IAC-AH-DN/LEM-V1

Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/11632/2014

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 12 January 2016	**On 25 January 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE MONSON

Between

B KA (AFGHANISTAN)
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr K Smyth, Solicitor, Kesar & Co Solicitors
For the Respondent: Miss E Savage, Specialist Appeals Team

DECISION AND REASONS

1. Both parties appeal from the decision of the First-tier Tribunal (Judge Oliver sitting at Hatton Cross on 28 April 2015) whereby he dismissed the appellant's appeal on asylum and humanitarian protection grounds, but allowed his appeal under Article 3 ECHR on the ground that he was at risk of serious ill-treatment if returned to Kabul. The First-tier Tribunal made an anonymity direction in favour of the appellant, and I consider it is appropriate that the appellant continues to be accorded anonymity for these proceedings in the Upper Tribunal.

2. The background to this case is that the appellant is an Afghan national with an assessed date of birth of 1 August 1996. He claimed asylum in the UK on 12 September 2012. His claim was refused on 22 April 2013 but he was granted discretionary leave to remain as a minor until 1 February 2014. The appellant pursued an upgrade appeal, arguing that he should have been recognised as a refugee. This ground of appeal was dismissed, but his appeal was allowed to the limited extent that the decision was not in accordance with the law as the Home Office had not made any effort to trace the appellant's family.

The Claim

3. The Appellant's claim was that he originated from Baghlan Province. His mother remained in Afghanistan with his 3 year old sister and 2 year old brother. He had not been able to establish contact with them since leaving Afghanistan one year ago. His reason for fleeing Afghanistan was that his father was a policeman, who had been murdered by the Taliban. This had happened last year (2011). A few days after his father's funeral, a group of men came to the family home looking for him. His mother told him to run to the bazaar, and she came to find him a few hours later. She said they were the Taliban and as she could not protect him from them, she had decided that he should go abroad. His mother took him to Kabul, leaving his younger brother and sister at home alone. In Kabul she arranged for an agent to take him to the UK, and he travelled via Pakistan, Iran and Turkey.

The Decision of the First-tier Tribunal in September 2013

4. In his decision dated 5 September 2013, Judge Vaudin d'Imécourt found that the appellant suffered from a congenital hearing defect which made him very vulnerable and as having probably caused him to have educational problems. The evidence showed that he was a young man with complex speech, language and communication difficulties. He was currently with a foster family and it was clear that although his social communication skills were very well developed and he was able to interact appropriately with his peers and teachers, he was nonetheless to a great extent dependent on others for his wellbeing and general welfare. He would not be able to lead a totally independent life at the moment. For example, he was incapable of caring for himself by way of cooking and making decisions with regards to his wellbeing. His self help skills were very limited. Cooking was the most obvious area where the appellant needed extra support.

5. When the appeal first came before him on 5 June 2013, he had raised as a clear issue his serious concern with regards to the lack of effort made by his solicitors to substantiate his account of his father being in the police and being killed in consequence. When the case resumed before him on 4 September, no effort had been made at all to "trace" the appellant's account of his father having been in the police force and being killed by the Taliban. The judge was satisfied to a very high degree of probability that there would have been a record kept of deaths of police officers serving in the Baghlan area, particularly if it had occurred in the circumstances alleged by the appellant. When Mr Smyth was quizzed about the matter, he

accepted that, in accordance with his client's instructions, no tracing effort had been made to verify the appellant's account.

6. Although he suffered from a degree of vulnerability, the judge found him to be sufficiently mature enough to be able to adhere to an account that his father was in the police force and killed by the Taliban as the basis of his claim. He was also just as capable of having made that up, if prompted to do so. The appellant was certainly perceived by his family to be sufficiently mature to make his way from Afghanistan to Europe, a journey which they must have been aware would take a considerable period of time. Despite his vulnerabilities, he was able to do that successfully.

7. The judge was entirely satisfied that the appellant still had family living in the Baghlan area, which included his mother, his brother and sister and more likely his father, and if not, his stepfather. He was also satisfied that the appellant had at least one grandparent presently living in Kabul.

