



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/04432/2013

THE IMMIGRATION ACTS

Heard at Field House  
On 20 September 2013

Determination Promulgated  
On 27 September 2013

Before

UPPER TRIBUNAL JUDGE KING TD

Between

MR Y M Z

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss C Fielden, Counsel, instructed by Leonard & Co Solicitors  
For the Respondent: Mr T Wilding, Home Office Presenting Officer

DECISION AND DIRECTIONS

1. The appellant is a citizen of Afghanistan, born on 30 March 1995.

2. On 25 September 2012 the appellant made an application for further leave to remain which was refused by the respondent on 25 April 2013.
3. The appellant sought to appeal against that decision which appeal came before First-tier Tribunal Judge Lagunju on 10 June 2013.
4. At that time all parties would seem to have been under the impression that the appeal was simply an upgrade appeal, the appellant seeking to be considered as a refugee. In those circumstances it was not necessary to consider the aspect of Article 8 of the ECHR.
5. Subsequently it has transpired that that was an error and that the appellant's discretionary leave had expired and that therefore removal directions having been issued as a result of the claim for asylum it was necessary to consider Article 8 of the ECHR.
6. For those reasons permission to appeal was granted on 2 August 2013.
7. The respondent in a reply dated 15 August 2013 accepted that there would be a fresh oral hearing to determine Article 8 of the ECHR.
8. The matter came before me. Miss Fielden represents the appellant. She was not in position to proceed with any hearing on Article 8 as a number of key witnesses were not present and were unable to be present on this occasion. Both parties, however, invited me to say that given that no findings whatsoever had been made by the First-tier Tribunal on the issue of Article 8 that it was entirely appropriate for the matter to be remitted to the First-tier Tribunal for those findings to be made.
9. In those circumstances I agreed to that suggestion giving oral directions to the further consideration of the case.
10. These directions are set out herein.

### **Directions**

- (1) The findings of the First-tier Tribunal shall stand so far as the dismissal of the appeals in respect of asylum and humanitarian protection.
- (3) There will be a hearing of the appellant's claim in respect of Article 8 of the ECHR.
- (3) Having regard to paragraph 7 of the Senior President's Practice Directions that hearing shall be conducted in the First-tier Tribunal.
- (4) A date for hearing of 13 November 2013.

- (5) An interpreter in the Pashtu language is required.
- (6) Witness statements from all those who it is intended to call as witnesses should be obtained and disclosed.
- (7) Details of all family members relating to the appellant in the United Kingdom should be disclosed with full details. Similarly family members in Afghanistan.
- (8) Full details of the appellant's private and/or family life should be provided. All evidence relating thereto should be served no later than 10 days prior to the hearing.

Signed

Date

Upper Tribunal Judge King TD