



IAC-FH-CK-V1

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

Appeal Number: RP/00021/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 27 August 2020**

**Decision & Reasons  
Promulgated  
On 7 September 2020**

**Before**

**UPPER TRIBUNAL JUDGE ALLEN**

**Between**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**KAFTAR RAHMANI  
(ANONYMITY DIRECTION NOT MADE)**

Respondent

**Representation:**

For the Appellant: Mr E Tufan, Senior Home Office Presenting Officer

For the Respondent: Mr D Bazini, instructed by Times PBS Ltd

**DECISION AND REASONS**

1. The Secretary of State appeals with permission to the Upper Tribunal against the decision of a Judge of the First-tier Tribunal who allowed the appellant's appeal against the Secretary of State's decision of 18 January 2018 refusing to revoke protection status and refusing a human rights claim.

2. I shall refer hereafter to Mr Rahmani as the appellant, as he was before the judge and to the Secretary of State as the respondent, as she was before the judge.
3. In the event, little needs to be said about this appeal. It is common ground before me that the judge's decision was fundamentally flawed and needs to be remade in the First-tier Tribunal. The points set out in the grounds are well-made. As is pointed out at paragraph 4 of the grounds, it is clear that applying section 72 of the Nationality, Immigration and Asylum Act 2002 encompasses Article 33(2) of the Geneva Convention. The references by the First-tier Judge to "Article 15(c)" are clearly erroneous and as the grounds surmise may have been intended to refer to Article 1(C)5 of the Refugee Convention. As is pointed out, this is an issue addressed in the refusal letter as also were Articles 3 and 8 of the European Convention on Human Rights, contrary to what appears to have been thought by the judge.
4. As a consequence, the decision will have to be remade on the basis as summarised at paragraph 24 of the earlier decision of the Upper Tribunal dated 18 December 2019.
5. I should also observe for the sake of clarity and completeness that it is accepted that, although there is some clear confusion in the judge's decision in that although the decision was purportedly allowed making this subject to a number of matters the respondent was directed to consider, I do consider that the appeal was allowed rather than no decision having been made and therefore no issue of jurisdiction arises.
6. The appeal is therefore allowed to the extent set out above, to be reheard in the First-tier Tribunal at Taylor House by a judge other than Judge Lucas.

### **Notice of Decision**

The appeal is allowed to the extent set out above.

No anonymity direction is made.



Signed  
Upper Tribunal Judge Allen

Date 28 August 2020