8. It was entirely possible that the appellant had not had communication with his family since his arrival in the United Kingdom. Nevertheless, this did not mean that the appellant had no family or relative abroad to whom he could turn to for support. His solicitors had made no effort to trace his family in Kabul or his family in the Baghlan area. They were perfectly able to do so but it would appear that they have been instructed not to do so. At paragraph [66] the judge held that the appellant was a minor and a vulnerable individual who would not be able to survive in Afghanistan on his own and that he would not be able to relocate on his own in Afghanistan:

> "Nevertheless, on the evidence that I have heard in this case I was also entirely satisfied the appellant has family support both in Kabul and in his home area."

9. The judge reiterated this finding at paragraph [69]. He added that these people could be contacted on his behalf by his solicitors and by the respondent at his request if he gave them the necessary information.

10. At paragraph [74] he found that the Secretary of State had failed in her tracing duty, but he also wished to underline the fact that the appellant and his solicitors had failed to assist the Secretary of State in carrying out that duty. He was satisfied the appellant was aware that his family remained in Afghanistan and that he had given the correct address for his family, but no effort had been made by them to trace the family. The solicitors acting on behalf of the appellant were quite capable of writing to the family and seeking out their assistance in this case but had failed to do so as well. It seemed to him that this was on the appellant's instructions.

The Decision of the Upper Tribunal in December 2013

11. The appellant appealed to the Upper Tribunal ("UT") against this decision, and his appeal came before a panel of three UT judges sitting at the Royal Courts of Justice on 12 November 2013. The panel was chaired by Lord Matthews.

12. In a determination running to fifteen pages, the UT gave extensive reasons for dismissing the appellant's appeal against the decision of the First-tier Tribunal.

13. The ground of appeal which is of relevance to the current appeal was the appellant's asserted status as "an unattended child". Counsel's contention on behalf of the appellant was that, since he was not in contact with his family at the date of the hearing, and since he would be at risk as a vulnerable minor on his own in Afghanistan, the only conclusion open to the judge was that the appellant had made out his entitlement to international protection.

14. Mr Deller, who appeared on behalf of the Secretary of State, rejected the proposition that the appellant was to be treated as an unattended child merely because he had not in fact maintained contact. The finding that there were family members in Kabul and Baghlan defeated any suggestion that he had a well-founded fear of persecution on return to Afghanistan as an unattended child.

15. The UT agreed with Mr Deller. They held that there was really no evidence that the family were uncontactable. While it was not for the respondent to shuffle off her responsibilities to endeavour to trace a family by referring the child to the Red Cross, nonetheless it was for the appellant to make out his case. He had not made out a case that his family were not contactable. On the contrary, he obviously felt able to instruct a friend to make contact with them. (The appellant had a friend who went back to Afghanistan on a visit. The appellant had asked this friend to bring back photographs of his family. The First-tier Tribunal judge found that the appellant must have told this friend where and how to contact his family.)

16. At paragraph [54] the UT acknowledged that this only dealt with part of the problem. It might be said of the decision that they had just reached that they too were looking to the future. They were predicating the lack of risk on the basis of contact which would be made in the future, which was precisely what was complained of in relation to the determination of the First-tier Tribunal. However, they were not satisfied that the fact that administrative arrangements had to be made meant that the *tempus inspiciendum* of the decision of the First-tier Tribunal fell to be regarded as in the future.

17. They cited paragraph [53] of **HK and Others Afghanistan CG [2010] UKUT 378** as follows:

> "It was pointed out in the respective refusal letters that once an application for return assistance has been approved, the IOM sending mission makes travel arrangements and IOM Afghanistan provides reception assistance through the co-ordination cell at Kabul Airport. Their personnel guide beneficiaries through immigration and customs processes. Temporary accommodation is provided upon request and returnees are offered onward transportation and assistance to their final destination. It is therefore our conclusion that assistance would be available to these appellants, both in seeking out their relatives in Afghanistan, and in facilitating their reunion and the reception of the appellants upon return to Kabul. As noted above, we have no reason to believe that contact with their families will be impeded by the situation in Afghanistan, and

> have no reason to believe that the families have moved from where they were previously living."

18. They also cited paragraph [54] of **HK**, where the UT said:

> "The families are all able to make arrangements for the boys to travel out of Afghanistan to the west. They travelled with the assistance of agents and each of the families was clearly able to provide the finance for such journeys, which is no small amount of money. We have no reason to believe that their families could not travel to Kabul to meet them on their return."

