



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-006618

First-tier Tribunal No: DC/50061/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

5th January 2024

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

HAKKI ISMAIL JAMILAGHA
(no anonymity order made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Saleem, of Malik and Malik Solicitors

For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

Heard at Field House on 22 December 2023

DECISION AND REASONS

1. This is the re-making of the decision in the appellant's appeal, following the setting aside of the decision of First-tier Tribunal Judge Randall who had allowed the appellant's appeal against the decision to deprive him of his British nationality under section 40(3) of the British Nationality Act 1981.

2. The appellant is currently a British citizen, originally of Iraqi nationality. He arrived in the UK on 30 November 2000 and claimed asylum. On 12 December 2000 he submitted an asylum application in the name of Saddam Hamodi Jasim, claiming never to have used any other name and to be at risk from the Iraqi authorities who had arrested, imprisoned and tortured him until he managed to escape. He claimed that his parents had been abducted and he had not seen them since. He submitted a statement, stating that he was born on 20 December 1976 in Baghdad, Iraq, and that he had attended school in Musel, that his father was an officer in the Ba'ath party and that his uncle was in the intelligence, that he had worked with his uncle since 1998 smuggling weapons to the north of Iraq and assisting smugglers with false documentation and that he was caught and put in prison

where he was tortured, but managed to escape and fled the country.

3. The following day the appellant completed a submitted a Statement of Evidence Form (SEF), providing the same details, and attended a SEF interview on 1 August 2001, maintaining the same identity and claiming to be an Iraqi Arab from Moussal. On 13 August 2001 his asylum claim was refused but he was granted exceptional leave to remain (ELR) for four years until 13 August 2005 because of the “particular circumstances” of his case. The grant of ELR was made in the identity of Saddam Hamodi Jasim, born on 20 December 1976. The appellant applied for, and was issued with, a travel document in the same identity. On 30 September 2003 the appellant completed a change of name deed confirming a change of name to Hakki Ismail Jamil Agha and requested the Home Office to re-issue his documentation in that name. On 12 July 2005 he applied for indefinite leave to remain (ILR) through his solicitors, confirming his identity as Hakki Ismail Jamilagha born on 20 December 1976 and maintaining the same claimed fear of return to Iraq. He was granted ILR on 13 February 2006 in the identity of Hakki Ismail Jamilagha born on 20 December 1976 in Baghdad, and he applied for, and was issued with, a travel document in the same identity.

4. On 8 February 2007 the appellant applied to naturalise as a British citizen, in the same identity and confirming his place of birth as Baghdad. He completed the Good Character Requirement section and the Declaration in which he confirmed that the information he had given in the application form was correct. He was naturalised on 4 September 2007, as Hakki Ismail Jamilagha born on 20 December 1976 in Baghdad, Iraq, and subsequently obtained a British passport.

5. The appellant’s misrepresentations first came to light in 2015 as a result of the appellant’s application to HMPO for British passports for his children. HMPO subsequently refused to renew the appellant’s own passport when he made an application in 2017. The appellant issued a pre-action protocol letter, in June 2017, explaining in his grounds of claim that he had been given a document by an agent when he arrived in the UK in the name of Saddam Hamodi Jasim, giving his place of birth as Baghdad, but that he was in fact originally from Erbil, and stating that he had decided to change his name after the fall of Saddam Hussein on 9 April 2003 since he was no longer in danger.

6. On 11 April 2018 the appellant made a further passport application confirming his identity as Hakki Ismail Jamilagha born on 20 December 1976 in Baghdad. In a witness statement accompanying the application, however, he stated that he had been told to hide his real identity when he entered the UK in case he was sent back to Iraq and that he had been told that it would be dangerous to state that he was born in Erbil since that would identify him as Kurdish. He stated that after Saddam Hussein had been removed from power he was no longer in danger and so he decided to reveal his true name, but his solicitors had told him that he could not change his place and date of birth. He gave his genuine details as Hakki Ismail Jamil born on 30 May 1975 in Erbil, Kurdistan and he produced his Iraqi ID card.

