IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-005117

First-tier Tribunal No: HU/60459/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 10th of December 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE WILDING

Between

MR NODAR GLONTI
(ANONYMITY ORDER NOT MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms C Bayati, Counsel, instructed by Sterling Law
For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

Heard at Field House on 12 September 2024

DECISION AND REASONS

1. The appellant is a citizen of Georgia, born on 22 May 1973. On 5 December 2022 the respondent refused the appellant's human rights application made on the basis of his private life in the UK, having arrived in the UK in August 2006.

2. This is the remaking of the appeal following the setting aside of the First-tier Tribunal's decision in my decision of 17 May 2024. A copy of that decision is appended to this one.

Background

3. The appellant arrived in the UK in August 2006, it is not disputed that he has remained here since. He accepts that he cannot meet the provisions of the private life rules, for the purpose of this case that means he accepts that there would not be very significant obstacles to integration on return to Georgia.

4. He lives with Ms Mironova, and has done for the majority of his time in the UK. She has three children, her eldest is now at university in Guildford, the other two are aged 17 and 12 respectively. She runs a Georgian restaurant with her husband which necessitates long working hours. The appellant plays a key role in the house with her children, frequently collecting them from school and running them to after school activities and clubs. He is a core part of the household, and he would be enormously missed.

5. Ms Gordadze is a close friend of the appellant, he is godfather to her son G, they both say that he is very close to him, and he sees him 3-4 times per week. He teaches him art and helps him get involved in sporting activities. He also takes him on day trips outside of London. Ms Gordadze explains that they have a close relationship, and it is a very strong bond. The appellant also supports her if her partner is not around and she needs help with something, he is the first person she calls. She went on to say that as she and her partner do not have family members in the UK, the appellant is like a family member. His removal would be like losing a family member.

6. The appellant however submits that he has established a private life in the UK, including personal relationships, which are sufficiently weighty that would mean his removal would be disproportionate.

The hearing

7. I heard evidence from the appellant, as well as from Anna Mironova, and Nana Gordadze, friends of the appellant. The relevant parts of their evidence I have set out above.

8. I heard submissions from both representatives. For the respondent, Mr Melvin submitted that the starting point is that there are no very significant obstacles preventing his return to Georgia, the evidence is that his UK based friends would support him to a degree, and that ultimately he can return and set himself up there.

9. He went on to submit that being an active participant in the church, and being godfather to two UK children are neither ties sufficiently capable of outweighing the public interest, but also are ties which he could retain on return to Georgia. The statutory provisions of s117B(1) – (5) apply, and there is little in the case which would outweigh the public interest which has a considerable force to it in a case of someone who overstayed their visa by some 18 years.

10. For the appellant Ms Bayati submitted that there are no credibility issues in this case, that there are some retained findings from the First-tier Tribunal's decision and that the friendships he has established in the UK are of relevance and importance to his private life. In particular in relation to Ms Mironova, he has been part of the family's life since his arrival in the UK, her three children have grown up with him around, and he has played an important role in their life.

11. That the witnesses can continue their relationships over different means of communication is not the same as being in and around each other every day, and it is significant that were the appellant to go back to Georgia those friendships would be broken down. All in all the appellant's removal would be a

disproportionate interference in the appellant's private life given the connections he has in the UK.

Decision and reasons

12. I have carefully considered the evidence, both written and oral from the hearing, as well as the careful and helpful submissions from both representatives. I have reminded myself of what was said at the hearing before committing my decision to writing, but was clear in my mind after the hearing that ultimately this is an appeal which should be dismissed. My reasons for this conclusion are as follows.

13. The appellant cannot meet the requirements of the immigration rules. This is a weighty, and significant feature. That is not just because he has not been in the UK for 20 years, but that it also reflects that there would not be any very significant obstacles to his integration on return to Georgia. This is significant in my judgment.

14. I accept Ms Bayati's submission that the appellant and the witnesses gave credible evidence, they were clearly doing their best to assist the tribunal in the answers they gave. There was no gloss to their narrative, and no attempts to overstate the situation either.

15. It is clear from the witness evidence that the appellant and his witnesses have developed close ties in the UK that are an important part of his private life that he has enjoyed here since 2006. However that was a period of time entirely whilst he did not have immigration status in the UK.

