IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-001288
First-tier Tribunal No: DC/50062/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 11 July 2023

Before:

UPPER TRIBUNAL JUDGE GILL

Between:

Fatjon Micaj **Appellant**
(ANONYMITY ORDER NOT MADE)

And

The Secretary of State for the Home Department Respondent

Representation:

For the Appellant: Ms J Bond, instructed by MNS Solicitors (31 Ailsa Road).
For the Respondent: Mr S Walker, Senior Home Office Presenting Officer.

Heard at Field House on 16 June 2023

DECISION

1. The appellant's true name is Fatjon Mica, date of birth: 6 March 1986. He is a national of Albania. He appeals against a decision of Judge of the First-tier Tribunal C Bart-Stewart (hereafter the "judge") promulgated on 24 March 2023 following a hearing on 17 March 2023 by which the judge dismissed his appeal on human rights grounds (Article 8) against a decision of the respondent of 25 February 2022 to deprive him of British nationality under s.40(3) of the British Nationality Act 1981 (the "1981 Act").

2. Before the judge, the appellant's Article 8 claim was based on his relationship with his two children, aged 5 and 7 years, and his (asserted) inability to have them stay with him if he were deprived of British nationality because he would lose his current rented accommodation; his (asserted) inability to make child maintenance payments because he would be unable to work; and his asserted destitution and homelessness if he were unable to work. His children are British citizens.

3. The decision letter states that the period between loss of citizenship by a deprivation order and the decision to remove, deport or grant leave will be relatively short. The order will be made within four weeks of appeal rights being exhausted or written confirmation that the appellant does not intend to appeal. Within eight weeks of the

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order a decision would be made whether to remove him from the United Kingdom or issue leave (para 15 of the judge's decision).

4. The deprivation decision was made following an investigation by the respondent which revealed that the appellant had claimed asylum in a false identity, i.e. the name Fation Micaj, date of birth: 6 March 1988, of Roma ethnicity from Kosovo and a national of Serbia and Montenegro.

5. The appellant’s explanation, given to the respondent in a letter dated 12 January 2022 from his representatives, was that he was aged 17 years when he arrived in the United Kingdom without his parents and was ill-advised by adults travelling with him that he should state his nationality as Kosovan as this would give him the best chance to succeed in his application and remain in the United Kingdom and also that he was coached in the story to tell the authorities about his life in Kosovo (para 7 of the judge's decision). He also said that Albania was dangerous at the time in part due to political unrest and that he needed to ensure that he was successful in his efforts to stay in the United Kingdom as he and his family had to pay back the agent who had arranged his transport (para 10 of the judge's decision).

The background to the respondent's decision

6. Paras 3-6 of the judge's decision set out the relevant background. They read:

> “3. The appellant entered the United Kingdom clandestinely on 12 March 2003. On 14 March 2003 he claimed asylum stating his date of birth as 6 March 1988 in Landovic, Prizren, Kosovo and his nationality as (Serbia and Montenegro) Kosovan, last address Jeric, Ferizaj, Kosova, his family address. He submitted a self-completion questionnaire as an unaccompanied minor. He claimed to be Roma gypsy and said that he feared persecution because of his ethnic origin. He used these details throughout his asylum claim including submitting a self-completion questionnaire through his legal representatives, a statement of additional grounds and his asylum application statement.
>
> 4. He said that his father was gypsy and his mother Albanian. He is therefore half Roma and half Albanian and had been discriminated, harassed and persecuted by ethnic Albanians in Albania due to his ethnicity, his political opinion and because his father and brother were part of the Serbian army and branded as traitors. At school he was attacked and beaten up because he had darker skin, his father's Roma origins and working for the Serbian army. The appellant was forced to leave school due to harassment. His brother also joined the Serbian army and had to flee after receiving death threats. Some of his brother's friends have been killed by the KLA as they had worked for the Serbians.
>
> 5. After the war the family faced considerable problems from local Albanians. On 5 December 1999 a group of Albanian ex KLA members came to their home looking for his father. They shot and killed his father and said they would return and kill all Roma who had helped Serbians during the war. The family fled the village and sought refuge with his uncle in Ferizaj. There was another altercation with Serbians in Albania in early 2003 with the family of a girl in the village. After this his uncle arranged for the appellant to leave the country smuggled out by lorry. He is afraid to return to Kosovo because of the Albanians living there and those who killed his father had said the appellant would be killed.
>
> 6. The asylum claim was refused on 15 April 2003 but he was granted leave to remain on a discretionary basis outside the immigration rules until 15 April 2004. On 01 April 2004 he applied for further discretionary leave using the same details. He signed a declaration that he would inform the Home Office of any material change in his circumstances or new information relevant to the application. On 19 April 2007 he was informed that his case is being considered under the Home Office Legacy scheme with the details he had supplied. There was further communication on 9 July 2010. On 9 September 2010 he was granted indefinite leave to remain. He submitted a travel document application on 13 October 2010 with the same details and on 12 September 2011 an application for naturalisation as a British citizen. This included signing a declaration acknowledging an understanding that