7. The appellant’s passport application was refused again by HMPO, in May 2018, and a further pre-action protocol was issued by the appellant with the same grounds as previously. His case was referred to the Status Review Unit in the Home Office and he was sent an investigation letter asking for a response to the allegation that he had naturalised using false details. He responded on 26 November 2020, providing the same explanation as previously and explaining that he had relied upon the advice of the agent who brought him to the UK. The appellant denied having obtained naturalisation by fraud, false representation or concealment of material fact. He provided supporting documents including his Iraqi ID card showing his name as Hakki Ismail Jamilagha born on 30 May

1975 in Erbil, his marriage certificate showing the same identity and a 1957 document again confirming that identity.

8. The respondent, in a decision dated 15 March 2021, concluded that the appellant's British citizenship had been obtained fraudulently and that he should be deprived of that citizenship under section 40(3) of the British Nationality Act 1981. The respondent considered that the appellant had had ample opportunity to provide the Secretary of State with his genuine details but chose not to, and found on that basis that his deception was deliberate. The respondent considered that that damaged the appellant's good character. The respondent considered that the fraud was material to the acquisition of British citizenship as the appellant would not have been entitled to the grant of ELR and ILR had his true identity, in particular his true place of birth, been known. The respondent considered that it was reasonable and proportionate to deprive the appellant of his British citizenship and that there was no breach of Article 8 in so doing.

First-tier Tribunal

9. The appellant appealed against that decision under section 40A(1) of the British Nationality Act 1981. His appeal came before First-tier Tribunal Judge Randall on 21 April 2022. The appellant did not give oral evidence before the judge as it transpired that he was in Iraq at the time of the hearing. The appeal therefore proceeded on the basis of submissions only. The appellant's representative relied upon the Home Office Iraqi Country Policy Bulletin (ICPB) of 1 August 2006 which provided details of the respondent's policies at the time, as well as the cases of Rashid, R (on the application of) v Secretary of State for the Home Department [2005] EWCA Civ 744, A & Ors, R (on the application of) v Secretary of State for the Home Department [2006] EWHC 526 (Admin) and Rashid, R (on the application of) v Secretary of State for the Home Department [2008] EWHC 232 in relation to the policies. The judge noted that there were two relevant Home Office policies at the time: the KAZ (Kurdish Autonomous Zone) policy which was in place from 4 December 2001 until 20 March 2003, in which the Secretary of State did not argue that individuals from the GCI (the area under the control of Saddam Hussein) who had a fear of persecution in the GCI could relocate to the KAZ in order to seek protection from Saddam Hussein's regime; and the ELR policy which operated until February 2003, to grant ELR to failed Iraqi asylum seekers because of the severe penalties imposed by Saddam Hussein's regime on all those who had left Iraq illegally.

10. At the hearing, it was argued for the appellant that any deception was not material to the grant of British nationality since the appellant could not have known the beneficial consequences of his claim to be from Baghdad rather than Erbil in 2000. The judge noted that if the appellant had been granted ELR under the ELR policy, his deceptions as to his name, date and place of birth and ethnicity were irrelevant, and that there was no evidence from the respondent to show that the appellant had obtained his ELR as a result of the KAZ policy rather than the ELR policy. The judge also noted the confusion at that time about the relevant policies and found it highly unlikely that the appellant or the agents would have had sufficient knowledge to tailor his account in a claim made in 2000 and determined in 2001, to benefit from the KAZ policy. The judge considered that the appellant's explanation for his initial deception as to his name, date and place of birth and ethnicity, namely to protect himself from being identified as a Kurd if he were to be returned to Iraq, was a reasonable one and he accepted it as true. He concluded that the respondent had failed to show that the deceptions were material to the grant of ELR, to the grant of ILR or to the grant of British citizenship, and that the condition precedent for deprivation had therefore not been satisfied by the respondent. The judge accordingly allowed the appellant's appeal against the decision to deprive him of his British nationality.

