IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-002795
First-tier Tribunal No:
DC/50189/2021
LD/00026/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 10 July 2023

Before

UPPER TRIBUNAL JUDGE MANDALIA

Between

Secretary of State for the Home Department

Appellant

and

MKM
(ANONYMITY DIRECTION MADE)

Respondent

Representation:
For the Appellant: Mr F Gazge, Senior Home Office Presenting Officer
For the Respondent: Mr P Blackwood, instructed by Newlands Solicitors

Heard at Birmingham Civil Justice Centre on 15 December 2022

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant and/or any member of his family is granted anonymity.

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 and/or any member of his family. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. This is an appeal by the Secretary of State ("SSHD"), who was the respondent before the First-tier Tribunal. The respondent, MKM, was the appellant before the First-tier Tribunal. To avoid confusion, I will continue to refer to MKM in this decision as the appellant and the SSHD as the respondent.

2. The appellant is a national of Iraq. He claimed asylum in the United Kingdom on 10th July 2002 claiming to be [MKM] born on 1 February 1981 in Makmur. He claimed that he had lived in Makmur, an area inside the Government controlled area of Iraq. In a Statement of Evidence Form completed on 18 July 2002, the appellant confirmed he had lived in Makmur and that his parents were born in Makmur. He also said that he has a brother who was born in Makmur and was living in Makmur.

3. The appellant's claim for international protection was refused by the respondent on 6 September 2002. However on 9 September 2002 he was granted exceptional leave to remain because of the particular circumstances of his case. The particular circumstances being that the appellant lived in the 'Iraqi controlled area' and the respondent's policy from 20 October 2000, was that in light of the improved conditions in the Kurdish Autonomous Zone (KAZ), only applicants from government-controlled areas were granted four years exceptional leave to remain.

4. The appellant was subsequently granted indefinite leave to remain on 25 July 2006. On 31 January 2008 he applied for naturalisation as a British citizen. He maintained that his name is MKM, and that he was born on 1 February 1981 in Makmur. He again confirmed that his parents were born in Makmur. He was naturalised as a British Citizen on 18 June 2008.

5. In 2016 the appellant applied for a passport for his son. In support of that application he relied upon an identity cared that was found by the passport office to be counterfeit. The appellant subsequently provided an electronic record that revealed that his name is [MKM] and that he was born on 17 December 1979 in Rawandooz, Erbil, a city in the Kurdistan Region of Iraq ("KRI") located in the Erbil Governorate. The information provided also revealed that the appellant had changed his forename from Rzgar to Mohamed on 19 May 2009. That was 11 months after the appellant had been naturalised as a British citizen.

6. In light of the information that had come to light the respondent referred the matter to the Status Review Unit and the appellant was given an opportunity to respond to an allegation that he had supplied a false name, date of birth, and place of birth throughout his previous dealings with the Home Office. The respondent considered the representations that were made on behalf of the appellant and on 6 July 2021 the appellant was served with a notice of decision to deprive him of British citizenship under s40(3) of the British Nationality Act 1981 ("BNA 1981").

7. The appellant's appeal against that decision was allowed by First-tier Tribunal Judge Groom ("Judge Groom") for reasons set out in a decision dated 13 May 2022. The respondent claims Judge Groom made material

errors of law in reaching her decision. The respondent advances five grounds of appeal.

(i) Despite the judge directing herself to the case of Ciceri (deprivation of citizenship appeals: principles) [2021] UKUT 00023, the judge failed to conduct a review of the respondent's decision applying public law considerations as set out in Begum [2021] UKSC 7, *at [66] to [72]*.

(ii) Judge Groom agreed with the appellant's claim that the respondent's decision did not engage with the public interest, without any reference or engagement with what is said at paragraphs [41] to [50] of the respondent's decision where there is an explicit reference to the public interest in paragraph [47]. The respondent claims Judge Groom failed to engage with the matters relied upon by the respondent.

(iii) Judge Groom made a material mistake of fact in concluding the respondent's decision was not taken at the appropriate grade. The respondent's guidance as set out in 'Chapter 55: Deprivation and Nullity of British citizenship', does provide, at 55.6.4 that *"The final decision to deprive in a fraud deprivation case should be made at SCS level (grade 5 or above)"*, however the 'final decision' to make a deprivation order has not occurred and cannot be made until the completion of the legal proceedings in light of S40(5) of BNA 1981.

