



**IN THE UPPER TRIBUNAL  
IMMIGRATION AND ASYLUM  
CHAMBER**

Case Nos.: UI-2023-005520

First-tier Tribunal Nos:  
HU/58211/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 24<sup>th</sup> of April 2024

**Before**

**UPPER TRIBUNAL JUDGE SMITH**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**And**

**M I R**

**[ANONYMITY DIRECTION MADE]**

Respondent

**Representation:**

For the Appellant: Mr K Ojo, Senior Home Office Presenting Officer

For the Respondent: Mr M S Gill KC, Counsel instructed by Taj Solicitors

**Heard at Field House on Tuesday 16 April 2024**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Respondent (MIR) is granted anonymity. That is due to the potential impact of disclosure of his identity on his wife and children. No-one shall publish or reveal any information, including the name or address of the Appellant, likely to lead members of the public to identify the Appellant. Failure to comply with this order could amount to a contempt of court.**

## **DECISION AND REASONS**

### **BACKGROUND**

1. This is an appeal by the Secretary of State. For ease of reference, I refer to the parties as they were in the First-tier Tribunal. The Respondent appeals against the decision of First-tier Tribunal Judge G D Davison dated 9 December 2023 (“the Decision”) allowing the Appellant’s appeal against the Respondent’s decision dated 28 October 2022 refusing his human rights claim, made in the context of a decision to deport the Appellant to Bangladesh. The Appellant’s human rights claim is based in the main on his relationship with his wife and children. I have continued the anonymity direction made by the First-tier Tribunal for that reason due to the potential impact of disclosure of the Appellant’s identity on his wife and children. In particular, the Appellant’s wife, SA, has a former partner who continues to cause her problems. I make clear that I have not protected the Appellant’s identity in order to avoid disclosure of his criminal convictions.
2. The Appellant came to the UK in December 2000 as a child aged ten years, with a visit visa. He overstayed. He was left in the UK by his parents in the care of his older brother who had a malign influence on the Appellant when he was growing up. He left school aged fourteen to avoid discovery by the authorities. The Appellant began a relationship with SA in 2006 whilst still a minor.
3. In 2011, the Appellant was sentenced to nine years for wounding with intent to do GBH. Neither I nor Judge Davison have any evidence from the Respondent about the nature of that offence save for the PNC record. The sentencing remarks are apparently no longer available. The offence is dealt with in scant detail in the Appellant’s supplementary witness statement ([B/373-377]) and the skeleton argument before the First-tier Tribunal ([B/38]). It appears from what is there said that the offence may have been a knife crime and possibly, as suggested by Mr Gill, against a background of involvement with drugs (see earlier conviction at [B/387]). That may explain the length of sentence. The offence was committed whilst the Appellant was still a minor. He was released from custody on licence in 2014.
4. The Appellant resumed his relationship with SA in 2018 and they later married in an Islamic ceremony. SA has a child from a previous relationship and the couple have two children now aged three years and two years respectively. SA has been involved in highly contentious Family Court proceedings with her former partner in relation to contact with his child. It is said in the Appellant’s supplementary statement that her former partner was violent to SA and has “numerous criminal convictions for drug supply/violent offences”. It is said that he has been making applications to put a strain on the relationship between the Appellant and SA and/or to cause problems for SA. SA apparently suffers from anxiety as

a result. On 29 October 2019, the Appellant applied for leave to remain based on his relationship and residence in the UK. That culminated in the decision under appeal, following deportation action begun in December 2020.

