



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: HU/23534/2018 (P)

THE IMMIGRATION ACTS

**Decided under Rule 34 of the Tribunal
Procedure (Upper Tribunal) Rules 2008**

**Decision & Reasons Promulgated
On 10th July 2020**

Before

UPPER TRIBUNAL JUDGE REEDS

Between

**OKSANA BAS
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**DECISION PURSUANT TO RULE 40(3)(a) OF THE TRIBUNAL PROCEDURE
(UPPER TRIBUNAL) RULES 2008**

1. The appellant appeals with permission from the decision of the First tier (Judge Chohan) dismissing her appeal against the respondent's decision to refuse her leave to remain on human rights grounds.
2. The appeal was remitted to the Upper Tribunal following a grant of permission to appeal by the Court of Appeal granted by LJ Asplin on the 6 November 2019. A consent order was then signed whereby the parties agreed that the UT's decision should be set aside and remitted for reconsideration.

3. In the light of the present need to take precautions against the spread of Covid-19, and the overriding objective expressed in the Procedure Rules¹, directions were sent out to the parties that the Upper Tribunal's provisional view was that it would be appropriate to determine the following questions without a hearing:
 - (a) whether the making of the First-tier Tribunal's decision involved the making of an error of law, and, if so
 - (b) whether that decision should be set aside.
4. That decision also set out directions. It was sent out the parties by way of email. In compliance with those directions, submissions were provided by Counsel (on behalf of the appellant) by letter dated 1 May 2020 and a response from the respondent on the 8 May 2020.
5. The respondent indicated that she accepted that the decision of the FtTJ contained material errors of law and therefore does not oppose the application for permission to appeal and invited the Upper Tribunal to determine the appeal by setting aside the decision of the First-tier Tribunal (Judge Chohan) and remitting the appeal to the First-tier Tribunal for hearing afresh.
6. Pursuant to rule 40(3) of The Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended), the Upper Tribunal is not required to provide written reasons for its decision under paragraph 40(2)(a) of the Rules, where the decision is made with the consent of the parties (rule 40(3)(a)), or the parties have consented to the Upper Tribunal not giving written reasons (rule 40(3)(b)).
7. Accordingly, the decision of the First-tier Tribunal is set aside and shall be remitted to the First-tier Tribunal for a rehearing (not before FtTJ Chohan) on a date to be notified to the parties.
8. Pursuant to rule 40(3)(a) of the Tribunal Procedure (Upper Tribunal) Rules 2008, no reasons (or further reasons) are required, the decision being made with the consent of the parties.

Upper Tribunal Judge Reeds

Date 25 June 2020

¹ The overriding objective is to enable the Upper Tribunal to deal with cases fairly and justly: rule 2(1) of the Tribunal Procedure (Upper Tribunal) Rules 2008; see also rule 2(2) to (4).

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email