(iv) Each of the errors complained of either on their own or cumulatively, are carried forward into the Article 8 assessment. Furthermore, Judge Groom refers to s117B of the Nationality, Immigration and Asylum Act 2002 but fails to explain how that is relevant to a decision made under the BAN 1981.

(v) Judge Groom has made no findings and she fails to explain what the reasonably foreseeable consequences of deprivation are, such that there would be a disproportionate interference with the appellant's family or private. The respondent claims there is an absence of reasons to justify a finding in favour of the appellant and the decision to allow the appeal is perverse.

8. Permission to appeal to the Upper Tribunal was granted by First-tier Tribunal Judge Handler on 17 June 2022 on all grounds.

The decision of Judge Groom

9. The background to the appellant's claim for international protection and his immigration history is summarised at paragraphs [2] to [9] of the decision. Judge Groom heard evidence from the appellant. The findings and conclusions are set out in paragraphs [26] to [45] of the decision. At paragraph [26], Judge Groom began by saying:

> "I find that the appellant is a national of Iraq. It is not in dispute that the appellant claimed to be a national of Iraq, from Makmur as opposed to Rawandooz and claimed that his date of birth was 1 February 1981 rather than his true date of birth which is 17 December 1979."

10. Paragraphs [27] to [31] refer to the legal framework. At paragraph [32] of the decision there is a very brief summary of the respondent's decision. At paragraph [33] of her decision, Judge Groom noted that the respondent

accepts the false name and date of birth used by the appellant were not material in themselves to any grant. At paragraph [34], the judge referred to the 'written submissions' relied upon by the appellant that the essence of the respondent's case is that the appellant, by claiming to come from Makmur rather than Rawandooz, knowingly and falsely availed himself of the respondent's then policy to distinguish between different parts of the Erbil protectorate in 2002. At paragraph [35] Judge Groom said:

> "On balance, I find it unlikely that this appellant knew and was fully aware of the Secretary of State's policy which distinguished between applicants from the GCI and KAZ areas at the time so that he intentionally claimed to originate from Makmur rather than Rawandooz to specifically take advantage of this policy."

11. At paragraphs [36] to [39] of her decision, Judge Groom addressed the claims made on behalf of the appellant regarding matters set out in the respondent's guidance; 'Chapter 55: Deprivation and Nullity of British citizenship'. She noted the claim made on behalf of the appellant that *"the final decision to deprive in a fraud deprivation case should be made at SCS level (Grade 5 or above)*" whereas here the respondent's decision letter is signed as *"ED SRU – D1"* and there is insufficient information to conclude that the decision maker in the appellant's case was of a level of seniority to comply with the Secretary of State's policy. At paragraph [39] Judge Groom said:

> "Other than the submission from Mrs Morgan, I had no other information before me to be able to accept that the decision maker was of a level of seniority to make such decisions as is clearly specified in the Secretary of State's policy. I cannot be satisfied that this was indeed the case here."

12. At paragraphs [40] and [41], Judge Groom said:

> "40. In addition, Mr Blackwood submits at paragraph 17 of his written submissions that the respondent disregarded information, which was available in 2009, regarding an email address provided by the appellant which was rizgar***@hotmail.com. However, the respondent now seeks to rely on such information as part of the deprivation decision by asserting that that the appellant continued using a different name whilst in the UK. Mr Blackwood is correct that no reference has been made by the respondent in the deprivation decision as to public interest which is specifically required in Chapter 55.7.10.2 of the BNI.
>
> 41. For all these reasons, I find on balance that the current deprivation action is inappropriate in this case as the decision is inconsistent with the Secretary of State's published policy."

13. At paragraphs [42] to [45] of her decision, Judge Groom appears to undertake a freestanding assessment of the appellant's Article 8 claim. She said:

> "43. In considering whether the respondent's decision is proportionate, I have also had regard to section 117A and 117B of the 2002 Act, as amended, the need for the maintenance of an effective system of immigration control and the public interest.