19. The panel also referred to **ST (Child asylum seekers) Sri Lanka [2013] UKUT 292 (IAC)** where the UT made the following comments at paragraph 73(d):

> "If the Home Office were, hypothetically, to return to Colombo Airport at the present time, it would be doing so under a legal regime of UK law that imposed a duty to safeguard him and protect him whilst he was under their jurisdiction. At the least this would require the provision of a suitable escort for the appellant on his journey to Colombo. It would also require suitable liaison with the High Commission, any willing family members, international organisations or local social services on his arrival. He would not just be dumped at the airport or the nearest beach."

20. The conclusion which the UT drew from the cited passages in **HK** and **ST** was that while the risk had to be assessed as at the date of the hearing, nonetheless in each case it was also recognised that administrative arrangements would have to be put in place in the future to facilitate the return of the individual concerned. That did not mean that the decision on the merits was flawed.

The reasons for refusing the appellant further leave

21. On 30 January 2014 the appellant applied for further leave to remain in the United Kingdom, and on 9 December 2014 the Secretary of State gave her reasons for refusing to grant him further leave to remain.

22. On the issue of risk on return, his solicitors said that he was not in contact with his family. This did not equate to it being impossible to trace his family. In the determination promulgated on 9 December 2013, the Upper Tribunal had cited with approval the passage in **HK** which said that where a child has close relatives in Afghanistan who would assist him in leaving the country, any assertion that such family members are not contactable or unable to meet the child in Kabul and care for him on return should be supported by credible evidence of efforts to contact those family members and their inability to meet and care for the child in the event of return.

23. His representatives had failed to provide such evidence in his application. So he had yet to explore all avenues open to him to establish contact with his family in Afghanistan. Regarding the UK's obligations to conduct family tracing, it had not been possible to locate his family on the information he had supplied.

24. On 19 May 2014, a representative of the Secretary of State had contacted the appellant and informed him of the family tracing services available to assist family members who had become separated. In addition, on 17 June 2014 the representative on behalf of the Secretary of State had contacted his solicitors to advise them that they or his guardian "must" start the process to contact his family. But he had provided no evidence to show that he had approached the British Red Cross or International Social Services in an attempt to trace his family. So he had not demonstrated he had made any credible efforts to contact his family, and that these efforts had failed.

25. The respondent made reference to **EU (Afghanistan) and Others v SSHD [2013] EWCA Civ 32** and to **AK (Article 15(c)) Afghanistan CG [2012] UKUT 163**. It was not believed he had any reason to remain in the UK as a refugee. He had fabricated his story in order to gain leave to remain and he was more than capable of sustaining himself in Afghanistan. He was a healthy, well educated male who had demonstrated resourcefulness by leaving Afghanistan and remaining in the UK for around three years and three months. He was now an adult and would not be returning to Afghanistan as an unattended child. Therefore the findings in **HK**, **LQ** and **AA** were no longer considered applicable to his current circumstances. The issue of locating his family members was thus purely academic.

The Hearing before, and the Decision of, the First-tier Tribunal

26. Both parties were legally represented at the hearing before Judge Oliver. The appellant was present at the hearing, and followed the proceedings with the assistance of a court interpreter. He was not however called to give evidence. The hearing proceeded by way of submissions only. Mr Smyth stated that **Devaseelan** applied, but the key unresolved issue was the method of return. He submitted that the practicalities of removal had not previously been relevant. He relied heavily on the decision in **JI v SSHD [2013] EWCA Civ 279** to argue the courts could not delegate to the respondent the ultimate question of whether return would be safe. The date of return was subject to an assessment of the risk involved. The appellant was being asked to travel alone for three and a half hours to his village. The risk had to be decided at the date of the hearing. The crucial question was whether he could be met at the airport and then safely escorted to his family members.

27. The Presenting Officer relied on the refusal letters and emphasised the findings of fact in the previous appeal which were preserved by **Devaseelan**. He submitted that it was difficult to know where the truth stopped and the fabrication started.

