



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

Appeal Number: DC/00040/2019

THE IMMIGRATION ACTS

**Hearing by Microsoft Teams
On 13th July 2021**

**Decision & Reasons Promulgated
On 27th July 2021**

Before

UPPER TRIBUNAL JUDGE MANDALIA

Between

**MR PETRIT OMERAJ
(AKA: MR AJRAM BAJRAMI)
(Anonymity Direction Not Made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS (R)

- 1.** The appellant appealed the respondent's decision of 17th April 2019 to deprive the appellant of his British citizenship on the ground that it was obtained by fraud. His appeal was dismissed by First-tier Tribunal Judge Cartin for reasons set out in a decision promulgated on 9th January 2021.
- 2.** To summarise, the appellant arrived in the UK on 14th June 1998, and claimed to be 'Arben Bajrami', born on 20th March 1981 in Decan, Kosovo. He claimed to fear persecution in Kosovo on the grounds of his political opinion. On 8th May 1999, the appellant was granted refugee status and

indefinite leave to remain in the UK solely on the basis of his claim to be an ethnic Albanian from Kosovo. In November 2003, the appellant lodged an application for naturalisation using the same name and date of birth. He became a British citizen on 8th January 2004.

- 3.** In November 2007, the appellant acted as a sponsor in an application for entry clearance made by his wife, Eljana Omeraj. She confirmed during an interview with an entry clearance officer that the appellant's true identity is Petrit Omeraj and that he was born in Shkoder, Albania, on 1st September 1979. She confirmed the appellant is an Albanian national. Although that application for entry clearance was refused, the appellant's partner appealed that decision and in September 2008, the appeal was allowed. The appellant had given evidence in support of the appeal. His partner arrived in the UK and in September 2017, she was granted British citizenship.
- 4.** On 12th February 2019, the appellant's 'Status Review Unit' ("SRU") wrote to the appellant to advise him that the respondent was considering depriving him of British citizenship. Representations were made on behalf of the appellant and following consideration of the representations and explanations provided by the appellant, the respondent reached her decision of 17th April 2019.
- 5.** Permission to appeal the decision of Judge Cartin was granted by Upper Tribunal Judge O'Callaghan on 15th April 2021 on three grounds. I do not need to deal with each of the grounds. The respondent has filed and served a Rule 24 response dated 12th May 2021, in which the respondent confirms that the appeal is not opposed. The respondent invites the Tribunal to remit the appeal to the FtT for hearing afresh, following the clarification of the law on deprivation set out in the decision of the Supreme Court in Begum v SSHD [2021] UKSC 7. At the hearing before me I also drew the parties attention to the recent decision of the Court of Appeal in Laci v SSHD [2021] EWCA Civ 769.

6. Mr Seelhoff submits that the appropriate course is for the decision of FtT Judge Cartin to be set aside and for the decision to be remade in the Upper Tribunal. He invites me to allow the appeal on the basis that the appellant admits much of what is said against him regarding the background, but the position of the respondent here, is more egregious than it was in Laci. He submitted that in all the circumstances, the only reasonable conclusion is that the appeal should be allowed.

7. I accept that the decision of the FtT is infected by an error of law and that the appropriate course is for the decision of First-tier Tribunal Judge Cartin to be set aside. As to disposal, I agree that the appropriate course is for the matter to be remitted to the FtT for hearing *de novo* with no findings preserved. I have decided that it is appropriate to remit this appeal back to the First-tier Tribunal, having considered paragraph 7.2 of the Senior President's Practice Statement of 25th September 2012. Although much is admitted by the appellant, in the end, the Tribunal will be required to consider all the facts and circumstances regarding the appellant's conduct and the delay on the part of the respondent. A fact specific assessment is required.

Notice of Decision

8. The appeal is allowed and the decision of FtT Judge Cartin is set aside.

9. The appeal is remitted to the FtT for a fresh hearing of the appeal with no findings preserved.

Signed **V. Mandalia**
Upper Tribunal Judge Mandalia

Date: 13th July 2021