IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-000185

First-tier Tribunal No: DC/50297/2021
LD/00167/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 9 August 2024

Before

UPPER TRIBUNAL JUDGE OWENS

Between

Xhuljana Lili
(NO ANONYMITY ORDER MADE)

Appellant

and

The Secretary of State for the Home Department

Respondent

Representation:
For the Appellant: Mr Wilding, Counsel instructed by A Jones Solicitors
For the Respondent: Mr Lindsay, Senior Presenting Officer

Heard at Field House on 24 April 2024

DECISION AND REASONS

1. The Secretary of State seeks to appeal against a decision of First-tier Tribunal Judge Chinweze, dated 12 December 2023, allowing Ms Lili's appeal against the decision dated 26 March 2021 by the Secretary of State to deprive her of British citizenship. Permission was granted by First-tier Tribunal Judge Mills on 8 November 2023.

The Background

2. Ms Lili is an Albanian national who married her husband, Mr Fatos Doci, in Albania on 6 September 2005. On 7 September 2005, she applied for entry clearance as his spouse. She was interviewed by an immigration officer. Ms Lili was granted entry clearance on 30 November 2005. In 2006 Ms Lili's husband applied for British citizenship. This was granted on 6 December 2006. On 16 November 2007, she applied for indefinite leave to remain. On 12 June 2013, she successfully applied for naturalisation as a British Citizen. Ms Lili became a British

citizen on 11 July 2013. Following the discovery that Ms Lili's husband had falsely claimed asylum as a Kosovan national, there was an investigation which led to a decision dated 26 March 2021 depriving Ms Lili of citizenship on the basis that she had obtained citizenship by using deception. It was said that she had knowingly entered false information about her husband's nationality in her entry clearance application, her husband's date of birth on her application for indefinite leave to remain and about his date of birth and place of birth on her application for citizenship. Ms Lili's husband was also served with a decision depriving him of citizenship. He did not appeal and he was granted limited leave to remain on 19 November 2021.

3. Ms Lili maintained that she had not stated that her husband was British when she applied for entry clearance and that she submitted her marriage certificate with the application which disclosed her husband's real identity. She asserted that the respondent's allegation in this respect is a mistake. Thereafter she submitted her marriage certificate with her application for indefinite leave to remain and made an innocent mistake when she entered the wrong date of birth. There was no intention to deceive on her part. She applied for citizenship on the basis of her long residence in the UK and her grant of citizenship was not dependent on her marriage to her husband. The allegation of deception was not made out. Further deprivation would constitute a disproportionate breach of Article 8 ECHR.

The decision

4. The judge identified the issues before him at [14] as being whether the Tribunal should adopt a "merits-based" approach or a "public law review approach" and secondly whether the deprivation decision was unlawful.

5. The judge heard oral evidence. Ms Lili's evidence was that she had no intention of being dishonest or to deceive. She had supplied her marriage certificate with the application for entry clearance. She was aware that she had inserted incorrect information into the application for indefinite leave to remain and nationality but maintained that she had submitted her marriage certificate with his application and made an innocent mistake. Mr Doci also gave evidence. He admitted claiming asylum as a Kosovan on arrival in the UK. He believed that in the entry clearance application he was recorded as being British in error by the Secretary of State.

6. At [67] the judge decided that the public law approach in line with the authorities of Begum, R. (on the application of) v SIAC & Anor [2021] UKSC 7, Chimi (deprivation appeals; scope and evidence) Cameroon [2023] UKUT 00115 (IAC) and Ciceri (deprivation of citizenship appeals: principles) [2012] UKUT 00238 (IAC) should be adopted in the examination of respondent's decision.

7. The judge then went on to decide that the Secretary of State had erred in law when deciding that the condition precedent was met. The appeal was allowed on this basis. The judge did not go on to consider Article 8 ECHR.

Grounds of Appeal

8. The grounds of appeal are expressed as follows:

Ground 1. **Material misdirection in law**.

(1) It is asserted that the judge undertook a merits-based approach to the evidence and failed to follow the appropriate public law approach to such appeals which was confirmed in Begum, Ciceri and Chimi.