> the giving of false information knowingly or recklessly is a criminal offence punishable by imprisonment and confirming that the information on the form is correct. He was granted citizenship on 27 October 2011."

The judge's decision

7. At para 2 of her decision, the judge set out the documents that were before her. Whilst para 2 mentions, inter alia, "*the appellant's bundle*", it does not mention the 104-page supplementary bundle submitted by the appellant's representatives after the hearing had concluded. The judge did not mention in terms the supplementary bundle anywhere in her decision. This is the subject of ground 1.

8. At para 16 of her decision, the judge set out the appellant's evidence about his current circumstances concerning his financial commitments and the reasons why it was necessary for him to remain in employment. Para 16 reads:

> "16. In oral evidence the appellant said that he is no longer living with his wife. His wife moved out New Year's Eve 2021 and they divorced in 2022. The two children live with their mother and spend three days a week with him. They live 20 minutes' walk away. He pays maintenance of £160 a month for the children and buys their clothes and school uniforms. He is self-employed as a private hire driver and owns two vehicles one of which he rents out. He was previously in a partnership running a burger bar. The long hours impacted on his relationship. He handed the keys back. He earns £15,400 a year for a 4 day week. His rent is £1000. He lives in a five bedroom house which is the former matrimonial home. If deprived of citizenship and unable to work he would be on the street. He is paying for his house and 2 loans including a bounce back loan that he obtained during the pandemic. He would be unable to have contact with his children if he lived in just one room. His friends cannot help as they have families and could not accommodate him. He married young and has no friends to call on."

9. The appellant accepted before the judge that the condition precedent in section 40(3) of the 1981 Act was satisfied (para 24 of the judge's decision).

10. The judge's observations regarding the public interest and the condition precedent in section 40(3) are at paras 19-21 and 24-25, which read:

> "Findings and Reasons
>
> 19. The appellant accepts that he provided false details in his asylum claim for which he blames others and also stating about he was only 17 years old. However there were a series of applications after the appellant became an adult where he continued to assert that he was from Kosovo. In the application for an extension of discretionary leave dated 1 April 2004 his solicitors wrote that "*it is our instructions that our client has contacted his uncle last month and his mother is still hiding in his uncle's home and the situation is still not safe for him to return*". The letter specifically referred to continued fear of return to Kosovo as he is of Roma origin.
>
> 20. Even if his earlier deception could be mitigated because of his age, this does not explain the travel document application on 13 December 2010 where he stated that his nationality was Republic of Serbia. In a section requesting details of any passports, travel documents, identity cards or similar documents he goes on to claim that "*I have several times contacted my mother in Kosovo to go and ask the authorities in regards to my original passport or any other sorts of ID but she hasn't been successful. They haven't been able to provide her with any documents for me confirming that they were damaged undestroyed during the war with Serbia. Her health conditions are poor and she cannot keep chasing the offices around the country to get hold of any papers. Also the Serbian embassy in UK was very helpless on providing me with any documents leaving me without even explanations why*". This detail is deliberate and considered and compounds the lie.

21. The application for naturalisation as a British citizen not only continued to use the false name and nationality he also gave false details for his parents. The declaration following the warning with regards to giving false information on the application form is dated 12 September 2011. It was his choice to continue the lie.