Error of Law

11. Following a grant of permission to the Secretary of State to appeal Judge Randall's decision, the matter came before me for an error of law hearing, with Ms Cunha appearing for the Secretary of State. In a decision subsequently promulgated on 19 October 2023, I set aside Judge Randall's decision on the following basis:

"18. Having heard from both parties I find myself in agreement with Ms Cunha that the judge proceeded on a misunderstanding of the Home Office's position in relation to the appellant's case based on the policies applicable at the time and that that in turn impacted upon his assessment of the lawfulness of the deprivation decision.

19. It was Judge Randall's view that the respondent had erred by finding that the appellant's deception in regard to his place of birth and ethnicity was material to the grant of leave and thus the grant of citizenship, because she had produced no evidence to suggest that the appellant had exercised deception in order to benefit from the Home Office KAZ policy. He considered it material that there were other policies in place at the time which could have produced the same outcome for the appellant, that there was much confusion amongst Home Office caseworkers about those policies, that it was not until the Rashid cases that the KAZ policy came to light and that in light of such confusion the appellant and/or his agent could not possibly have had sufficient knowledge of the policies to tailor his case in order to benefit from the policy. He considered it material that the respondent had produced no evidence to show which policy had been applied.

20. It seems to me, however, that the judge's views in that respect were misconceived and based upon a misunderstanding of the relevant policies.

21. Firstly, it is clear that there were only two policies identified in the Rashid cases and R(A) and not numerous policies, as was suggested to the judge. The KAZ asylum policy was that internal relocation to the former KAZ from the government controlled area (GCI) would not be advanced as a reason to refuse a claim for refugee status. The ELR policy was that Iraqis from the GCI were entitled to four years of ELR. The 2005 Rashid case concerned only the KAZ policy. The case of R(A) and the 2008 Rashid case concerned both the KAZ policy and the ELR policy. The ICPB to which the judge was referred by Mr Saleem, as mentioned at [10(iii)] of his decision, set out the two policies: paragraphs 3.2 to 3.4 of the ICPB referred to the KAZ policy and paragraphs 3.5 and 3.6 referred to the ELR policy, clarifying that from 20 October 2000 that policy applied only to claimants from the GCI, who were granted four years ELR. Plainly, at the time the appellant's claim was decided, there was no policy from which he could have benefitted as an Iraqi Kurd from the KAZ and it was therefore only by claiming that he was from the GCI that he was able to benefit from the ELR policy. Judge Randall was therefore wrong to find, as he did at [17] and [23], that if the appellant was granted four years ELR under the ELR policy his deceptions as to his name, date and place of birth and ethnicity were irrelevant.

22. Secondly, in so far as the judge considered that there was a lack of clarity in the operation of the policies by Home Office caseworkers such that the appellant could not have tailored his case to benefit from a policy, it is apparent from the discussion in the Rashid cases about the lack of knowledge and inconsistency in the application of the policy related only to the KAZ policy. Yet that policy could never have been considered in relation to the appellant's claim as he was not claiming to have come from the KAZ or to be Kurdish.

23. Thirdly, in so far as the judge commented at [19(i)], [17] and [18] that the KAZ policy was the one referred to in the ICPB and relied upon by the respondent, that was clearly not the case as the ICPB referred to both policies, as explained above, and the policy relied upon by the respondent at [25] of the deprivation decision letter was the ELR policy, not the KAZ policy.

24. Fourthly, the judge proceeded on the basis that the Secretary of State had failed to identify which policy had been applied, whereas, as Ms Cunha stated, that was not the case, and the respondent identified at [25] of the decision letter that it was the policy set out at paragraph 3.6 of the ICPB, which was the ELR policy.

25. Accordingly the judge's decision was based on an erroneous premise and, as the grounds properly identify, the process by which the judge found the appellant's deception not to be material to the grant of ELR and ILR, and ultimately to the grant of British citizenship, was materially flawed. In so far as Mr Saleem relied upon the judge having found, in any event, at [18], that the appellant had provided a reasonable explanation for giving the false details of his place of birth and ethnicity, namely to protect himself in the event of being removed to Iraq, which had not been challenged in the grounds, it is clear that that conclusion was influenced by the errors already identified. Having proceeded on the basis of a misunderstanding of the decision made and the policy applied, the judge's assessment of the lawfulness of the respondent's decision in relation to the condition precedent for establishing the deception and the exercise of discretion to deprive the appellant of his British citizenship was therefore clearly flawed.