(2) The judge erred when finding that the Secretary of State arguably had not acted rationally because evidence that the deception did not have a direct bearing on the grant of citizenship was ignored, by failing to identify the evidence which it is said the Secretary of State ignored.

(3) The judge made findings that Ms Lili knowingly entered false information about her husband's date of birth in her applications for indefinite leave to remain and for citizenship but has failed to state why this is not material to the Secretary of State's decision.

(4) The judge failed to apply the test of Wednesday unreasonableness.

Permission to appeal

9. Permission to appeal was granted on the following basis:

> "While the Judge concludes that he is in fact bound to apply the more restrictive public law approach, it is arguable that the Judge then goes on to conduct a full merits review in any case, allowing the appeal because he did not accept that that the appellant had practiced deception, rather than because the respondent's conclusion that she had done so was unlawful on public law grounds."

Response

10. In response, Mr Wilding submitted a lengthy skeleton argument dated 21 April 2024 attaching the Court of Appeal authority of Ullah v SSHD [2024] EWCA Civ 201 which deals with deception.

11. He submitted that the judge's decision that the Secretary of State's decision is wrong in law does not contain an error of law because the basis upon which the respondent sought to deprive the appellant of her nationality is not supported by the evidence before the respondent and is therefore unlawful and irrational.

12. The Secretary of State's grounds are opposed. Mr Wilding put forward two main arguments.

A) The judge did in fact undertake a public law review type approach and found that Ms Lili did not intend to mislead or conceal her husband's true identity at any stage and did not perpetuate his deception. As a consequence of this finding, the Secretary of State's decision to deprive was vitiated by errors of law. As such, the decision allowing the appeal was lawful and should be upheld.

B) If, however the judge did not apply a public law approach, then in doing so he did not **materially** err in law, because Chimi and Ciceri are wrong in law for the reasons set out in his extensive skeleton arguments both before the First-tier Tribunal and before the Upper Tribunal. He submits that these two decisions are not binding on either the First Tier Tribunal or the Upper Tribunal and should not be followed. The judge lawfully carried out a merits-based consideration of the appeal and her findings are lawful and sustainable.

Submissions

13. Both representatives made lengthy and detailed submissions which will be dealt with in the course of the discussion below. Mr Wilding amplified his skeleton argument. He submitted that his argument that Tribunal should take a merits-based approach in respect of s40(3) deprivation decisions was fortified by the case of Ullah.

Discussion

14. Mr Wilding appeared before the First-tier Tribunal to represent Ms Lili. It is manifest from the decision and it was agreed by both representatives that it was argued before the judge by Mr Wilding that the Begum review based approach was incorrect and that the judge should carry out a full merits based consideration of the evidence making his own findings on the question of whether the precedent fact (in this case the deception) was made out and if so, whether it was material to the acquisition of citizenship.

15. It is also agreed that having heard the arguments from both representatives the judge found that the correct approach was the public law review approach in line with Begum, Chimi and Ciceri. This can be found at [62] where the judge says:

> "The current position is that a public law approach is to be taken by Tribunals in appeals against deprivation decisions made under section 40(3) of the 1981 Act. This is confirmed in Chimi, where at paragraph 59, the UT said.
>
> ". …, it is clear that this part of the Tribunal's enquiry must also be undertaken in accordance with what was said by Lord Reed in Begum, [2021] UKSC 7. The Tribunal must therefore consider whether the respondent erred in law when deciding in the exercise of her discretion under s40(2) or 40(3) to deprive the individual of their citizenship. It is not therefore for the Tribunal to consider whether, on the merits, deprivation is the correct course. It must instead consider whether, in deciding that deprivation was the proper course, the respondent materially erred in law,"

16. And at [67] where the judge says

> "I have concluded after considering Mr Wilding's arguments that the public law approach as set out in Begum and Chimi should be adopted to in my examination of the respondent's decision to deprive the appellant of her British citizenship".

17. It is manifest from [66] that the judge was alive to the fact that errors of public law come in various forms.

18. He states:

> "I also do not consider that applying the public law approach would necessarily be unfair to the appellant. As the Upper Tribunal in Chimi said at paragraph 56 an error of law is not limited to whether the respondent has acted unreasonably. Other factors such as disregarding matters that should have been taken account could also amount to an error of law. This would include ignoring evidence that even if false information was supplied it had no direct bearing on the grant of citizenship. For the respondent to ignore such evidence would arguably mean he has not acted rationally".