16. It is noteworthy that Ms Mironova also knew that he did not have any status throughout this time, and that impacts not only the weight to be given to his private life, but the weight to be given to any impact upon her Article 8 rights were he to be removed.

17. Ms Mironova confirmed in evidence that she has returned to Georgia semi-frequently for holidays. She was last there in 2023, which was the first time in 2 years. She also confirmed that were the appellant to be in Georgia, she would visit him when she would return. Ms Mironova has come to rely on the appellant at home, in her words he is part of their daily life, he collects her children from school when necessary, or takes them to an afterschool club or similar. She described him as "like an uncle".

18. Whilst she denied in cross examination that it is "quite convenient" for him to be in the UK, the appellant's presence in the UK has certainly helped Ms Mironova and her husband in their lives. I accept her evidence that there is no abuse of the appellant by her or her family, I nevertheless cannot overlook that the appellant's presence has very much been convenient to her and her family during the 18 years he has lived here for. That is not to downplay the fondness and attachment they have for him, but is reflective upon the way in which that has developed. This is in no small part due to her and her husband's family restaurant business, which means they are out in the evenings until very late.

19. I am obliged to apply the provisions of s117 of the Nationality, Immigration and Asylum Act 2002:

117BArticle 8: public interest considerations applicable in all cases

(1) The maintenance of effective immigration controls is in the public interest.

(2) It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are able to speak English, because persons who can speak English—

(a) are less of a burden on taxpayers, and

(b) are better able to integrate into society.

(3) It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are financially independent, because such persons—

(a) are not a burden on taxpayers, and

(b) are better able to integrate into society.

(4) Little weight should be given to—

(a) a private life, or

(b) a relationship formed with a qualifying partner,

that is established by a person at a time when the person is in the United Kingdom unlawfully.

(5) Little weight should be given to a private life established by a person at a time when the person's immigration status is precarious.

(6) In the case of a person who is not liable to deportation, the public interest does not require the person's removal where—

(a) the person has a genuine and subsisting parental relationship with a qualifying child, and

(b) it would not be reasonable to expect the child to leave the United Kingdom.

20. The enforcement of immigration control is in the public interest as per s117B(1). The appellant speaks some English, and he has not been a financial burden on the State in his time in the UK. These are neutral factors in the assessment for the purposes of (2) and (3).

21. The appellant does not advance a family life case with a qualifying partner, or indeed at all, however he does advance a private life case. His entire private life, other than the very initial time as a visitor, has developed in the UK whilst here unlawfully as per s117B(4).

22. In my judgment balancing the private life he has established here, with the public interest, I find that the public interest in his removal outweighs the private

life he may have here. His removal would not erase the friendships he has made in the UK, and indeed the close friendships he has made here can no doubt be maintained by visits to Georgia, or through alternative means of communication.

23. I place some weight on the close bond he has, in particular, with Ms Mironova, albeit she knew at all material times that he did not have any status in the UK, nevertheless it is a part of his private life that is important to him, and I accept that Ms Mironova and her family will have affection and connections with the appellant which both he and they will miss were he to be removed. However that entire relationship was developed when he had no status, it very much appears that the appellant buried his head in the sand over the years in relation to regularising his status, and the situation he finds himself in is no one but his own doing.

24. Similarly I find that there may well be affection between the appellant and Ms Gordadze's family, in particular G to whom he is godfather to. However, I have limited evidence of his relationship with her and her family. He does not live with them, and whilst he may see them fairly regularly, again I find that the disruption to his, and their, private lives are entirely down to decisions he has made.

25. I find that whilst he may have a close bond with G, it is not suggested that it is akin to a family life, and indeed I have very little evidence by way of the connection with G. I accept he is G's godfather, and that he may well be of great assistance to Ms Gordadze in helping her with George, as well as taking his responsibilities as a godfather seriously. However this relationship is one which plainly can continue from afar, there is no evidence that the appellant's removal would significantly impact G's life, or be detrimental to him. I am willing to accept that there may be a degree of upset or readjustment were the appellant to be removed, however the evidence before me does not show that such disruption to be anything other than the ordinary disruption experience by adults and children throughout life.

26. The appellant is connected to the church in locality, there is no reason to think he could not find a church on return to Georgia. He volunteers at the church and I have little doubt that is valuable to the church and wider community, however there are churches in Georgia where he could volunteer. Indeed the appellant accepts that there are not very significant obstacles to his integration on return to Georgia.