Whether the statutory condition precedent under section 40(3) is met

24. The appellant has had to concede that the condition precedent is met. He provided a false date of birth and nationality on arrival and maintained this position in all subsequent applications until the Home Office discovered otherwise in 2020. He exercised deception by stating and continuing to declare a false identity and maintaining a fear of return to Kosovo. This was fraud and false representation. During the naturalisation process he signed declarations that information provided was true and that he was of "good character" for the purposes of meeting the statutory eligibility requirement to be granted British citizenship knowing this was untrue. He had the opportunity to make a voluntary disclosure when asked to explain why he did not have nationality documents. It is evident that he would not have made a voluntary disclosure had the Secretary of State not alerted him to the fraud. The fraud is material to his acquisition of British nationality.

25. Although he was granted indefinite leave to remain because of his length of residence in the United Kingdom, that residence was acquired because of the false details that he gave when he applied for asylum. He says that he was told by agents that if he disclosed that he is from Albania he would not be able to remain in the UK. He gave a false name, place of birth, false information about his parents. His age did not stop him from giving a very lengthy and detailed story of serious and sustained ill treatment in Kosovo. Legacy casework and ELR applications instructions to caseworkers do not excuse or mitigate fraud which was active and continuous. At these stages the appellant was able to offer disclosure and any mitigation. It is because he gave false information that he was in a position to apply for citizenship. The Secretary of State is entitled to conclude that the condition precedent in section 40(3) of the 1981 Act was satisfied."

11. At para 23, the judge reminded herself of the guidance in Ciceri (deprivation of citizenship: principles) [2021] UKUT 00238 (IAC) to the effect, inter alia, that it was necessary for a judge to consider the "*reasonably foreseeable consequences*" of a deprivation decision and that a judge should not conduct a "*proleptic analysis*" of the individual's removal. At para 26, she set out in full the guidance in the head-notes of the Upper Tribunal's decision in Muslija (deprivation: reasonably foreseeable consequences) [2022] UKUT 00337 (IAC).

12. The judge then considered the reasonably foreseeable consequences of the deprivation decision at paras 27-28 and concluded at para 29 that the deprivation decision was proportionate. Paras 27-29 read:

"27. The appellant was naturalised as a British citizen on 27 October 2011. The fraud commenced in 2003 and only came to light in 2020. In the meantime the appellant has had the benefits of citizenship to which he was never entitled. The appellant is said to be divorced from his wife. He has 2 children with whom he has staying contact effectively sharing the care with his former wife. It is claimed that contact would cease. He would be under immigration control. This in itself does not mean the Secretary of State would or could not allow him to work. The loss of citizenship will result in the loss of the right of abode, to which he was never entitled. He would lose the right to a British passport and to vote in general elections. The appellant's children's citizenship is unaffected. I do not accept that deprivation of citizenship does not mean he would not continue seeing his children. He can continue to make arrangements with his wife that do not rely on citizenship. It is speculative to suggest otherwise.

28. Some disruption to the appellant's day to day life is to be expected. The respondent says that the time between loss of citizenship and a decision by Secretary of State with regards to whether to remove or grant leave will be relatively short. Even if in reality it is longer, the fact of exposure to even a potentially lengthy period of limbo is a factor unlikely to be of

dispositive relevance. I do not consider it likely that he could not get assistance from friends. I find it unlikely that he would not be destitute. **Muslija para A54.**

> "The public interest in the Secretary of State exercising the power is well established: see, for example, Hysaj at [31], as quoted by the judge at [32] of his decision:
>
> > "… where the requirements in section 40(3) are satisfied, the Tribunal is required to place significant weight on the fact that Parliament has decided, in the public interest, that a person who has employed deception to obtain British citizenship should be deprived of that status."
>
> **Hysaj (Deprivation of Citizenship: Delay) [2020] UKUT 00128 (IAC)**
>
> 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 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.

29. I find that the decision to deprive the appellant of British Citizenship is lawful under 40(3) of the British Nationality Act 1981 and proportionate under Article 8."

(My underlining)

The grounds

13. The grounds contend as follows:

(i) Ground 1: There has been a procedural irregularity, in that, the judge failed to consider the documents submitted in the supplementary bundle after the hearing date but before the judge's decision was promulgated.

(ii) Ground 2: The judge failed to conduct a full assessment of the reasonably foreseeable consequences of the respondent's decision.

(iii) Ground 3: The judge did not give reasons for her finding that it was unlikely that the appellant would be destitute because she did not consider it likely that he could not obtain assistance from friends.