5. As the Appellant has been sentenced to a period in excess of four years, he cannot rely on the exceptions in section 117C Nationality, Immigration and Asylum Act 2002 ("Section 117C"). Judge Davison however considered those exceptions. He concluded that the Appellant could not meet exception 1 (Section 117C (4)) not least because he had not been lawfully resident in the UK for most of his life. The Judge found him to be socially and culturally integrated but did not accept that there would be very significant obstacles to the Appellant's integration in Bangladesh. He concluded at [30] of the Decision that "[t]he appellant therefore falls a long way short of meeting Exception 1".
6. In relation to the second exception (Section 117C (5)), the Judge found, for reasons set out at [34] of the Decision, that deportation would be unduly harsh for SA and their children.
7. Having directed himself as to the test which applies under Section 117C (6) at [36] to [38] of the Decision, the Judge set out his reasons for finding in the Appellant's favour at [41] and [42] of the Decision. I will return to those reasons below.
8. The Respondent appeals the Decision under one heading namely that the Judge has materially misdirected himself when considering whether there are very compelling circumstances over and above the two exceptions which mean that the Appellant should not be deported. Although Mr Gill in his skeleton argument dealt with the grounds under three separate headings, they are in truth all one ground addressed to the same part of the Decision.
9. The Respondent argues that the Judge has erred by attaching significant weight to the delay in deporting the Appellant, has failed to show that there are very compelling reasons and has failed properly to recognise the seriousness of the offence.
10. Permission to appeal was granted by First-tier Tribunal Judge Saffer on 30 December 2023 on the basis that it was arguable that the judge had "not adequately dealt with the nature of the offending behaviour or adequately reflected the public interest in deportation".
11. The matter comes before me to determine whether the Decision contains an error of law. If I conclude that it does, I must then consider whether to set aside the Decision. If I set aside the Decision, I must then either re-make the decision or remit the appeal to the First-tier Tribunal to do so.
12. I had before me a consolidated bundle containing the core documents relating to the appeal before this Tribunal and including also the

Appellant's and Respondent's bundles before the First-tier Tribunal. I refer to documents in that bundle so far as necessary as [B/xx]. I also had a skeleton argument from Mr Gill.

13. Having heard from Mr Ojo and Mr Gill, I indicated that I would reserve my decision and provide that with reasons in writing which I now turn to do.

## **DISCUSSION**

14. The Respondent has not taken issue with the Judge's findings in relation to Section 117C (4) and Section 117C (5). As set out above, that means that Judge Davison was entitled to find as he did that the first exception was not met by a wide margin but that the second exception was made out. The impact of deportation of the Appellant would have an unduly harsh effect on SA and their children.
15. Although the Respondent has categorised his grounds as a material misdirection in law, no issue is taken with the Judge's self-direction in relation to Section 117C (6). Having referred to relevant case-law, the Judge said this at [38] to [40] of the Decision by way of a summary of the assessment he had to undertake:

"38. Before undertaking a consideration of these factors I again remind myself again of the cumulative weight of all these points needing to be balanced against the very strong public interest in deportation and the sliding scale provisions regarding sentence as mentioned above. In a case such as this these factors are not easily overcome. The importance of ascribing proper weight to the public interest has been repeatedly emphasised by the higher courts (Laws LJ in *SS (Nigeria) [2014] 1 WLR 998*; and *Hesham Ali [2016] UKSC 60*, paragraph 38).

39. A 'balance sheet approach' with the factors militating both for and against deportation: *Hesham Ali [2016] UKSC 60* (paragraphs 82-84) ought to be utilised. I have to approach the question holistically, considering whether the circumstances exist 'by themselves or in conjunction with other factors relevant to the application of Article 8': *NA (Pakistan) v SSHD & Ors [2016] EWCA Civ 662* (paragraph 30).

40. As noted above the matters to be taken into account when considering 'very compelling circumstances' are not limited to relationships with partners and children and/or length of residence/integration only, and can include the full spectrum of Article 8 issues. (*Kiarie and Byndloss* - paragraph 55)."

16. As I say, that self-direction is not challenged by the Respondent and is impeccable. The Judge then went on to consider Section 117C (6) as follows:

"41. On the Appellant's side of the balance are the length of time he has spent in the UK (tempered by the fact very little of it was with lawful status). The fact he committed this offence many years ago, the fact that since his release in 2014 he has committed no further offences. Although very serious this was a one off offence committed before he was 18 years of age. He is now a family man of 3 children (two biological and one who views him

as her father). His wife's partner has been causing issues for her and this has caused a great deal of anxiety and stress for her. As set out above I have found his wife and children could not leave the United Kingdom/it would not be appropriate to expect them to do so. I find the risk to the public of the commission of further offences to be low again for the reasons given. I note the deterrent effect of deportation and place appropriate weight on the same.