19. The first question is whether the judge erred by failing to apply that public law review test when it came to examining the decision and if that error was material to the outcome of the appeal. I will set out the Secretary of State's decision in some detail as this was the decision that the judge was scrutinising.

The Secretary of State's decision

20. The decision of the Secretary of State was that Ms Lili had used deception, as a result of which, she had acquired British citizenship. It is agreed that when Ms Lili's husband claimed asylum in the UK he had claimed to be a Kosovan national when he was in fact an Albanian national. His claimed place of birth was Isniq Decan but his correct place of birth is Macukull, Mat, Albania. It is also agreed that he provided an incorrect date of birth. His correct date of birth is 10 March 1971.

21. The first allegation made by the Secretary of State in the decision letter was that in her application for entry clearance as a spouse, Ms Lili incorrectly declared her husband's nationality to be British. At the time of the application, her husband was an Albanian national. The second allegation was that in her application for indefinite leave to remain she entered her husband's false date of birth (2 January 1981) knowing that this was incorrect. The third allegation is that in both of her applications for citizenship Ms Lili entered her husband's false date of birth and false place of birth (Isniq, Decan) again knowing that these details were incorrect. The respondent's position was that Ms Lili deliberately entered this false information because she knew that if she revealed her husband's true identity this would cause problems.

22. Ms Lili submitted two Form AN's because the first was submitted on a date when she was outside the UK on the relevant date. On her first application when Ms Lili was asked if she knew of any activities relevant to the issue of good character, she ticked that she did not, despite knowing that she had completed the application forms with incomplete details. She repeated this answer on the second application.

23. Form AN carried a specific warning that to give false information on the form knowingly or recklessly is a criminal offence. On the first application form Ms Lili declared that, to the best of her knowledge and belief, the information given in the application was correct and that she knew of no reason why she should not be granted British citizenship. She also confirmed that she had read and understood the Guide Naturalisation ("Guide AN") by ticking section 6.2. Guide AN stated "You must tell us if you have practised deception in your dealings with the Home Office or other Government Departments (e.g. by providing false information or fraudulent documents).

24. She also ticked that she understood question 6.5 which reads as follows: "I understand that a certificate of citizenship may be withdrawn if it is found to have been obtained by fraud, false representation or concealment of any material fact, or if on the basis of my conduct the Home Secretary considers it to be conducive to the public good." She signed and dated this declaration 22 March 2013.

25. On the second application Ms Lili left the three boxes referred to above blank. She did not declare that the information was correct, she did not confirm that she had read the Guide AN and she did not declare that she understood that a certificate of citizenship could be withdrawn if it was obtained by fraud.

26. The Secretary of State then turned to the Nationality Instructions which gives instructions on the approach where an applicant attempted to lie or conceal the truth in a previous application or current nationality application. Her view was that Ms Lili would have been refused British citizenship under S10 and specifically S10.4.1 had the Nationality caseworker been aware that she had continued her husband's deception to the Home Office in order to avoid arousing suspicion regarding his status and with the aim of securing her own British Citizenship. The Secretary of State was of the view that Ms Lili's deception resulted in the Nationality caseworker making the decision to grant her British citizenship.

27. Ms Lili sent in representations prior to the decision. She claimed that she had provided evidence of her husband's true identity with her application for entry clearance in the form of her original marriage certificate which contained the correct details for her husband. As a result, she claimed that the respondent was aware of her husband's Albanian nationality. The respondent considered this submission but asserted that the information taken from the web-based system demonstrates that Ms Lili declared her husband to be British and that if she had submitted her Albanian marriage certificate as claimed, her spouse's details would have showed him as being Albanian. The Secretary of State maintained her view that in the original entry clearance application Ms Lili did not declare her husband's true identity and nationality. It is said that if Ms Lili had declared her husband's identity this would have prompted an investigation. In short, the respondent did not accept Ms Lili's assertion that she had declared her husband's real identity to the Secretary of State.