14. The supplementary bundle contained an email from the appellant's ex-wife setting out the contact between the appellant and his children, evidence of the appellant's child maintenance payments, evidence of his divorce, his tax return dated 6 April 2022, school records for the appellant's children showing that he was a contact for them, evidence of the appellant's payments for the rent of accommodation and an email dated 24 March 2022 from his letting agent confirming that he had entered into an agreement on 25 July 2020 at a rent of £1,000 per calendar month.

Submissions

15. In relation to ground 1, Mr Walker accepted at the commencement of the hearing before me that the appellant's supplementary bundle was submitted to the First-tier Tribunal ("FtT") and that the supplementary bundle was emailed to the judge by a member of the administrative staff of the FtT prior to her decision being promulgated. This was based upon my providing to Ms Bond and Mr Walker (at the commencement of the hearing before me) copies of the entries under the "*Case*

History” tab, the “*Case Notes*” tab and the “*Applications*” tab of the FtT’s database system known as “*MyHMCTS*”.

16. Ms Bond informed me at the commencement of the hearing that the reason why the supplementary bundle was submitted was that the appellant mentioned for the first time on the day of the hearing before the judge that he and his wife had separated and had subsequently divorced. He gave oral evidence to the judge about these matters and also as to his commitments and the reason why it was necessary for him to remain in employment so that his daughters could continue visiting him and staying with him.

17. Ms Bond submitted that the mere fact that there has been a procedural irregularity, in that, the judge failed to consider the evidence in the supplementary bundle, was sufficient *per se* to taint the whole of the judge's decision. It was not necessary for the appellant to show that the procedural irregularity was material or that the documents in the supplementary bundle were material to the outcome.

18. In the event that it was necessary to show materiality, Ms Bond submitted that, whilst the judge appeared to accept that the appellant was divorced, there was other evidence in the supplementary bundle that she could have accepted. For example, the fact that he was the main tenant of a property that was owned by a private landlord; that he had rented the property for a number of years; and that he was a single father with two young daughters. As the judge was aware that a person with no immigration status would be unable to rent a property from a private landlord without the private landlord being liable to a hefty fine, the question arises where the appellant would live once he loses his British nationality. Even if one could say that the appellant did not need to live in a five-bedroom house, the appellant's evidence was that he needed the property because his daughters stayed with him for three days a week and he took them to school.

19. Drawing my attention to the judge's finding that she was not satisfied that the appellant would be homeless, Ms Bond submitted that the fact was that he was the sole tenant from which it followed that no one else was sharing the liability for the payments of the rent on his rented property. The judge would have had to consider where the appellant would live and where his daughters would stay for three days a week.

20. In addition to the accommodation, there was evidence in the supplementary bundle of the child support payments made by the appellant to his ex-wife. Initially, Ms Bond submitted that the judge did not have evidence that the appellant was paying his ex-wife £160 per month for both children. However, Mr Walker pointed out that it is clear from para 16 of the judge's decision that she was aware that the appellant was paying £160 per month.

21. Ms Bond then submitted that, although para 16 of the judge's decision shows that she was aware of the appellant's evidence that he was paying £160 a month to his ex-wife, the amount of £160 a month was a private arrangement between the appellant and his ex-wife. There was evidence in the supplementary bundle that the Child Maintenance Service (“CMS”) had assessed the total child support payments for both children at £78.78. If he was not working, he would not be able to pay the higher figure of £160 that he had agreed with his ex-wife or the lower amount of £78.78 assessed by the CMS.

22. Ms Bond drew my attention to page 66 of the supplementary bundle which shows that, when the appellant was receiving benefits, the amount that he was assessed by CMS to pay by way of child support was £0. She submitted that, if he were to lose his British nationality, he would not be able to claim benefits. Ms Bond agreed that, if the appellant were unable to claim benefits, there was no likelihood that he would be assessed by the CMS as being liable to pay anything other than £0 by way of child support.

23. Ms Bond submitted that ground 1 feeds into ground 2. It was reasonably foreseeable that the appellant would not be able to work to support himself and therefore pay his rent or make the child maintenance payments. His children would not be able to live with him three days a week. The judge found that the appellant would not be homeless and that the appellant's ex-wife could make some arrangements for the appellant to see his children but they would not be able to stay with him. The appellant needs his accommodation so as to enable his children to stay with him for three days a week. This state of affairs could go on for some time, in Ms Bond's submission. The timescale stated in the decision letter for a decision to be made whether to grant leave or to remove the appellant was unrealistic, in her submission.