42. Having reviewed all matters, with the most anxious scrutiny and with the highest standard of fairness in mind I find, in balancing all matters as set out above that the appeal stands to be allowed. I find there to be very compelling circumstances over and above the exceptions which mean the deportation of the Appellant is not in the public interest. Had the respondent sought to remove the appellant immediately upon completion of his criminal sentence the outcome of this appeal may well have been very different. The respondent could point to no reason in the delay in instigating deportation procedures other than maladministration. Whilst I take note of the fact that the appellant himself did not make an application until 2019, I also find the delay by the respondent to be relevant. That delay has led to the rebuilding of the appellant's family life with his wife and the birth of his 2 children. That delay has afforded him many years to show that he will not commit further offences. Again, whilst in no way diminishing the seriousness of the offence as is reflected by a nine-year sentence being handed down to someone who at the time of commission was 17 years of age, I do accept the appellant's evidence that he committed this crime when he was at a very different stage of life than he is now. He is now 31 years of age he has good insight and remorse for what has happened. I accept his evidence that he wishes to rebuild his life and be a positive influence on both his own family and society more generally. I accept that in prison he undertook various courses to assist in this regard. In conclusion having considered the great weight that the appellant needed to displace and the deterrent effect that deportation serves I find for the reasons given that the appeal nevertheless stands to be allowed."

17. It cannot be said that the Judge did not give weight to the public interest. In addition to the numerous references to the public interest and the strength of it at [38], [41] and [42] of the Decision, the Judge referred to it at [22] and [23] of the Decision as follows:

*"22. SC (Jamaica) v Secretary of State for the Home Department [2022] UKSC 15, Deportation of foreign criminals is conducive to the public good and in the public interest (Section 117C (1)).*

*'21.....So, rather than it being a matter for the SSHD to decide under section 3(5)(a) of the Immigration Act 1971, Parliament has stated in section 32(4) of the UKBA 2007 that it is conducive to the public good to deport 'foreign criminals'; see RU (Bangladesh) v Secretary of State for the Home Department [2011] EWCA Civ 651, paras 11 and 34.'*

23. Further, I remind myself of section 117C (2) that the more serious the offence the greater the public interest. I find that the 'sliding scale' approach means that the public interest is given even greater weight in the overall balancing exercise due to the length of the appellant's sentence."

18. I accept that there is little reference in the Decision to the offence or the nature of it. Paragraph [17] of the Decision simply records the fact of the

conviction and the offence (taken I assume from the PNC report which the Judge did have).

19. Mr Gill submitted that the Judge did not have to say more as the facts of the offence were not disputed. That may well be the case as to the facts of the offence, but the details of the offence are still limited. However, the Judge cannot be criticised in that regard as he had very little detail. As I have already noted, the Appellant deals with the offence in scant detail in his supplementary statement [B/373-377]. It is there also noted that the Respondent had been directed to provide the PNC record and sentencing remarks but that the sentencing remarks were not on the system and could not be found. The Appellant says that he could not provide these. He could perhaps have provided more detail than he did at [10] of that statement but it was for the Respondent to draw out that evidence in cross-examination if he wished to emphasise the very serious nature of the offence. The Judge took account of the length of sentence when considering its seriousness at [42] of the Decision. It is difficult to see what more he could have said based on the evidence he had.
20. The real gravamen of the Respondent's grounds is the Judge's finding in relation to delay as set out at [42] of the Decision. Mr Gill suggested in his skeleton argument and again in his submissions that the Respondent had misread the Decision because the Judge did not say that he was placing significant weight on delay. However, I agree with Mr Ojo's submission in response. On a fair reading of [42] of the Decision, it is delay which pushed the case over the boundary in the Appellant's favour. The Appellant could not succeed based on the second exception alone. The Judge had found that the first exception was not met by a wide margin. It is difficult to read [42] of the Decision other than as placing decisive weight on the fact of delay in deporting the Appellant.
21. I turn then to whether that discloses an error.
22. The Respondent in his grounds relies on the guidance given by this Tribunal in RLP (BAH revisited – expeditious justice) Jamaica [2017] UKUT 00330 (IAC) ("RLP") as follows:
  - (i) The decision of the Upper Tribunal in BAH (EO – Turkey – Liability to Deport) [2012] UKUT 00196 (IAC) belongs to the legal framework prevailing at the time when it was made: it has long been overtaken by the significant statutory and policy developments and reforms effected by the Immigration Act 2014 and the corresponding amendments of the Immigration Rules, coupled with YM (Uganda) [2014] EWCA Civ 1292 at [36] - [39].
  - (ii) In cases where the public interest favouring deportation of an immigrant is potent and pressing, even egregious and unjustified delay on the part of the Secretary of State in the underlying decision making process is unlikely to tip the balance in the immigrant's favour in the proportionality exercise under Article 8(2) ECHR.

