



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Case No: UI-2022-006321
& UI-2022-006322

THE IMMIGRATION ACTS

Decision & Reasons Issued:
12 July 2024

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

ZAIN-AL-ABIDIN ABDULLAH
(NO ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Determined at Field House on 10 July 2024 without a hearing

DECISION BY CONSENT MADE PURSUANT TO RULES 34 and 39 OF THE
TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008

1. The appeals UI-2022-006321 and UI-2022-006322 which have been joined must be de-linked given that one is to be allowed and the other stayed.
2. Pursuant to the consent order annexed to this decision, I remake the decision in the appeal UI-2022-006322 under the Immigration (Citizens' Rights Appeals) Regulations 2020 by allowing it on the grounds that the decision was not in accordance with the relevant immigration rules.
3. The appeal UI-2022-006321 under section 82 of the Nationality, Immigration and Asylum Act is STAYED

Notice of Decision

1. The decision in UI-2022-006322 involved the making of an error of law and is set aside.
2. It is remade by allowing the appeal under the Immigration (Citizens' Rights Appeals) Regulations 2020
3. The decision in UI-2022-006321 involved the making of an error of law and is set aside. That decision is stayed and will be remade in the Upper Tribunal on a date to be fixed.

Directions

1. The Secretary of State shall inform the Upper Tribunal of the outcome of the remaking of the decision in UI-2022-006322 as soon as possible thereafter and in any event within 14 days. The Upper Tribunal will then make directions as to the disposal of the appeal under s.82(1)(b) of the Nationality, Immigration and Asylum Act 2002.
2. Any application for costs in respect of the appeal under the Immigration (Citizens' Rights Appeals) Regulations 2020 to be made within 14 days of the date of this order.

Signed

Date: 10 July 2024

Jeremy K H Rintoul
Judge of the Upper Tribunal

Annex - Consent order

Case Nos: UI-2022-006321;
UI-2022-006322

IN THE UPPER TRIBUNAL
(IMMIGRATION AND ASYLUM CHAMBER)

BETWEEN:

ZAIN-AL-ABIDIN ABDULLAH

Appellant

- and -

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

CONSENT ORDER

UPON:

- (1) The Respondent Secretary of State acknowledging that the Appellant satisfies the eligibility criteria for indefinite leave to remain under rule EU11.3 of Appendix EU of the Immigration Rules (“Appendix EU”); and
- (2) Therefore in accordance with rule EU15 read with the definition of “deportation order” in Annex 1 of Appendix EU, any decision based on the Appellant’s pre-end of transition period conduct must be considered in accordance with either reg. 27(3) or (4) of the Immigration (European Economic Area) Regulations 2016, as applied by Annex 1 of Appendix EU;
- (3) Accordingly, there was an error in the decision to refuse the Appellant’s application for leave to remain under Appendix EU as set out in the decision letter dated 3 May 2022, as this was not done;
- (4) For this reason, the Secretary of State agrees to withdraw the decision of 3 May 2022 and to make a fresh decision on the Appellant’s application.

IT IS ORDERED BY CONSENT THAT:

- (1) For the reasons recited above, the appeal under reg. 3(1)(c) of the Immigration (Citizens’ Rights Appeals) Regulations 2020 is allowed under the ground set out in reg. 8(3)(b) of those Regulations.
- (2) The appeal under s.82(1)(b) of the Nationality, Immigration and Asylum Act 2002 is stayed pending the making of the fresh decision on the Appellant’s application for leave to remain under Appendix EU.

- (3) The Secretary of State shall inform the Upper Tribunal of the outcome of that decision as soon as possible thereafter and in any event within 14 days. The Upper Tribunal will then make directions as to the disposal of the appeal under s.82(1)(b) of the Nationality, Immigration and Asylum Act 2002.
- (4) Any application for costs in respect of the appeal under the Immigration (Citizens' Rights Appeals) Regulations 2020 to be made within 14 days of the date of this order.