24. I reminded Ms Bond that there was no evidence to support her submission or assertion that the timescale for a decision to be made whether to grant leave or remove the appellant was unrealistic, nor had this been raised in her grounds.

25. In relation to ground 3, Ms Bond submitted that the judge had given no reasons for her finding that it was unlikely that the appellant would be destitute. The appellant's evidence was that he had some friends but he could not rely upon them for financial assistance.

26. Mr Walker's principal submission on ground 1 was that there was no reason to think that the judge had not taken into account the evidence in the supplementary bundle. At para 16, the judge linked the evidence in the supplementary bundle to the appellant's oral evidence.

27. In any event, he submitted that it could not have made a material difference, given that she had taken into account that he had agreed to pay his wife £160 per month for the support of the children.

28. In relation to grounds 2 and 3, Mr Walker submitted that, having linked the oral evidence with the evidence in the supplementary bundle at para 16, the judge gave her conclusions on the evidence at paras 27-28. At para 28, the judge did not accept that the deprivation order would mean that the appellant would not continue seeing his children. In his submission, there was no material error of law.

29. I reserved my decision.

<u>ASSESSMENT</u>

30. Ms Bond premised her submissions on the basis that there were typographical errors in the judge's use of double negatives at paras 27 and 28 of her decision, underlined at my para 12 above. I agree. It is clear that the judge meant to say at para 27:

> "I do not accept that deprivation of citizenship would mean he would not continue seeing his children."

and at para 28:

> "I find it unlikely that he would be destitute."

31. I deal first with Ms Bond's submission that the timescale stated in the decision letter for the deprivation order to be made and a decision whether to grant leave or remove the appellant was unrealistic. The decision letter refers to a period of four weeks from the date that appeal rights are exhausted for the making of the deprivation order and a period of eight weeks thereafter for a decision to remove or grant leave. This makes a total of twelve weeks. This aspect of the decision letter was not challenged before the judge. No evidence was placed before the judge or me in support of Ms Bond's submission that the timescale in the decision letter is unrealistic. There is therefore no basis for any assertion that the judge erred in relying upon the timescale specified by the respondent in the decision letter. In any event, the judge took into account the possibility that the total period might be longer (see para 28 of her decision).

32. I turn now to the grounds.

Ground 1

33. The first issue is whether the judge did consider the appellant's evidence in the supplementary bundle notwithstanding that she did not mention the supplementary bundle in terms. Mr Walker submitted that the judge linked the oral evidence with the evidence in the supplementary bundle at para 16 of her decision.

34. The judge did not mention the supplementary bundle at para 2 of her decision where she said:

> "2. The documents before me and considered are those in the hearing bundle uploaded to the CCD system. This includes the Home Office bundle of documents, the appellant's skeleton argument, Home Office review and the appellant's bundle of documents."

(my emphasis)

35. The judge referred to the appellant's bundle in the singular. Whilst this is not determinative and whilst I have noted the word "*includes*" at para 2 of the judge's decision, she did not proceed to mention the supplementary bundle anywhere in her decision. In addition, she considered the appellant's circumstances on the basis of his obligation to pay £160 a month to his ex-wife by way of child support but did not mention that, if he were to lose his job, there was a likelihood that he may be accessed by the CMS to pay £0 in child support as had happened previously when he was receiving benefits according to the document at page 66 of the supplementary bundle. This was evidence that one would expect the judge to have dealt with if she had considered the evidence in the supplementary bundle. However, there is no mention of the evidence at page 66. In addition, if the judge had considered the evidence in the supplementary bundle, one would have expected her to have made clear in her decision that post-hearing evidence that had been submitted had been considered. She did not do so.

36. In all of the circumstances, I cannot be confident that the judge did consider the evidence in the supplementary bundle. Indeed, I draw the inference that she did not do so, for the reasons given above.

37. Next, I consider Ms Bond's submission that the fact that there has been a procedural irregularity is sufficient in itself to vitiate the whole of the judge's decision.

38. I do not accept Ms Bond’s submission in this regard. Speaking hypothetically at this point, if credibility is in issue in a particular case and the appellant is unfairly denied the opportunity of giving oral evidence, that would clearly be sufficient, of itself, to vitiate the decision. Where the procedural irregularity concerns documentation that has been submitted but not considered, it is necessary to consider whether the evidence in the documentation could have made a material difference to the outcome. If, for example, the documentation comprised of evidence that was wholly irrelevant to any issue in the case, it is difficult to see how it properly be said that the mere fact that the documentation was not considered is sufficient to vitiate the entire decision.