23. Mr Gill made the point in his skeleton argument that the guidance, in particular (ii) of the headnote on which reliance is placed is not repeated in terms in the body of the decision. I accept that but it is reflected in substance at [22] and [23] of the decision as follows:

“22. At this juncture we turn to consider the relevant provisions of the Rules, reminding ourselves of the emphasis in Hesham Ali, these have the status of neither statutory provisions nor legal rules of any kind. They are, rather, an expression of the Secretary of State’s policy to which substantial weight must be attributed. Paragraphs 398, 399 and 399A are, in a sense, a self-denying ordinance to which the Secretary of State must give effect, subject to and in accordance with established principles of public law, having opted for the mechanism of a published policy in this way. We have reproduced these provisions in Appendix 2 above. In brief compass, these provisions of the Rules yield the following analysis and conclusions in this case:

(i) Paragraph 398(a) applies, as the sentence of imprisonment was one of four years, with the result that the deportation of the Appellant is presumptive conducive to the public good and in the public interest.

(ii) Neither paragraph 398(b) nor 398(c) applies.

(iii) The next question is whether paragraph 399 of 399A applies: this was not, properly, argued and we answer this in the negative in any event.

(iv) Thus the question becomes, per paragraph 398: is the public interest in deporting the Appellant outweighed by *“other factors where there are very compelling circumstances over and above those described in paragraphs 399 and 399A”*?

The submission of Ms Rutherford is that this test is satisfied by reason of the extreme delay on the part of the Secretary of State during the period 2002 – 2012, the hallmarks whereof were incompetence and maladministration.

23. We reject this argument. On the one hand, the delay on the part of the Secretary of State can only be characterised egregious, is exacerbated by the absence of any explanation and is presumptively the product of serious incompetence and maladministration. However, on the other hand, the case against the Appellant is a formidable one: the public interest favours his deportation; the potency of this public interest has been emphasised in a series of Court of Appeal decisions; the Appellant’s case does not fall within any of the statutory or Rules exceptions; the greater part of his life was spent in his country of origin; there is no indication of a dearth of ties or connections with his country of origin; he is culturally and socially integrated there; his family life in the United Kingdom is at best flimsy; and most of his sojourn in the United Kingdom has been unlawful and precarious. We take into account all of these facts and factors in determining whether very compelling circumstances have been demonstrated. This is a self-evidently elevated threshold which, by its nature, will be overcome only by a powerful case. In our judgement the maladministration and delay of which the Secretary of State is undoubtedly guilty fall measurably short of the mark in displacing the aforementioned potent public interest in the Article 8(2) proportionality balancing exercise. We conclude that the Appellant’s case fails to surpass the threshold by some distance.”

24. At the hearing before me, however, the Respondent placed less emphasis on this case. He did so because he recognised that the guidance in RLP was somewhat at odds with what was said about the impact of delay in deportation cases by the Court of Appeal (Jackson and Sales LJ as he then was) in Secretary of State for the Home Department v M N-T (Columbia) [2016] EWCA Civ 893 ("M N-T (Columbia)") as follows:

"35. I agree that rehabilitation alone would not suffice to justify the Upper Tribunal's decision in this case. If it had not been for the long delay by the Secretary of State in taking action to deport, in my view there would be no question of saying that 'very compelling circumstances over and above those described in Exceptions 1 and 2' outweighed the high public interest in deportation. But that lengthy delay makes a critical difference. That lengthy delay is an exceptional circumstance. It has led to the claimant substantially strengthening her family and private life here. Also, it has led to her rehabilitation and to her demonstrating the fact of her rehabilitation by her industrious life over the last 13 years. This is one of those cases which is on the borderline. The Upper Tribunal might have decided either way. The Court of Appeal would not have reversed the Upper Tribunal's decision if the Upper Tribunal had decided that because of the high public importance the claimant must be deported. In the event the Upper Tribunal decided this matter in favour of the claimant. This was, in my view, an evaluative decision within the range which the Upper Tribunal was entitled to make. I therefore conclude that the Upper Tribunal was entitled to hold that there were in this case very compelling circumstances over and above those described in Exceptions 1 and 2, which outweighed the high public interest in deportation. I therefore reject the first ground of appeal.

