



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: DC/00051/2018**

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice Centre
via Skype for Business
On 7 October 2020** **Decision & Reasons Promulgated
On 21 October 2020**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**SOCKOL DACI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Kerr, Karis solicitors

For the Respondent: Mr Tan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Albania who was born on 5 December 1982. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 27 September 2018 to deprive him of the British nationality pursuant to section 40(3) of the British Nationality Act 1981. The First-tier Tribunal, in a decision promulgated on 11 July 2019, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. At the initial hearing on 7 October 2020, Mr Kerr, who appeared for the appellant, told me that he did not seek to make submissions beyond what

had been pleaded in the grounds of appeal to the Upper Tribunal. His reason for telling me this was that, since permission had been given, the Upper Tribunal had promulgated its decision in *Hysaj (Deprivation of Citizenship: Delay)* [2020] UKUT 128 (IAC). The headnote of *Hsaj* reads as follows:

1. The starting point in any consideration undertaken by the Secretary of State ("the respondent") as to whether to deprive a person of British citizenship must be made by reference to the rules and policy in force at the time the decision is made. Rule of law values indicate that the respondent is entitled to take advice and act in light of the state of law and the circumstances known to her. The benefit of hindsight, post the Supreme Court judgment in R (Hysaj) v. Secretary of State for the Home Department [2017] UKSC 82, does not lessen the significant public interest in the deprivation of British citizenship acquired through fraud or deception.

2. No legitimate expectation arises that consideration as to whether or not to deprive citizenship is to be undertaken by the application of a historic policy that was in place prior to the judgment of the Supreme Court in Hysaj.

3. No historic injustice is capable of arising in circumstances where the respondent erroneously declared British citizenship to be a nullity, rather than seek to deprive under section 40(3) of the British Nationality Act 1981, as no prejudice arises because it is not possible to establish that a decision to deprive should have been taken under a specific policy within a specific period of time.

4. The respondent's 14-year policy under her deprivation of citizenship policy, which was withdrawn on 20 August 2014, applied a continuous residence requirement that was broken by the imposition of a custodial sentence.

5. A refugee is to meet the requirement of article 1A(2) of the 1951 UN Refugee Convention and a person cannot have enjoyed Convention status if recognition was consequent to an entirely false presentation as to a well-founded fear of persecution.

6. Upon deprivation of British citizenship, there is no automatic revival of previously held indefinite leave to remain status.

7. There is a heavy weight to be placed upon the public interest in maintaining the integrity of the system by which foreign nationals are naturalised and permitted to enjoy the benefits of British citizenship. Any effect on day-to-day life that may result from a person being deprived of British citizenship is a consequence of the that person's fraud or deception and, without more, cannot tip the proportionality balance, so as to compel the respondent to grant a period of leave, whether short or otherwise.

3. Mr Kerr acknowledged that facts in *Hsaj* were 'extremely similar' to those in the instant appeal and that the legal issues which arose in the instant appeal had been decided in *Hsaj* such that his client could not succeed. The appellant had resided in the United Kingdom for 14 years by June 2013 and had sought to rely upon a Home Office policy which had been withdrawn as from 20 August 2014. He sought to rely on the same

arguments concerning that policy which the Upper Tribunal in *Hsaj* had specifically rejected (see headnote (3) above). Mr Kerr submitted that the Upper Tribunal had erred in law in *Hysaj*; he told me that the representatives of the appellant in *Hysaj* were pursuing an appeal to the Court of Appeal.

4. In the light of Mr Kerr's helpful submissions, I shall be brief. In dismissing the appeal, I record Mr Kerr's submission that his client only fails on account of the decision in *Hsaj* which he maintains was decided incorrectly. I am, however, required to decide this appeal by reference to the law as it stands today. Moreover, I was not asked to decide this appeal by rejecting the interpretation of the law reached by the Presidential panel of the Upper Tribunal in *Hysaj*. In the circumstances, I dismiss the appeal.

Notice of Decision

This appeal is dismissed.

Signed

Date 9 October 2020

Upper Tribunal Judge Lane