28. Ms Lili also claimed that she applied for citizenship on the basis of five year's lawful residence not on the basis of her marriage to her husband. The Secretary of State's view was that she was granted citizenship under 6(2) relying on her husband's identity. The Secretary of State's view is that the earlier fraud was material because it enabled her to obtain indefinite leave to remain and thereby accrue the necessary residence.

29. The Secretary of State noted that on the Nationality application form, Ms Lili had correctly declared that her husband had not been known by any other name but completed the rest of his details fraudulently. It is said that she misrepresented her husband's nationality, knowing if she had told the truth that she would not have been granted status in the UK. She referred to chapter 55 of the Nationality Guidance.

30. The Secretary of State having considered all of the evidence and the representations did not accept that there was a plausible innocent explanation for the misleading information provided. She decided that the fraud was deliberate and material to the acquisition of British citizenship.

Mr Wildings submissions before the First-tier Tribunal

31. Mr Wildings submissions are recorded at [37] of the decision. He submitted that Ms Lili did not use deception in her entry clearance application. She did not claim to be British. She submitted her marriage certificate and was interviewed. She did not obtain Indefinite leave by deception because she supplied her marriage certificate with her application for indefinite leave to remain which had her husband's correct date of birth. She applied for British citizenship on the basis of five year's residence in the UK thus the details she gave on her form in relation to her husband had no bearing on the citizenship application. He also relied at [43] on case studies in the Secretary of State's guidance where examples were given

of situations where it would not be appropriate to deprive an individual of citizenship which related in particular to partners. There is an example of a spouse of a person who had used deception in a very similar factual situation to Ms Lili. The guidance states that such an individual should not be deprived of their nationality.

32. At [46] Mr Wilding then submitted that that the respondent had failed to lawfully exercise discretion to deprive Ms Lili of citizenship because there was no consideration of the impact on her of deprivation.

Did the judge take a public law approach or a merits-based approach?

33. I am satisfied that the judge heard considerable argument on this issue and his attention was drawn to the appropriate authorities to which he manifestly had regard. As set out above the judge clarified that in his view the correct approach was the public law review approach and he directed himself appropriately at [62] and [67] to the correct authorities. [62] and [67] are quoted above and I will not repeat them here.

34. The judge was manifestly aware that he was carrying out a public law review in which he was required to identify whether the Secretary of State had made a public law error. It is trite that an experienced specialist judge should be taken to follow their own self direction.

35. I also add that this is a complex area of law and a judge's task in conducting such a review is not easy. The judge's analysis is in places muddled and imperfectly expressed which is indicative of the difficulty of the task. On first reading it appeared as if the judge carried out a merits-based assessment because of the wording he used but on closer and very careful examination, I find the situation is more nuanced and that the judge did carry out a review to consider whether the Secretary of State made findings of fact which are unsupported by any evidence or are based on a view of the evidence that could not be reasonably held.

36. At this juncture it is appropriate to set out some relevant passages of Chimi and Ciceri. Headnote (6) of Ciceri states:

> "If deprivation would not amount to a breach of section 6 of the 1998 Act, the Tribunal may allow the appeal only if it concludes that the Secretary of State has acted in a way in which no reasonable Secretary of State could have acted; has taken into account some irrelevant matter; has disregarded something which should have been given weight; has been guilty of some procedural impropriety; or has not complied with section 40(4) (which prevents the Secretary of State from making an order to deprive if she is satisfied that the order would make a person stateless)".

37. Paragraph 56 of Chimi elaborates on the type of public law error which may vitiate a decision to deprive citizenship. Paragraph 56 was of course referred to by the judge in his decision at [66] and he was aware that there was more than one type of public law error.

38. Paragraph 56 states:

> "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. In common with the observations of SIAC in paragraph 27 of U3, 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, as may the jurisdiction arising from an error of established fact derived from the case of E v Secretary of State for the Home Department [2004] EWCA Civ 49; [2004] QB 1044, or a failure to undertake sufficient enquiries commonly referred to as the Tameside duty, from Secretary of State for Education Science v Tameside Metropolitan Borough Council [1977] AC 1014. Thus, we would elaborate upon paragraph 1 of the headnote in Ciceri to make clear that the task of the Tribunal is to scrutinise the condition precedent decision in any section 40(2) and section 40(3) decision under appeal to see whether any material public law error has been established in the respondent's decision. A public law error in the decision under challenge will be material unless it is established that the decision would inevitably have been the same without the error: Smith v North East Derbyshire PCT [2006] EWCA Civ 1291; [2006] 1 WLR 3315".