27. It is said that the appellant is godfather to another child in the UK, EK, I have limited information about her, and certainly no evidence to which I can assess the strength of their relationship. I am prepared to accept that he is her godfather, and that he may see her.

28. Within the bundle I have some supporting letters from people who did not come to give evidence. I place limited weight on those documents as a result, further some of supporting letters area plainly letters written to generate sympathy for the appellant, and claim, for example in the letters from Igor Konstantinopolsky, Tinatin Imerlishvili, Grigol Chichua, and Nestan Kvavadze, that he is at risk of persecution and danger in Georgia. This has never been advanced by the appellant, and I place very little weight on their letters.

29. Drawing all the above strands together I find that the appellant's removal is proportionate when balanced against the public interest. His appeal is therefore dismissed.

Notice of Decision

The appeal is dismissed.

Judge T.S. Wilding

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

Date: 6th December 2024

Annexe

IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-005117

First-tier Tribunal No: HU/60459/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:

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DEPUTY UPPER TRIBUNAL JUDGE WILDING

Between

MR NODAR GLONTI
(ANONYMITY ORDER NOT MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms C Bayati, Counsel, instructed by Sterling Law
For the Respondent: Mr D Clarke, Senior Home Office Presenting Officer

Heard at Field House on 26 March 2024

DECISION AND REASONS

1. The Secretary of State appeals with permission against the decision of First-tier Tribunal Judge Lewis ('the Judge') who allowed the appellant's appeal on private life grounds on 3 November 2023.

Background

2. The appellant is a citizen of Georgia, born on 22 May 1973. On 5 December 2022 the respondent refused the appellant's human rights application made on the basis of his private life in the UK, having arrived in the UK in August 2006.

3. He appealed and his appeal came before the Judge on 2 November 2023. The appeal was allowed. The Judge found that the appellant could not meet the

immigration rules, and in particular that there were no very significant obstacles to his integration on return to Georgia. In relation the matter outside the rules, the Judge allowed the appeal on the following basis:

Article 8 balancing exercise

22. The public interest lies in the maintenance of effective immigration controls. To strike a fair balance between the competing public and individual interests involved, I adopt a balance-sheet approach.

23. The appellant speaks English. Although he chose to give evidence through an interpreter he followed and participated in proceedings in English. The appellant has not been a burden on the tax payer as he has been financially supported by others. These are neutral factors.

Public interest factors against the appellant

24. Although the appellant entered the UK lawfully his immigration status has been precarious. Little weight should be given to a private life at a time when a person's immigration status is precarious. This does not mean that no weight can be given to the appellant's private life.

25. The appellant has worked in the UK and been convicted of an offence too. His sentence (a fine) indicates that his offending was considered by the Court to be at the lower end of seriousness. The public interest in immigration control is (in part) to prevent offending and working when not permitted to do so.

26. The appellant's relationships with many of his friends can continue in a different form using the telephone, messages, video calls and the like.

Private life factors in favour the appellant, in particular

27. The appellant has been in the UK for a substantial period of time. Although I am obliged to give the appellant's private life little weight, I do give it some weight. The length of time the appellant has spent in the UK is relevant.

28. It is clear that he has built long and meaningful relationships in the UK with the Georgian community. He is described by Mr. Izakadze as 'like a brother'. Although these relationships could in part continue by modern means of communication, given the prominent role that the appellant plays in their lives and the lives of their family and children, I find that the appellant's private life would be reduced if returned to Georgia. The financial, practical and emotional support given to the appellant over his time in the UK is evidence of the very strong bonds that he has formed in his private life in the UK.

29. I find the appellant's relationship with Anna Mironova and her family as particularly important and I give it very significant weight. The appellant has been living with them constantly since 2007. He is deeply ingrained in their lives and they in his. This relationship would be able to continue in part if the appellant were returned to Georgia, but there would be far more limited that it currently is. I do not find that this essential element of the appellant's private life is capable of being replicated in Georgia.

30. Striking a fair balance between the competing public and individual interests involved, I find that the factors raised by the appellant outweigh the public interest.

4. The respondent appealed and made two central points:

a. The Judge had failed to properly consider the basis upon which the appellant was not able to meet the immigration rules.
b. The Judge has failed to undertake a holistic assessment of why the appellant would face unjustifiably harsh consequences on return to Georgia, and, as elaborated upon in the grant of permission from Upper Tribunal Bruce, has failed to explain why the interference caused to the friendships in the UK would be a matter of sufficient weight to displace the public interest.