> 44. I find the appellant enjoys a genuine and subsisting family life with his wife and his three children, who hold British citizenship in the time he has lived in the UK, sufficient to engage Article 8 (1) ECHR.
>
> 45. I find there will be interference by a public authority with the exercise of his right to respect for his family and private life by the proposed removal. Such interference will have consequences of such gravity as to potentially engage the operation of article 8 ECHR. I find the decision is not in accordance with the law because the respondent's decision is inconsistent with the Secretary of State's published policy which I have found constitutes a disproportionate interference with his article 8 rights."

The hearing before me

14. Before me, Mr Gazge adopted the grounds of appeal and submits Judge Groom erred in making a finding that it is unlikely that this appellant knew and was fully aware of the Secretary of State's policy which distinguished between applicants from the GCI and KAZ areas at the time so that he intentionally claimed to originate from Makmur rather than Rawandooz to specifically take advantage of this policy. He submits the judge failed to engage with the matters relied upon by the respondent in support of her conclusion, in particular, that the false place of birth provided by the appellant was material to the grant of exceptional leave to remain in the UK. He submits Judge Groom made a mistake of fact when she concluded that she could not be satisfied that the respondent's decision maker was of a level of seniority to make such decisions. A 'final decision' cannot be made until the outcome of the appeal is known. S40 of the BNA 1981 requires that the respondent must give the person written notice specifying that the Secretary of State has decided to make an order, but that is not a final order because it is subject to the person's right of appeal under section 40A(1). Mr Gazge submits Judge Groom conducted a freestanding assessment of an Article 8 claim without considering the reasonably foreseeable consequences of deprivation.

15. In reply, Mr Blackwood submits there are two primary facts found by Judge Groom. First, the judge found, at [35], that the appellant did not obtain citizenship by fraud because he did not know of the respondent's policy. Second, at paragraph [41] Judge Groom found that the respondent's decision is inconsistent with the respondent's published policy for the reasons given at paragraphs [36] to [40] of her decision. Mr Blackwood submits that having made those two findings, in the context of the Article 8 claim, no further findings were necessary because the judge allowed the appeal and no further elaboration was necessary.

16. As far as the finding at [35] is concerned, the respondent had concluded that the appellant had provided misleading information which led to the decision to grant citizenship. The respondent concluded that the fraud was deliberate and material to the acquisition of British citizenship. Judge Groom found it unlikely that the appellant was fully aware of the respondent's policy which distinguished between applicants from the GCI areas and KAZ. Where fraud is alleged, it is the individuals actual state of mind that is in issue. Mr Blackwood submits the Judge reached a decision that was open to her.

17. Mr Blackwood submits the respondent's claim that the decision to make a deprivation order has not yet occurred is untenable. Section 40(5) of the BNA 1981 operates such that before an order is made the SSHD must give the person written notice that the SSHD has decided to make an order and Judge Groom was right to allow the appeal on public law grounds because the decision was not made in accordance with the respondent's published policy. Thus any other errors of law are immaterial to the outcome of the appeal. Mr Blackwood submits that if the statute is read as contended by the respondent and a final decision has not been reached, any further adverse decision would give rise to a further right of appeal because that decision to would be subject to s40(5) of the BNA 1981.

18. Mr Blackwood submits that at paragraph [36], Judge Groom refers to the detail set out in the skeleton argument that had been settled by him, and the Tribunal should infer that was said in the skeleton argument was accepted by Judge Groom. He submits the respondent's published guidance makes it clear, at 55.7.10, that a caseworker should consider whether deprivation would be seen to be a balanced and reasonable step to take, taking into account various factors. The guidance provides, at 55.7.10.2, that evidence that was before the respondent at the time of application but was disregarded or mishandled should not in general be used at a later stage to deprive of nationality. Here, the respondent was aware that when the appellant applied for naturalisation in January 2008 he gave his email address as 'rizgar***@hotmail.com'. Mr Blackwood submits the respondent had concluded that the appellant supplied a false name throughout all of his applications and the fact that his name at birth was not the name he was using. He submits the name of the appellant as set out on the email account was known to the respondent when the appellant applied for naturalisation.

19. Mr Blackwood submits the fact that Judge Groom considered the appellant's Article 8 claim by reference to the public interest considerations are set out in s117B of the 2002 Act is immaterial.