28. The judge's findings are very brief, and I reproduce them verbatim below:

> "35. I am bound by the previous findings of fact. In respect of the asylum claim I find that the limited basis on which I could approach the facts to apply my own independent judgment is not open to me. I accordingly find that the appellant's asylum claim fails, and together with it his article 3 claim insofar as it relates to his claim to fear ill-treatment from the Taliban on return. I note too that he has only lately shown any enthusiasm for tracing his family. While this is relevant to

> a finding whether he has family still in Afghanistan it cannot be relevant to the separate article 3 question as to the safety of his return to Kabul. The reasoning in **JI** is compelling and even more pertinent to this case because this is a case where no assurances have been given by the respondent. The evidence on the ground is very recent and is reflected in the Foreign Office's current advice to travellers, warning against all but essential travel to Kabul and most of Baghlan. I have taken account the depressing uncertainty in the current proposed arrangements, as reflected in the email correspondence which Mr Smyth has helpfully conducted with the humanitarian boots on the ground. I note too that the appellant appears to fall into both of the categories of returnees to which the minister referred in the quote I have cited above and is accordingly at risk of serious ill-treatment in breach of article 3."

The Appeal of the Secretary of State

29. The Secretary of State appealed against the decision to allow the appeal on Article 3 grounds, arguing that the judge had incorrectly looked at the fact that an injunction had been sought on removals to Afghanistan as being determinative of the Article 3 claim, instead of applying the findings of extant country guidance, in particular the country guidance given in **AK**. Reliance was placed on **SG (Iraq) [2012] EWCA Civ 940** where the Court of Appeal stated at paragraph [47] that decision-makers and Tribunal judges were required to take country guidance determinations into account, and to follow them unless very strong grounds supported by cogent evidence were adduced justifying their not doing so.

The Appellant's Cross-Appeal

30. The appellant's cross-appeal mirrored his Rule 24 response opposing the Secretary of State's appeal, but it also went further.

31. In the light of the appellant's particular vulnerabilities and the absence of family support to receive him at Kabul International Airport, Judge Oliver had properly found that he would be at risk under Article 3 ECHR. But in the light of that finding, his appeal should also be allowed under the Refugee Convention, as his attainment of majority did not mean that he fell outside the particular social group recognised in **LQ (Age: immutable characteristic) Afghanistan [2008] UKAIT 0005**. Although he was no longer a child, the appellant was only aged 18 at the date of the hearing, and there was no bright line across which the risk to and the needs of a child suddenly disappear, as was held inter alia in **K (Afghanistan) and Others v Secretary of State for the Home Department [2012] EWCA Civ 1014**.

Discussion

32. The issue in **JI** was whether the claimant's proposed deportation to Ethiopia would engender a real risk that **JI** would suffer torture or ill-treatment at the hands of the Ethiopian authorities. The SIAC judge had found that, absent assurances given in a memorandum of understanding, there would be a real risk that the claimant would suffer torture or ill-treatment on return contrary to Article 3 ECHR. He also found the Ethiopian government could be trusted to comply with those assurances. There

was however work to be done before a monitoring body, referred to as the EHRC, would have developed proper capacity for monitoring. The SIAC judge found that the Secretary of State would not deport the appellant before all that work had been done, and had undertaken to give removal directions five days before the date of deportation. That would allow the claimant sufficient time to commence judicial review proceedings, if he contended that the necessary work in relation to preparation for monitoring had not yet been done.

33. The issue before the Court of Appeal was to what extent could the SIAC leave issues to be resolved by the Secretary of State at a future date? Giving the leading judgment of the court, Jackson LJ at paragraph [49] held that an assurance or undertaking which the Secretary of State gives is a relevant factor for the court or Tribunal to take into account. But such an assurance or undertaking could not operate so as to cut down the legal protection to which an individual was entitled.

34. This analysis was consistent with the reasoning of the Court of Appeal in **CL (Vietnam) v Secretary of State for the Home Department [2008] EWCA Civ 1551**. In **CL** the claimant arrived in the United Kingdom as an unaccompanied child and claimed asylum. The Secretary of State refused his claim. An Immigration Judge allowed the claimant's appeal on the basis that there were not adequate reception facilities for the claimant in his home state. The Secretary of State appealed to the AIT, and gave an undertaking he would not return the claimant to Vietnam, unless he was satisfied the reception facilities were adequate. The AIT allowed the Secretary of State's appeal, and the claimant appealed to the Court of Appeal. The Court of Appeal allowed the claimant's appeal, as the effect of the procedure being advocated was to remove the child's statutory right of appeal on that aspect of the Article 8 claim, and to leave the child with the more limited remedy of judicial review.