39. This is a complete response to the Secretary of State's assertion in the grounds that the judge failed to apply the test of Wednesday Unreasonableness. This is manifestly not the only type of public law error which can impugn a decision.

40. Chimi also gives guidance at [61] and [62] to the types of evidence that may be considered in an error of law jurisdiction as follows:

> "The question which then arises is as to what if any material which was not before the respondent at the time the decision was reached could be taken as admissible in respect of this jurisdiction. Again, we are clearly of the view that the evidence to be considered in relation to the exercise of the error of law jurisdiction in respect of the statutory decision (as distinct from any human rights consideration) is not limited to that before the respondent at the time when the respondent's determination was made. However, any evidence must be strictly relevant and admissible only because it directly pertains to an error of law which the appellant has specifically pleaded. Furthermore, the evidence will bear upon the facts and circumstances pertaining at the time when the decision was reached. The principles are identical to those which apply in judicial review, further guidance in respect of which might be found at paragraph 23.3.3 of the Administrative Court Guide 2022 and 16-081 of De Smith's Judicial Review, Eighth Edition.
>
> It is relatively straightforward to imagine examples of where material which was not before the respondent could be admissible in order to support an argument that an error of law has occurred. The jurisdiction in respect of an established error of fact may require material to be produced so as to demonstrate that there was such an established error of fact bearing upon the decision which was reached in relation to the condition precedent and that it was material"

41. It is clear from this that in certain circumstances it is necessary to look at the evidence before the decision maker and that some evidence can be admissible to establish an error.

42. I turn to the decision. At [68] the judge says "For reasons I will set out, I find the respondent erred in law in deciding that the condition precedent was satisfied".

The judge clearly intended to set out the reasons why he had identified errors of law in the decision.

43. It is Mr Lindsay's submission that at this point the judge then departed from a review approach and instead went on to make findings of fact based on the evidence before him.

44. The judge made his findings from [69]. I comment here that in public law proceedings it may be necessary to identify what the facts were if there is an assertion that the decision maker has made an error of fact and that it may be necessary to adduce additional material in this respect (see [62] of Chimi). It may also be necessary to identify what evidence was before the decision maker at the time of the decision.

45. In this appeal, Ms Lili asserted that she had provided evidence of her husband's true identity in the form of a marriage certificate which she submitted in 2005 with her original entry clearance application. The allegation that she had claimed that her husband was British on her original entry clearance form was made in the decision itself and Ms Lili had no opportunity to dispute this prior to the appeal. At the appeal she asserted that she had never claimed that her husband was British. There was an issue over the factual basis of these assertions, and it was of course open to the judge to look at the evidence before the decision maker to decide whether the decision was lawfully taken in the sense that the Secretary of State had made findings of fact unsupported by the evidence or based on a view of the evidence that cannot unreasonably be held.

46. The judge found that Ms Lili did not inform the Entry Clearance Officer that her husband was British in her entry clearance application and gave reasons for his findings including that Ms Lili's husband did not become British until the following year, no original copy of the entry clearance application was supplied by the Secretary of State, the information was produced from a an on-line web based incomplete document, the Secretary of State did not deny that Ms Lili submitted her Albanian marriage certificate with the application which records that Ms Lili's husband was born in Albania and his correct date of birth and in her entry clearance interview she does not refer to her husband being a British citizen. The exercise that the judge was carrying out here was determining what evidence was before the decision maker when the decision maker made the decision.

