comes back before me today to enable the Upper Tribunal to substitute a decision to either allow or dismiss the appeal.
2. The appellant was pregnant and due to give birth in January 2024 on the last occasion. Mr Holmes was able to confirm that she in fact gave birth to a daughter on 11 February 2024 who is a British citizen. A copy of the birth certificate has been provided.
3. Mr Diwnycz accepted that the child is a qualifying child and that in light of the facts of the case it will not be reasonable to expect the child to leave the UK.
4. On that basis I allowed the appeal pursuant to section 117B(6) Nationality, Immigration and Asylum Act 2002, which sets out the Secretary of State's own position in relation to an individual who is not subject to a deportation order and

when it is accepted that interference with a protected family right will be disproportionate.

Notice of Decision

5. I substitute a decision to allow the appeal.

C J Hanson

Judge of the Upper Tribunal
Immigration and Asylum Chamber

8 March 2024