26. In the circumstances it seems to me that the judge's decision cannot stand and has to be set aside. The Secretary of State's appeal is accordingly allowed.

27. As for the onward disposal of the appeal, Ms Cunha asked that the matter be retained in the Upper Tribunal to re-make the decision whilst Mr Saleem requested a remittal to the First-tier Tribunal. Since the underlying facts are not in dispute, it seems to me that the appropriate course is for the matter to be retained in the Upper Tribunal.

28, The case will therefore be listed for a resumed hearing in the Upper Tribunal for the decision to be re-made, on a date to be notified to the parties. "

12.Directions were made for the filing and service of further evidence.

Re-making the Decision

13.The matter came before me for a resumed hearing on 22 December 2023. Mr Saleem advised me that the appellant was currently in Iraq and that there was no further statement from him and no further evidence.

14.Both Mr Saleem and Mr Tufan made submissions before me. Mr Saleem maintained the position taken at the error of law hearing and relied upon his submissions made at that time. He made four further points to which Mr Tufan responded, which I address below.

15.The correct approach to be taken when determining appeals against a decision taken by the respondent under s40(3), following the Supreme Court judgment in Begum, R. (on the application of) v Special Immigration Appeals Commission & Anor [2021] UKSC 7 and the ensuing decision of the Upper Tribunal in Ciceri (deprivation of citizenship appeals: principles) [2021] UKUT 238, has most recently been set out in Chimi v The Secretary of State for the Home Department (deprivation appeals; scope and evidence) Cameroon

[2023] UKUT 115. The headnote to that case states as follows:

“(1) A Tribunal determining an appeal against a decision taken by the respondent under s40(2) or s40(3) of the British Nationality Act 1981 should consider the following questions:

(a) Did the Secretary of State materially err in law when she decided that the condition precedent in s40(2) or s40(3) of the British Nationality Act 1981 was satisfied? If so, the appeal falls to be allowed. If not,

(b) Did the Secretary of State materially err in law when she decided to exercise her discretion to deprive the appellant of British citizenship? If so, the appeal falls to be allowed. If not,

(c) Weighing the lawfully determined deprivation decision against the reasonably foreseeable consequences for the appellant, is the decision unlawful under s6 of the Human Rights Act 1998? If so, the appeal falls to be allowed on human rights grounds. If not, the appeal falls to be dismissed.”

16. With regard to the first stage, determining the ‘condition precedent’ issue, the Upper Tribunal said as follows:

“[55] It follows from our conclusion that we are satisfied that when considering an appeal under section 40A(1) of the 1981 Act against a decision made by the respondent exercising the power under section 40(2) or 40(3) of the 1981 Act the task of the Tribunal is to scrutinise, using established public law criteria, whether or not the conclusion that the condition precedent to depriving the appellant of citizenship has been vitiated by an error of law. It is not the task of the Tribunal to undertake a merits-based review and redetermination of the decision on the existence of the condition precedent, as it were standing in the shoes of the respondent. This is consistent with paragraph 1 of the headnote in *Ciceri* which requires the adoption of the approach set out in paragraph 71 of the judgment in *Begum*.

[56] We would, however, wish to amplify this understanding of the position to provide some clarity in relation to the application of this approach in practice... we do not consider that in paragraph 71 of Lord Reed’s judgment in *Begum* he was intending to provide an exhaustive list of the potential types of public law error which it is open to the Tribunal to conclude have affected the decision on the condition precedent under consideration. We see no basis for reading what Lord Reed said in *Begum* as excluding other types of public law error which were not specifically identified from being potential grounds upon which a decision could be impugned. We see no reason to conclude that Lord Reed’s reference in paragraph 71 to a consideration of whether the respondent has “erred in law” should be restricted to whether the respondent has acted in a way that no reasonable decision maker could have acted or taken account of irrelevant considerations or disregarded matters which should have been taken into account. Questions of fairness beyond procedural impropriety may be relevant to the assessment in some cases...”