Decision

20. Before addressing the grounds of appeal and the submissions made by the parties it is useful to set summarise the legal framework. The BNA 1981 as far as is relevant here states:

> "40. …
>
> (3) The Secretary of State may by order deprive a person of a citizenship status which results from his registration or naturalisation if the Secretary of State is satisfied that the registration or naturalisation was obtained by means of—
>
> (a) fraud,
>
> (b) false representation, or
>
> (c) concealment of a material fact.
>
> …

(5) Before making an order under this section in respect of a person the Secretary of State must give the person written notice specifying—

(a) that the Secretary of State has decided to make an order,

(b) the reasons for the order, and

(c) the person's right of appeal under section 40A(1) or under section 2B of the Special Immigration Appeals Commission Act 1997 (c. 68).

…

40A Deprivation of citizenship: appeal

(1) A person—
(a)who is given notice under section 40(5) of a decision to make an order in respect of the person under section 40, or
(b)in respect of whom an order under section 40 is made without the person having been given notice under section 40(5) of the decision to make the order,

may appeal against the decision to the First-tier Tribunal.

…

21. Section 40(3) of the BNA 1981 therefore provides that the respondent may by order deprive a person of a citizenship status which results from his registration or naturalisation if the Secretary of State is satisfied that the registration or naturalisation was obtained by means of – (a) fraud, (b) false representation, or (c) concealment of a material fact. On appeal, the Tribunal must establish whether one or more of the means described in subsection 3(a), (b) and (c) were used by the appellant in order to obtain British citizenship. The provision has a rational objective, which is to instil public confidence in the nationality system by ensuring any abuse is tackled and dealt with accordingly. The objective is sufficiently important to justify limitation of fundamental rights in appropriate cases.

22. In Ciceri (deprivation of citizenship appeals: principles) [2021] UKUT 00238 (IAC) the Upper Tribunal set out the overarching law regarding deprivation of citizenship and the task of the Tribunal. The President referred to the principles set out by Leggatt LJ in KV (Sri Lanka) v SSHD [2018] EWCA Civ 2483 and the way in which the principles must be read in light of the judgments of the Court of Appeal in Aziz v SSHD [2018] EWCA Civ 1884, and Laci v SSHD [2021] EWCA Civ 769, and more fundamentally, in light of the judgment of Lord Reed in R (Begum) v Special Immigration Appeals Commission [2021] UKSC 7. The Upper Tribunal reformulated the relevant principles in paragraph [30] of its decision as follows:

"30. Our reformulation is as follows.

(1) The Tribunal must first establish whether the relevant condition precedent specified in section 40(2) or (3) of the 1981 Act exists for the exercise of the discretion whether to deprive the appellant of British citizenship. In a section 40(3) case, this requires the Tribunal to establish whether citizenship was obtained by one or more of the means specified in that subsection. In answering the condition precedent question, the Tribunal must adopt the approach set out in

paragraph 71 of the judgment in Begum, which is to consider whether the Secretary of State has made findings of fact which are unsupported by any evidence or are based on a view of the evidence that could not reasonably be held.

(2) If the relevant condition precedent is established, the Tribunal must determine whether the rights of the appellant or any other relevant person under the ECHR are engaged (usually Article 8). If they are, the Tribunal must decide for itself whether depriving the appellant of British citizenship would constitute a violation of those rights, contrary to the obligation under section 6 of the Human Rights Act 1998 not to act in a way that is incompatible with the ECHR.

(3) In so doing:

(a) the Tribunal must determine the reasonably foreseeable consequences of deprivation; but it will not be necessary or appropriate for the Tribunal (at least in the usual case) to conduct a proleptic assessment of the likelihood of the appellant being lawfully removed from the United Kingdom; and

(b) any relevant assessment of proportionality is for the Tribunal to make, on the evidence before it (which may not be the same as the evidence considered by the Secretary of State).

(4) In determining proportionality, the Tribunal must pay due regard to the inherent weight that will normally lie on the Secretary of State's side of the scales in the Article 8 balancing exercise, given the importance of maintaining the integrity of British nationality law in the face of attempts by individuals to subvert it by fraudulent conduct.