39. In my judgment, the further evidence in the supplementary bundle was not material to the outcome, on any reasonable view, for the following reasons:

    (i) To the extent that the further evidence concerned the child support payments, the fact is that the further evidence showed that the amount that the appellant was legally obliged to pay pursuant to the decision of the CMS was £78.78. i.e. much less that the amount of £160 which the judge took into account in reaching her decision and which the appellant said he had agreed with his ex-wife he would pay. Furthermore, the further evidence showed that, when he was receiving benefits, the CMS assessed his liability as £0. Ms Bond accepted that, if the appellant were unable to work as a consequence of the deprivation order, he could request the CMS to re-assess his liability for child maintenance and that there was no likelihood that he would then be assessed as being liable to pay anything more than £0. Thus, the further evidence about the quantum of the appellant's child maintenance payments makes no material difference to the judge's reasoning in relation to the impact on the appellant.

    (ii) Insofar as the possible impact of any reduction (even to £0) of the appellant's child maintenance payments on the appellant’s ex-wife and/or his children, there was no evidence before the judge to show precisely how this would impact upon them and whether, for example, that they would be eligible to receive assistance from their local council for any shortfall in the sums they receive.

    (iii) The judge was aware of the appellant's case that he would lose his accommodation, he would become homeless and his children would he unable to stay with him. The judge found that the deprivation does not mean that he would not continue seeing his children. That finding is not undermined in any way at all by any of the further evidence in the bundle, even if it is the case that his children would not be able to stay with him. It follows that the further evidence in the bundle of the appellant's payments of his rent since 2010 of his five-bedroom property make no material difference to the judge's finding that the deprivation does not mean that he could no continue seeing his children. It is true that on his case, he and his children would lose the benefit of their staying with him for three days a week but they could continue seeing each other.

    (iv) The appellant's case that he would be unable to work was considered by the judge. There is nothing in the supplementary bundle that adds to that evidence.

40. Ground 1 is therefore not established.

Ground 2

41. Ground 2 relies upon the same evidence in the supplementary bundle and the same circumstances (see para 23 above).

42. Accordingly, for the reasons given above in relation to ground 1, ground 2 is not established.

Ground 3

43. Ground 3 is that the judge did not give any reasons for her finding that it was unlikely that the appellant would be destitute. This finding follows immediately after the sentence "*I do not consider it likely that he could not get assistance from friends*" in para 28. However, the appellant's evidence before the judge that none of his friends could accommodate him even on a temporary basis was not supported by any witness statements from any friends. Furthermore, it is necessary to read paras 27 and 28 of the judge's decision together in order to decide whether she gave adequate reasons for her finding that it was unlikely that the appellant would be destitute. At para 27, the judge said, inter alia:

> "…He would be under immigration control. This in itself does not mean the Secretary of State would or could not allow him to work."

44. The judge therefore took into account the possibility of the Secretary of State permitting the appellant to work notwithstanding that he would be under immigration control. Taking paras 27 and 28 together and bearing in mind the lack of any supporting witness statements from any of the appellant's friends, there were adequate reasons for the judge's finding that it was unlikely that the appellant would be destitute.

45. However, even if I am wrong about that, it is clear from paras 19-21 and 24-25 read together with the quotes from Muslija and Hysaj at para 28 of her decision, that the judge placed heavy weight on the strength of the public interest in the instant case. Even if the appellant is rendered destitute whilst awaiting the deprivation order and a decision whether to grant leave or remove him and even if (as the judge considered at para 28) this period is longer than the total timescale of twelve weeks stated in the decision letter, the judge was entitled to find that the deprivation decision was proportionate, on any reasonable view.

46. Ground 3 is therefore not established.

47. For all of the reasons given above, this appeal is dismissed.

Decision

The making of the decision of the First-tier Tribunal did not involve the making of any error of law sufficient to require it to be set aside.

Signed

Upper Tribunal Judge Gill Date: 27 June 2023

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically).**
3. Where the person making the application is in detention under the Immigration Acts**, the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically).**
5. **A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.**
6. **The date when the decision is "sent' is that appearing on the covering letter or covering email.**