17. The first point made by Mr Saleem, relying on Chimi, was that this was a case of procedural impropriety and unfairness on the part of the Secretary of State, since it had never been stated, in the respondent’s status letter of 13 August 2001, that the appellant was being granted ELR under a policy. Mr Saleem submitted that, in so far as the respondent stated at [25] of her deprivation decision of 15 March 2021 that the grant of

leave was based on the country policy in place at that time, with reference to Annex R1 to R11, that was a policy from August 2006 which post-dated the date of the grant of ELR and therefore did not explain the basis of the grant of ELR. He submitted that the respondent had not produced her GCID notes as evidence of the basis upon which ELR was granted, despite that being raised previously. He submitted that the respondent had therefore not made sufficient enquiries to understand on what basis the appellant had been granted ELR and, for that reason, the decision was procedurally unfair.

18. I find no merit in that argument for two reasons. Firstly, as Mr Tufan submitted, irrespective of whether the appellant was granted ELR under a specific policy, the fact is that the 'Grant of Status' letter of 13 August 2001 stated that he was granted ELR "because of the particular circumstances of your case", yet those circumstances were, as now admitted, false. Certainly there has been no suggestion of any other circumstances which genuinely applied to the appellant that could have given rise to a grant of ELR. It is therefore clear that the appellant was granted ELR on the basis of what is now known to be false information and that, had he provided his genuine identity and a genuine account of his origins and circumstances, it is most unlikely that he would have been granted any form of leave.

19. Secondly, whilst the grant of ELR itself did not specifically refer to a policy, there can be no doubt that that was the basis upon which it was granted. The confirmation provided by the respondent at [25] of the deprivation decision of 15 March 2021 is sufficient in itself to show that ELR was granted on the country policy in place at the relevant time. There was, and is, no obligation upon the respondent to produce corroboration by way of the GCID notes. I reject Mr Saleem's assertion that the confirmation at [25] was in any way unreliable, being based as it was upon a policy of August 2006 post-dating the grant of ELR, when it is clear that the document at Annex R1 to R11 was not the ELR policy itself but was a Country Policy Bulletin which set out the policies previously in force and clarified the situation for people who, as in the Rashid and R(A) cases, had been, owing to an oversight, deprived of the benefit of those policies at the time the decisions were made in their cases. The respondent accordingly provided, in the deprivation decision, a clear explanation for the basis of the grant of ELR to the appellant, supported by evidence of that policy itself, from which there can be no doubt that the appellant was granted leave because he was supposedly from the GCI. I therefore reject the assertion that there was any lack of clarity or adequacy of enquiries and explanation so as to give rise to procedural unfairness on the part of the respondent.

20. In so far as Mr Saleem submits, on a more general basis, that there was a failure by the respondent to make sufficient enquiries before coming to the decision to deprive the appellant of his British citizenship, it is abundantly clear from the decision of 15 March 2021 that that was not the case. At [41] to [52] the respondent set out at some length the explanation given by the appellant for having provided a false identity and a false place of birth and went on to consider that explanation, providing full reasons for rejecting it as being inconsistent with the fact that he maintained the deception when applying for ILR and naturalisation and as thus lacking in credibility.

21. Following on from that, it was Mr Saleem's second point that Judge Randall had in fact accepted the appellant's explanation as a reasonable one, and that as a result the respondent's decision was not a balanced or proportionate one. He submitted that, in light of my indication in my error of law decision that the underlying facts were not in dispute, Judge Randall's finding in that respect had impliedly been preserved. Again, I reject Mr Saleem's submission since it is apparent from the indication in my error of law decision, at [25], that "*it is clear that that conclusion was influenced by the errors already identified*", that that was not a preserved finding. Judge Randall's finding to that effect, at [18] of his