(5) Any delay by the Secretary of State in making a decision under section 40(2) or (3) may be relevant to the question of whether that decision constitutes a disproportionate interference with Article 8, applying the judgment of Lord Bingham in EB (Kosovo). Any period during which the Secretary of State was adopting the (mistaken) stance that the grant of citizenship to the appellant was a nullity will, however, not normally be relevant in assessing the effects of delay by reference to the second and third of Lord Bingham's points in EB (Kosovo) (see paragraph 20 above).

(6) 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).

(7) In reaching its conclusions under (6) above, the Tribunal must have regard to the nature of the discretionary power in section 40(2) or (3) and the Secretary of State's responsibility for deciding whether deprivation of citizenship is conducive to the public good."

23. The decision of the Supreme Court in Begum was concerned with deprivation of citizenship where the Secretary of State is satisfied that deprivation is conducive to the public good. The condition precedent in

such an appeal is that 'the Secretary of State is satisfied *(my emphasis)* that deprivation is conducive to the public good'. In a s40(3) case, the condition precedent is that 'the Secretary of State is satisfied that registration or naturalisation was obtained by means of fraud, etc'. At paragraphs [66] and [67] of Lord Reed's judgment in Begum, he refers to the statutory language which indicates that Parliament has conferred the exercise of this discretion on the Secretary of State and no-one else. The statutory language used in s40(2); "if the Secretary of State is satisfied that" is replicated in section 40(3).

24. I reject the submission made by Mr Blackwood that it was open to Judge Groom to decide for herself whether the appellant was aware of the respondent's policy which distinguished between applicants from the government-controlled areas and KAZ. Whilst section 40A of the Act provides for an appeal to the Tribunal rather than a review, the role of the Tribunal Judge in answering the condition precedent question is to consider whether the Secretary of State has made findings of fact which are unsupported by any evidence or are based on a view of the evidence that could not reasonably be held. The Tribunal should approach its task on (to paraphrase) essentially Wednesbury principles. Having done so, the Tribunal must decide for itself, on the evidence before it, whether depriving the appellant of British citizenship would constitute a violation of rights under the European Convention of Human Rights (usually Article 8) (Begum v SIAC [2021] UKSC 7, Ciceri (deprivation of citizenship appeals: principles [2021] UKUT 00238).

25. The respondent has recited at some length at paragraphs [8] to [19] of her decision, the applications made by the appellant and the information that he provided. The respondent addressed the representations that had been made on behalf of the appellant and set out her response to the matters relied upon by the appellant. The claim by Mr Blackwood that the respondent was aware that when the appellant applied for naturalisation in January 2008 of the appellant's name because he gave his email address as 'rizgar***@hotmail.com', was a public law error, is misconceived. An email address is nothing more than that. Here, the appellant had set out his names when he made the applications. It is difficult to see how the respondent could possibly have any grounds for suspecting the appellant's name was not as he expressly declared simply because his email address showed something quite different. The submission made by Mr Blackwood relies upon the benefit of hindsight. Looking back, it is now clear there was likely to have been some connection between the appellant's email address and his true name but that could not possibly have been known to the respondent on the information presented to her when the appellant made his applications. In any event, at paragraph [34] of the decision the respondent accepted the false name and date of birth that had been provided by the appellant were not material in themselves to any grant. The issue was the claims made by the appellant regarding his place of birth, over a considerable period and on a number of documents by reference to which the appellant was granted indefinite leave to remain

after successful completion of his ELR and which provided the settled status necessary to naturalise.

26. Contrary to what is said by Mr Blackwood, it is clear that the respondent had considered section 55.7.10 of her guidance in her decision. At paragraph [39] the respondent had said:

> "39. "*The caseworker should consider whether deprivation would be seen to be a balanced and reasonable step to take, taking into account the seriousness of the fraud, misrepresentation or concealment, the level of evidence for this, and what information was available to UKBA at the time of consideration."* [Annex W8, 55.7.10.1 refers]
>
> In summary, you provided a false name, date of birth and place of birth throughout your dealings with the Home Office, declaring these to be true and ignoring warnings on application forms that to provide false information was a criminal offence. The false place of birth was material to your grant of ELR. Your ILR was granted after successful completion on your ELR and provided the settled status necessary to naturalise. Had the nationality caseworker known the truth, your application for naturalisation would have been refused both because you were not entitled to the leave you held and because you could not meet the good character requirement. You have offered no credible explanation or mitigation as to why you practiced this deception and therefore deprivation is considered balanced and reasonable in this case.
>
> 40. For the reasons given above it is not accepted there is a plausible, innocent explanation for the misleading information which led to the decision to grant citizenship. Rather, on the balance of probabilities, it is considered that you provided information with the intention of obtaining a grant of status and/or citizenship in circumstances where your application(s) would have been unsuccessful if you had told the truth. It is therefore considered that the fraud was deliberate and material to the acquisition of British citizenship."