35. However Jackson LJ went on to cite **SH (Iraq) [2009] EWCA Civ 462** which had a different outcome. This was an asylum claim concerning an Iraqi Kurd who came from the northern region of Iraq. One of the arguments raised in the Court of Appeal was that there was no practical and safe route by which he could be returned to northern Iraq. Keene LJ, who was the same judge who had been part of the court that allowed **CL's** appeal, rejected this argument for the following reasons:

> "*No removal directions have yet been settled for the appellant's return, and it is therefore unclear as to how and where he would be returned. The issue of accessibility, its safety and its practicality cannot therefore yet be judged in any meaningful sense* (my emphasis). Those issues will of course change over time as well as being dependent upon the method and location to which return is to be effected. If, when those removal directions are set, there would be a real risk of this country breaking its obligations under the Refugee Convention or the ECHR because of those directions, they themselves could then be challenged but there is nothing it seems to me in this particular point."

36. Jackson LJ said that **SH** differed from **CL** in that in **SH** the court was not relying on any undertaking by the Secretary of State. The court was instead leaving for later

resolution by the Secretary of State an issue which the appellant had raised at a late stage in the proceedings.

37. Jackson LJ went on to formulate a set of principles at paragraph [55] which included the following:

> "(v) If the route or method of return is unknown, the court or Tribunal may in appropriate cases leave this matter for later decision by the Secretary of State. If the Secretary of State fails to address the matter properly, the claimant's remedy is by way of making a fresh claim or bringing judicial review proceedings.
>
> (vi) The court or Tribunal cannot, however, delegate to the Secretary of State the resolution of any material element of the legal claim which the claimant has brought before that court or Tribunal for determination."

38. In his decision, Judge Oliver says that the reasoning in **JI** is compelling and even more pertinent to this case because this is a case where no assurances have been given by the respondent. This observation indicates to me that he has not properly understood the ratio of **JI**.

39. Removal directions had not yet been set, and so removal was not imminent. The appellant's removal was also not imminent for another reason. According to a statement made by the Afghan Ministry for Refugees and Repatriation on 28 February 2015, which the judge referred to in his decision, the appellant was in a category of persons who was not going to be allowed to disembark. So for the time being the appellant's removal was a practical impossibility.

40. I accept that the likely route of return was known, which was that the appellant would be flown to Kabul. However, in addition to the question of when the apparent embargo on returning persons such as the appellant was going to be lifted, the major unknown was (and still is) whether arrangements can be made for an adult family member to receive him on his arrival at the airport.

41. Contrary to the submission which Mr Smyth apparently made to the First-tier Tribunal, **JI** does not establish a universal principle that the courts cannot delegate to the respondent the ultimate question of whether return will be safe. **JI** is much more limited in its scope. It does not "overturn" the findings of the UT in this appellant's earlier appeal. It does not show that the UT's decision was *per incuriam.*

42. The burden of proof continues to rest with the appellant to show that family members in Afghanistan are not contactable so as to be able to meet him at Kabul Airport.

43. Mr Smyth relies on the concession made by the respondent in paragraph [31] of the refusal letter as showing that the position has moved on. He submits it has moved on because the respondent accepted in paragraph [31] that she was unable to contact the appellant's family. But this concession was withdrawn in the same letter. For the author of the letter went on to give an account of what the respondent had done pursuant to her duty to trace. It is apparent from this account that the Home Office

had, in accordance with its invariable practice, not itself tried to trace the appellant's family, but had sought to encourage and facilitate tracing by the appellant and his solicitors. As the respondent correctly surmised, the appellant had not made any effort to contact his family through the Red Cross, nor had his solicitors made any effort to contact his family, for instance by the method recommended by First-tier Tribunal Judge Vaudin d'Imécourt.

44. Accordingly, at the date of the hearing before Judge Oliver the position had not in fact changed. It remained the case that the appellant had family in Baghlan Province and in Kabul, as First-tier Tribunal Judge Vaudin d'Imécourt had found. There was no evidence of the appellant being in contact with his family, but equally the appellant had not discharged the burden of proving that he was unable to make contact with family members in Baghlan Province or Kabul.

45. So Judge Oliver was right, applying **Devaseelan**, to find that the appellant had still not discharged the burden of proving that he qualified for recognition as of refugee upon **LQ** grounds.