decision, was made in the context of his finding that the appellant was unlikely to have been aware of the benefits to be derived from the Home Office policies, given the lack of knowledge about, and the complexities of the various policies. For the reasons I gave in my error of law decision at [20] to [24], however, I have found there to be no reason to conclude that the appellant would not have been aware of the benefits to be derived from the Home Office ELR policy in falsely claiming to come from the GCI. Moreover, the fact that the appellant maintained the false details about his place of origin after the fall of the regime of Saddam Hussain and for several years thereafter, including in his application for naturalisation in 2007 and subsequent passport applications, and up until 2017/2018, significantly undermines his explanation for giving those false details, as was the respondent's view. Indeed, as can be seen at [9] of his decision, Judge Randall also had concerns about the appellant's explanation, in terms of advice given to him by his solicitors, for having maintained the deception about his place of birth after the fall of the Saddam Hussain regime and considered it unlikely that his solicitors would have advised him against changing his personal details in that respect.

22. Mr Saleem's third point was that, by failing to produce the case minutes confirming the basis upon which the appellant had been granted ELR, the Secretary of State had failed to discharge the burden of proving that the appellant's deception was operative to the grant of ELR, and thus to the grant of ILR and naturalisation. That seems to be no different to the first point discussed above at [18] and [19] and, as I have already found, is one which has no merit. There was, and is, no requirement for the respondent to produce her case minutes. As previously stated, the confirmation provided by the respondent at [25] of the deprivation decision of 15 March 2021 is sufficient in itself to show the basis upon which ELR was granted. I therefore reject the suggestion that there was any failure by the respondent to discharge the burden of proving an intention to deceive by the appellant.

23. Finally, Mr Saleem's fourth point was that the 'good character' requirement was not one which was part of the statutory basis for depriving a person of their British citizenship under to section 40(3). He submitted that section 40(3) provided for only three bases for deprivation, namely fraud, false representation and concealment of a material fact. However it was not the case that the respondent sought to deprive the appellant of his citizenship on the basis of a statutory requirement that he be of good character, as is made clear at [73] of the deprivation decision. Rather, the good character declaration made by the appellant was in itself a false representation and misrepresentation, when he was a person who had consistently provided false details of his identity and place of birth and lied about his circumstances, including within his naturalisation application itself. Further, as Mr Tufan submitted, the 'good character' requirement was set out in Home Office guidance, in Chapter 55: Deprivation and Nullity of British citizenship" and Chapter 18: The Good Character Requirement. The deprivation decision referred to that guidance at length, explaining why and how the appellant did not meet the 'good character' requirements for naturalisation.

24. For all of these reasons it is clear that this is a case where the respondent gave detailed and anxious scrutiny to the appellant's circumstances: to the basis of his original grant of leave and the subsequent grants of indefinite leave and naturalisation as a British citizen; to the reasons provided by the appellant for making false declarations and information about his identity and date and place of birth; to the explanation he provided for maintaining those false details; and to his claim to have had no deliberate intention to deceive. It is a case where the respondent, having considered all of these matters, then went on to provide detailed and cogent reasons for rejecting the appellant's claims, reasons and explanations and for concluding that this was a deliberate deception which intentionally enabled him to obtain the benefit of a policy to which he was not entitled and which he then deliberately maintained throughout the immigration and nationality process

enabling him to obtain settlement and naturalisation. For the reasons properly and cogently given by the respondent, this was a case where, had the appellant's genuine details been known, he would not have been granted status in the first place and, had his deception been known by the respondent, he would not have been granted settlement and naturalisation and would not have been entitled to British citizenship. The appellant had, at each stage of the process, a full opportunity to provide his correct details but did not do so until concerns were raised by HMPO about his identity and his case was referred to the Home Office for investigation. There is no basis for concluding that there was any procedural impropriety or unfairness in the process leading to the deprivation decision and it seems to me that the respondent was fully and properly entitled to conclude that the appellant's deception was material to the grant of leave, settled status and ultimately citizenship, to conclude that the condition precedent in s40(3) had been met and to take steps to deprive the appellant of that citizenship.