...

38. The fourth ground of appeal takes us into new territory. It is necessary for the purpose of this ground to consider the decision of the House of Lords in EB Kosovo v SSHD [2008] UKHL 41; [2009] 1 AC 1159. The appellant in that case came to the United Kingdom from Kosovo, being a Kosovo-Albanian. She applied for asylum in September 1999. There was delay on the part of the Secretary of State who refused the application in April 2004. Therefore the total period was four-and-a-half years, not all of which would have been delay but some significant part would have been delay. So that was a case of lesser delay than the present case. The appellant challenged the refusal of asylum and humanitarian relief before the adjudicator, the Asylum and Immigration Tribunal and the Court of Appeal, at each stage without success. However, the appellant succeeded before the House of Lords. The only passage relevant for present purposes is the discussion of the effects of delay. At paragraphs 14 to 16 of his judgment, Lord Bingham identified three ways in which delay might be relevant. Only two are relevant for present purposes, therefore I shall read out the material parts of that passage:

'14. It does not, however, follow that delay in the decision-making process is necessarily irrelevant to the decision. It may, depending on the facts, be relevant in any one of three ways. First, the applicant may during the period of any delay develop closer personal and social ties and establish deeper roots in the community than he could have shown earlier. The longer the period of the delay, the likelier this is to be true. To the extent that it is true, the applicant's



claim under article 8 will necessarily be strengthened. It is unnecessary to elaborate this point since the respondent accepts it.

15. Delay may be relevant in a second, less obvious, way. An immigrant without leave to enter or remain is in a very precarious situation, liable to be removed at any time. Any relationship into which such an applicant enters is likely to be, initially, tentative, being entered into under the shadow of severance by administrative order.

...

But if months pass without a decision to remove being made, and months become years, and year succeeds year, it is to be expected that this sense of impermanence will fade and the expectation will grow that if the authorities had intended to remove the applicant they would have taken steps to do so. This result depends on no legal doctrine but on an understanding of how, in some cases, minds may work and it may affect the proportionality of removal.'

39. In the present case, the Upper Tribunal found that delay was relevant in both of the first two ways identified by Lord Bingham - see the error of law decision at paragraphs 17 to 18 and the main decision at paragraph 19. Mr Sharland submits that the Upper Tribunal erred in taking account of the delay twice over. It should have limited this factor to the effect of strengthening family and private life ties.

40. In my view there was no error here. The Upper Tribunal found that delay operated in two of the three respects which Lord Bingham had identified in *EB (Kosovo)*. In both respects that delay was a factor in favour of the claimant. I reject therefore ground (iv) of the grounds of appeal.

41. I should perhaps add this in relation to delay. As a matter of policy now enshrined in statute, the deportation of foreign criminals is in the public interest. The reasons why this is so are obvious. They include three important reasons:

1. Once deported the criminal will cease offending in the United Kingdom.
2. The existence of the policy to deport foreign criminals deters other foreigners in the United Kingdom from offending.
3. The deportation of such persons expresses society's revulsion at their conduct.

42. If the Secretary of State delays deportation for many years, that lessens the weight of these considerations. As to (1), if during a lengthy period the criminal becomes rehabilitated and shows himself to have become a law-abiding citizen, he poses less of a risk or threat to the public. As to (2), the deterrent effect of the policy is weakened if the Secretary of State does not act promptly. Indeed lengthy delays, as here, may, in conjunction with other factors, prevent deportation at all. As to (3), it hardly expresses society's revulsion at the criminality of the offender's conduct if the Secretary of State delays for many years before proceeding to deport."

25. This judgment poses difficulties for the Respondent's arguments. Although RLP post-dates M N-T (Columbia), no reference was made to the Court of Appeal's judgment. In any event, as the Court of Appeal made clear in its judgment, cases of this nature are decided by way of evaluative assessment. Delay is or may be a relevant factor. The extent that this is so depends on other factors. So, for example, in RLP, the appellant's family life was said to be "flimsy" and he was said to remain socially and

culturally integrated in his home country and not the UK. That is different from the case before me. On the other hand, M N-T had indefinite leave to remain prior to her convictions. In this case, the Appellant has had no leave to remain leading Judge Davison to find that the private life exception was not met by a wide margin.