47. A judge's reasoning need not be perfectly expressed. It is tolerably clear in this appeal that what the judge meant to say at [69] is that when the respondent found that the applicant used deception in her entry clearance application that the Secretary of State had made a finding of fact which was unsupported by the evidence before her, the Secretary of State had overlooked material evidence and failed to take into account material evidence, all of which are conventional public law errors. I do not agree with the assertion in the grounds that the judge failed to identify what evidence was ignored. The judge manifestly found that the evidence that was ignored was the marriage certificate and the entry clearance interview. In summary, the judge found that the Secretary of State failed to take into account that Ms Lili provided her original marriage certificate with the application which had her husband's correct details and failed to take into account Ms Lili's evidence in her entry clearance interview in which she manifestly refers to her husband being of Albanian descent, meeting him in Albania and him having family in Albania, evidence which was before the decision maker. Further, the judge finds that evidence before the decision maker was not reliable in the sense that the decision maker did not have regard to the original

application and the evidence taken from the web was inconsistent with the evidence that the Secretary of State did have before her. In other words, what the judge meant was that the evidence before the Secretary of State either was not capable of supporting the decision by the Secretary of State that the applicant used deception in her entry clearance application, or that decision maker failed to take into account material evidence and took into account unreliable evidence. The judge's wording may not be couched in public law terms but the meaning is clear and I can see no error in his approach. When deciding whether the decision was lawful, the judge was entitled to look at the evidence before the Secretary of State when she made her decision, I am satisfied that the judge carried out a public law error approach at [69].

48. I am satisfied that the judge adopted a similar approach at [70]. In this paragraph he is making findings as to what evidence was before the Secretary of State when she made the decision to grant Ms Lili indefinite leave to remain. The judge found that the Secretary of State had the marriage certificate before her. This is not the judge carrying out a merits-based review to determine whether Ms Lili had used deception but an examination of whether the evidence before the Secretary of State supported the allegation of deception. The judge's finding was not challenged.

49. I agree with Mr Lindsay that thereafter at [71], [72] and [73] the judge descends into a rather muddled merits-based assessment when he appears to be making findings on Ms Lili's intentions on the evidence before him, rather than looking at the legality of the decision itself.

50. However, at [74] the judge returns to the previous approach of deciding what evidence was before the Secretary of State when she decided the Nationality application. The judge finds that the Secretary of State had the marriage certificate before her because the Secretary of State wrote to Ms Lili specifically asking for the document and then granted the application four weeks later. I am satisfied that the judge is deciding whether the evidence before the Secretary of State was capable of supporting the allegation of deception.

51. At [76] the judge finds that Ms Lili submitted the correct details for her husband in all three of her applications in the form of the marriage certificate and that the Secretary of State did not choose to make further enquires. This was the evidence before the Secretary of State. It is manifest that the judge has found that when making the decision that Ms Lili used deception in all three applications that the Secretary of State failed to take into account material evidence and that therefore there was an error of law in the respondent's decision as to the existence of the condition precedent. This error would have also fed into the information that Ms Lili supplied in her Nationality Form and her declaration that she was of good character.

52. I am satisfied that having identified these public law errors in the decision of the Secretary of State the judge was entitled to allow the appeal on that basis because the public law errors were so fundamental that it cannot be said that the decision would inevitably been the same without the error.

53. On this basis it is immaterial that the judge on occasion veers into taking a more merits based approach at [71], [72] and [73] because his findings that there was an error of law in the Secretary of State's decision at [69], [70]. [74 and [76] were sustainable and were enough to demonstrate that there was an

error of law in the respondent's exercise of discretion capable of vitiating the entire decision.

54. On this basis I uphold the decision allowing the appeal on the basis that the Secretary of State's decision is vitiated by an error of law.

55. In these circumstances I do not need to go on to consider Mr Wilding's alternative argument that the merits based approach was in fact legally correct or his lengthy submissions on Ullah which were supported by material submitted after the hearing including skeleton arguments before the Court of appeal in Ullah.

56. I remind the Secretary of State of paragraph 58 in Chimi in which it is said:

> "In the event that the Tribunal concludes that the Secretary of State's decision is vitiated by a material public law error, the appeal will be allowed and it will, as we explain below, be for the Secretary of State to consider whether or not to make a fresh decision."

57. The effect of this decision is that it is open to the Secretary of State to make a new lawful decision taking into account the entirety of the evidence and guidance before her is she so chooses.

Notice of Decision

58. The decision of the First-tier Tribunal is upheld.

59. The Secretary of State's appeal is dismissed.

R J Owens

Judge of the Upper Tribunal
Immigration and Asylum Chamber

26 July 2024