25. In that latter respect Mr Tufan referred, by way of completeness, to the recent case of Kolicaj (Deprivation: procedure and discretion) Albania [2023] UKUT 294 which considered the exercise of discretion by the respondent after being satisfied that the condition precedent had been met. He submitted that in the case before this Tribunal, it was clear that the respondent had exercised her discretion and had done so properly. Although Mr Saleem responded by submitting that discretion was not considered by the respondent and that the decision was not a balanced one, he did not elaborate upon this and indeed had not raised it as a separate matter of contention prior to Mr Tufan's submission. It seems to me, in any event, that Kolicaj involved very different circumstances and was a case where the deprivation decision had been made on the grounds of being conducive to the public good, pursuant to s40(2), rather than s40(3) and, as such different considerations applied. It is clear in this appellant's case that, unlike in Kolicaj, the appellant had been notified in advance of the respondent's concerns in an investigation letter dated 10 November 2020 and was specifically advised that the Secretary of State was considering depriving him of his citizenship. He was given an opportunity to respond, with specific questions put to him, and he did so, through his solicitors, on 26 November 2020, in a lengthy and detailed letter (annex AA1 of the Home Office bundle), attaching various documents. All of that was fully considered by the respondent, from [48] to [80] of the decision of 15 March 2021, who then expressly referred, at [81], to the discretion to make a decision a decision to deprive, and went on to consider further factors including Article 8, statelessness and the effects of deprivation, before concluding that deprivation was reasonable and proportionate. The respondent's reasons for concluding that discretion should be exercised in favour of deprivation were fully and cogently explained and were undoubtedly properly given, having regard to the matters already discussed above.

26. The answers to the first two of the questions posed in Chimi are, therefore, that the respondent did not err in law when deciding that the condition precedent in s40(3) was satisfied and did not err in law when she decided to exercise her discretion to deprive the appellant of British citizenship. Although it is not necessary to do so, I would add that I would have reached the same conclusion if it had been open to me to stand in the shoes of the Secretary of State and undertake a full merits review myself.

27. That then leaves the final question in the headnote to Chimi - whether, weighing the lawfully determined deprivation decision against the reasonably foreseeable consequences for the appellant, the decision is unlawful under s6 of the Human Rights Act 1998.

28. Although Mr Saleem argued that the respondent's decision was not a reasonable and proportionate one, he did so only on the basis of the submissions made in relation to the

issues already discussed. He did not raise any further matters. I note that the skeleton argument before the First-tier Tribunal does not raise any other material issues. Although there is a reference in the skeleton argument to delay, Mr Saleem did not seek to argue before me that there was any material delay by the respondent in instigating deprivation proceedings and in making the deprivation decision. Indeed it cannot be said that the passage of time between the matter first coming to the attention of HMPO when the appellant applied for passports for his children in 2015, and the deprivation decision in March 2021, constitutes an unreasonable delay, when considering that enquiries were made to the appellant and an explanation sought at that time and after his own passport application in 2017 and the matter was passed to the Home Office in November 2020 after further communication in which the appellant admitted to having provided false details. The respondent's deprivation decision was then made less than a year after the appellant's response to the investigation letter.

29.As for any reasonably foreseeable consequences for the appellant of deprivation, no submissions have been made in that regard. The appellant has provided no information or evidence since his statement of 11 April 2018 sent to HMPO with his further application to renew his passport. He did not attend the hearing before Judge Randall and did not provide any statement or further evidence for that hearing and neither has he produced anything further since then. He was, in fact, in Iraq at the time of the hearing before Judge Randall and, as Mr Saleem informed me, is currently in Iraq. There is no evidence to show that he has returned to the UK in the meantime, when he would be returning and how long he has been in Iraq. There is no evidence of any family or private life established in the UK and no evidence of how being deprived of his British citizenship would in fact impact upon him. In the circumstances there is no basis for concluding that the deprivation decision is disproportionate or for concluding that it would be in breach of the appellant's Article 8 human rights.

30.For all these reasons, and having taken account of all of the matters drawn to my attention, I have reached the conclusion that this appeal must be dismissed.

DECISION

31.The Secretary of State's appeal against the decision of the First-tier Tribunal having been allowed and the decision of Judge Randall set aside, the decision is re-made by dismissing the appellant's appeal.

Signed: *S Kebede*
Upper Tribunal Judge Kebede

Judge of the Upper Tribunal
Immigration and Asylum Chamber

22 December 2023