26. That brings me on to the Respondent's argument that the delay should not be counted against him and in favour of the Appellant because the Appellant, being a person who has never had leave to remain, should have left the UK in the period between his release from custody in 2014 until he made his application until 2019. Aside the factor that the Appellant could not have left whilst he was on licence conditions, it is of course the case that the appellant in EB (Kosovo) (as cited in M N-T (Columbia)) never had leave to remain either.
27. Turning then to EB (Kosovo), Mr Ojo argued that the Judge had failed to have regard to all three limbs as set out in the House of Lords' judgment. Two of the limbs are as cited in M N-T (Columbia). Those, as here, were the strengthening of the individual's family and/or private life during the period of delay and increasing sense of permanence by the Respondent's failure to enforce removal/deportation. It is worth noting that the Court of Appeal considered that the taking into account in M N-T (Columbia) of only two of the limbs in EB (Kosovo) was sufficient. It is also worth noting the Respondent's submission in M N-T (Columbia) that the taking into account of both limbs amounted to double-counting (in other words that delay should have been considered in only one of the ways). The Court of Appeal rejected that argument.
28. However, for the sake of completeness, I consider the Respondent's argument that all three of the limbs set out by the House of Lords needed to be considered. The third limb is at [16] of the judgment in EB (Kosovo) as follows:

"16. Delay may be relevant, thirdly, in reducing the weight otherwise to be accorded to the requirements of firm and fair immigration control, if the delay is shown to be the result of a dysfunctional system which yields unpredictable, inconsistent and unfair outcomes. In the present case the appellant's cousin, who entered the country and applied for asylum at the same time and whose position is not said to be materially different, was granted exceptional leave to remain, during the two-year period which it took the respondent to correct its erroneous decision to refuse the appellant's application on grounds of non-compliance. In the case of *JL (Sierra Leone)*, heard by the Court of Appeal at the same time as the present case, there was a somewhat similar pattern of facts. JL escaped from Sierra Leone with her half brother in 1999, and claimed asylum. In 2000 her claim was refused on grounds of non-compliance. As in the appellant's case this decision was erroneous, as the respondent recognised eighteen months later. In February 2006 the half brother was granted humanitarian protection. She was not. A system so operating cannot be said to be 'predictable, consistent and fair as between one applicant and another' or as yielding 'consistency of treatment between one aspiring immigrant and

another'. To the extent that this is shown to be so, it may have a bearing on the proportionality of removal, or of requiring an applicant to apply from out of country. As Carnwath LJ observed in *Akaeke v Secretary of State for the Home Department* [2005] EWCA Civ 947, [2005] INLR 575, para 25:

'Once it is accepted that unreasonable delay on the part of the Secretary of State is capable of being a relevant factor, then the weight to be given to it in the particular case was a matter for the tribunal''

29. I do not understand that limb to have any relevance to this case. The delay here was in not taking action to deport the Appellant earlier. There is no issue of unfairness as between individuals in a similar position. On the facts, the Appellant had in the period following his release from custody and the making of his application in 2019 strengthened his private and family life ties. He had rehabilitated following his offending. The Judge found at [42] that the only reason for the delay in taking deportation action was maladministration. Based on the judgment in M N-T (Columbia) the Judge was entitled to take delay into account in that way. Moreover, as was said in EB (Kosovo), once unreasonable delay is accepted as being relevant, the weight to be given to it is a matter for the Tribunal.
30. For those reasons, I do not accept the Respondent's argument that the Judge was either not entitled to take delay into account or has given it too much weight. Whilst, as was said by the Court of Appeal in M N-T (Columbia), many Judges might well have reached the opposite conclusion to this Judge, that does not disclose an error of law made by this Judge. The Respondent does not submit that the Judge's conclusions were perverse. In any event, the Judge did not reach a conclusion which no reasonable Judge could have reached on these facts.

## **CONCLUSION**

31. For the foregoing reasons, I conclude that there is no error of law in the Decision. Accordingly, I uphold the Decision with the consequence that the Appellant's appeal remains allowed.

## **NOTICE OF DECISION**

**The Decision of Judge Davison dated 9 December 2023 did not involve the making of an error of law. I therefore uphold the Decision with the consequence that the Appellant's appeal remains allowed.**

L K Smith  
Judge of the Upper Tribunal  
Immigration and Asylum Chamber  
22 April 2024