27. I also reject the submission made by Mr Blackwood that the respondent's claim that the decision to make a deprivation order has not yet occurred is untenable. I accept as the respondent claims, that insofar as Judge Groom proceeds upon the premise that the decision maker was not of a level of seniority required for such a decision, Judge Groom erred in law. Section 40(3) of the BNA 1981 provides that the respondent may by order deprive a person of a citizenship status if the registration or naturalisation was obtained by any one of three means. Section 40(5) of the Act requires that before making an order under s40 the respondent must give the person written notice specifying that; (a) that respondent has decided to make an order, (b) the reasons for the order, and (c) the person's right of appeal. By operation of s40A(1), a person who is given notice under section 40(5) of a decision to make an order, may appeal against the decision to the First-tier Tribunal.

28. I do not accept, as Mr Blackwood submits, that the final decision would again give rise to a further appeal. The appeal is against the Notice given under s40(5). The Notice informs the individual *inter alia* that the respondent has decided to make an order, and the reasons for the order. It is once the appeal has been determined that the respondent may by order

deprive the person of their citizenship status. That much is clear from the opening words of s40(5); *"Before making an order under this section …".* It is, as set out in paragraph 55.6.4, of the respondent's guidance, the final decision to deprive in a fraud case that should be made at SCS level (grade 5 or above).

29. It follows that in my judgment, Judge Groom erred in reaching the two primary facts that are relied upon by Mr Blackwood. At paragraph [36], Judge Groom refers to matters set out in the appellant's skeleton argument *"regarding policy making by [the respondent]*. It is difficult to discern from what is said by Judge Groom, what she had in mind. If it was the guidance regarding the level of decision maker required, Judge Groom erred in law. There is no real engagement by the Judge with the matters that are set out at some length in the respondent's decision. Finally, in considering the Article 8 rights of the appellant, Judge Groom erroneously carried out a freestanding assessment of the Article 8 claim by reference to the public interest considerations set out in s117B of the 2002 Act. Because of the errors in her approach that I have referred to, she did not weigh any lawfully determined deprivation decision against the reasonably foreseeable consequences for the appellant in respect of his Article 8 rights.

30. A party appearing before a Tribunal is entitled to know, either expressly stated by it or inferentially stated, what it is to which the Tribunal is addressing its mind. In some cases, it may be perfectly obvious without any express reference to it by the Tribunal; in other cases, it may not. Here, the SSHD and the Upper Tribunal is entitled to know the test applied by the Judge and the basis of fact on which the conclusions have been reached. Given the overall structure of the decision, it is clear Judge Groom did not apply the correct test and I am not prepared to infer that Judge Groom properly directed herself and reached a decision that was open to her on the evidence and matters relied upon by the respondent.

31. Given the nature of the errors of law, there has been no proper determination of the appellant's appeal before the First-tier Tribunal. The matter will need to be heard afresh with no findings preserved. I have decided that it is appropriate to remit this appeal back to the First-tier Tribunal, having considered paragraph 7.2 of the Senior President's Practice Statement of 25th September 2012.

32. The parties will be advised of the date of the First-tier Tribunal hearing in due course.

Notice of Decision

33. The SSHD's appeal is allowed and the decision of FtT Judge Groom is set aside.

34. The appeal is remitted to the FtT for a fresh hearing of the appeal with no findings preserved.

35. I make an anonymity direction.

Case No: UI-2022-002795
First-tier Tribunal No: DC/50189/2021

V. Mandalia

Upper Tribunal Judge Mandalia

Judge of the Upper Tribunal
Immigration and Asylum Chamber

19 June 2023