5. Permission was granted by Upper Tribunal Judge Bruce on 28 December 2023.

The hearing

6. The two representatives made helpful and focussed submissions. Ms Bayati had also provided a helpful skeleton argument/rule 24 response.

7. At the end of the hearing I told the parties I considered that there was a material error of law in the Judge's decision such that it had to be set aside, with my written reasons to follow.

Decision and reasons

8. The Judge found at paragraph 15 that there were no very significant obstacles to the appellant's integration on return to Georgia. The Judge then went on to consider the evidence from his friends in the UK before turning to the 'balance sheet approach' that I have set out above.

9. The Judge set out the public interest factors both against the appellant, and in his favour, however we cannot see anywhere the Judge taking the failure to meet the rules into account. This is a relevant consideration of the public interest, and one which the Judge has failed to identify in his assessment. If this was the only error in an otherwise careful analysis it could be said to not be material, however as I outline below I consider that the Judge has failed in the second respect of the respondent's grounds of appeal.

10. The Judge, having set out the negative and positive factors in the appellants case, then simply concludes at paragraph 30 that the balancing the competing factors the appellant's case outweighs the public interest. There is no reasoning given, and no analysis as to why the balance falls in the appellant's favour.

11. In her submissions Ms Bayati took me through several parts of the witness statements before the Judge to demonstrate the strength of the case, however I do not see any analysis of that evidence by the Judge. There is no consideration, assessment or balancing undertaken to weigh the private life relied on, with the public interest.

12. The appellant's case is that his private life developed, in particular, with Anna Mironova and her husband and children, is of such significance that it would have a significant impact on both him, and on them. However that evidence is reduced, in the Judge's decision, to paragraph 21:

21. I also heard evidence from Anna Mironova. She and her husband have provided accommodation to the appellant for the last 17 years. They have provided his with food, clothing and give him money to meet his needs when they can.

13. The above is plainly inadequate as to the positive case advanced, and inadequate in outlining why it is said that the appellant's removal would breach his Article 8 rights. The witness statements give more detail than the Judge analysed, the Judge purportedly does so in paragraph's 29 and 29:

28. It is clear that he has built long and meaningful relationships in the UK with the Georgian community. He is described by Mr. Izakadze as 'like a brother'. Although these relationships could in part continue by modern means of communication, given the prominent role that the appellant plays in their lives and the lives of their family and children, I find that the appellant's private life would be reduced if returned to Georgia. The financial, practical and emotional support given to the appellant over his time in the UK is evidence of the very strong bonds that he has formed in his private life in the UK.

29. I find the appellant's relationship with Anna Mironova and her family as particularly important and I give it very significant weight. The appellant has been living with them constantly since 2007. He is deeply ingrained in their lives and they in his. This relationship would be able to continue in part if the appellant were returned to Georgia, but there would be far more limited that it currently is. I do not find that this essential element of the appellant's private life is capable of being replicated in Georgia.

14. The above paragraphs are found in the section of the private life factors in the appellant's favour, however is in many respects devoid of meaning without the analysis as to the respective weight given to it, and crucially why they outweigh the public interest.

15. The Judge has purportedly undertaken a 'balance sheet' approach to the Article 8 analysis, however whilst such an approach has been endorsed, what is still required is an analysis as to the actual balancing exercise, with reasons, as to why an outcome is reached. In this case that required why the private life the appellant is found to have established outweighed the public interest in a case where there were no very significant obstacles to integration on return.

16. For the above reasons I set aside the Judge's decision. I make the following directions:

a. The case is to be retained in the Upper Tribunal before Deputy Upper Tribunal Judge Wilding.
b. A Georgian interpreter is required.
c. Insofar as they can be identified as findings at paragraphs 13 – 21 are retained.
d. The appellant at liberty to file any further evidence as advised, no later than 7 days before the resumed hearing.
e. The appeal to be listed for 90 minutes.
f. The appal to be listed for counsel's convenience. Can Ms Bayati's clerks liaise with the Tribunal to fix a date.

Notice of Decision

The decision of the First-tier Tribunal is set aside.

Judge T.S. Wilding

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Date: 17th May 2024