46. It therefore follows that the appellant's cross-appeal fails. The judge did not err in law in finding the appellant did not qualify for recognition as a refugee. It also follows that, insofar as the Article 3 finding was based on the appellant's asserted vulnerability as an unattended child (applying the "no bright line" principle), this was an error of law. For the appellant could not simultaneously be invulnerable from an asylum perspective, while being vulnerable from an Article 3 ECHR perspective. The burden had not shifted to the Secretary of State to prove that there would be adequate reception facilities, and adequate onward transportation facilities, for the appellant in circumstances where (a) he had not shown that his family were not contactable; and (b) his removal was not imminent.

47. The other consideration which underlay the judge's finding on Article 3 ECHR was his assumption that the statement by the Minister, the Foreign Office's current advice to travellers and the obtaining of an injunction against the removal by charter flight to Kabul of a group of failed Afghan asylum seekers combined to show that the security situation in Afghanistan had deteriorated to a point where there was a real risk of Article 3 harm on return for *all* failed asylum seekers, or at least for those who came from dangerous provinces.

48. But the evidence referred to by the judge did not in fact undermine the country guidance given in cases such as **AK** that internal relocation to Kabul is safe and reasonable for a young adult male with no particular risk profile (such as having a vulnerability akin to that of an unattended child). The judge erred in law in treating the latest developments (the Ministerial Statement, the Foreign Office advice and the obtaining of an injunction) as in effect superseding the country guidance of **AK**. Moreover, he did not give any reasons, let alone cogent reasons, for not following extant country guidance or for his implicit finding that the appellant faced a real risk of Article 3 harm in Kabul and/or in his home area of Baghlan Province. The appellant's home area in Baghlan province, in common with most of Baghlan

province, is not regarded by the Foreign Office as being so dangerous that persons are advised not to travel there at all.

49. Mr Smyth did not seek to defend the judge's finding on Article 3 by reference to the Ministerial Statement, the Foreign Office advice or the injunction. He acknowledged that the judicial review claim in which the injunction had been granted had ultimately failed for the reasons given by the President of the UT sitting with UT Judge Allen in **R (on the application of Naziri and Others) v Secretary of State for the Home Department (JR – scope – evidence) IJR [2015] UKUT 437 (IAC)**, a decision promulgated on 27 July 2015.

50. The UT ruled *inter alia* as follows at paragraph [96]:

> "The Tribunal is equipped to make a further, ex post factor, assessment of the impugned decisions having regard to the postdecision evidence which it has received. *This includes evidence of the successful repatriation of Afghan nationals in the United Kingdom and other countries to a series of provinces* (my emphasis). In this context we refer particularly to the evidence digested in [50] above, which we accept. The evidence reinforces our conclusion that the impugned decisions of the Secretary of State are unimpeachable on the grounds advanced by the applicants."

51. Accordingly, I find that the judge erred in law in allowing the appellant's appeal under Article 3 ECHR.

The Remaking of the Decision on the Human Rights Claim

52. In the light of (a) my reasons for finding an error of law, and (b) Mr Smyth's stance on the Article 3 claim (only seeking to maintain it on the ground that the appellant should be treated as an unattended child), I am satisfied that the decision under Article 3 ECHR should be remade in favour of the Secretary of State.

53. Although the appellant formerly raised an Article 8 claim, it does not appear from the grounds of appeal that the appellant relied on any additional facts beyond those relied on in support of his claim for international protection. The appellant has also not cross-appealed on the basis that his human rights claim should be allowed in the alternative under Article 8. The appellant did not give evidence in support of an Article 8 claim, and no viable private or family life claim is disclosed under the Rules. While the appellant's private life rights are plainly engaged outside the Rules, the decision appealed against is in accordance with the law and it is necessary in a democratic society. Having regard to Section 117B of the 2002 Act, the decision appealed against is plainly proportionate.

Notice of Decision

54. The Secretary of State's appeal is allowed, and the appellant's appeal is dismissed. The decision of the First-tier Tribunal dismissing the appeal on asylum and humanitarian protection did not contain an error of law, and accordingly that part of the decision stands. The decision of the First-tier Tribunal allowing the appeal on human rights grounds contained an error of law, and accordingly the decision is set

aside and the following decision is substituted: the appellant's appeal on human rights grounds is dismissed.

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed Date

Deputy Upper Tribunal Judge Monson