



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

Appeal Number: IA/15833/2014

THE IMMIGRATION ACTS

**Heard at Glasgow
on 18 December 2014**

**Determination issued
On 19 December 2014**

Before

**Mr C M G OCKELTON, VICE PRESIDENT
& UPPER TRIBUNAL JUDGE MACLEMAN**

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

J S

Respondent

For the Appellant: Mrs M O'Brien, Senior Home Office Presenting Officer
For the Respondent: Mr A Caskie, Advocate, instructed by McGlashan Mackay,
Solicitors

DETERMINATION AND REASONS

1. The SSHD appeals against a determination by First-tier Tribunal Judge J C Grant-Hutchison, allowing the appeal of Mr S "to the limited extent of remitting the case back to the respondent to fix a period of discretionary leave".
2. At first sight, there are aspects of the determination which might be open to debate, but matters became clear on reference to the judge's record of proceedings. The outcome in the First-tier Tribunal was agreed between

the parties. It seems that the author of the SSHD's grounds was apparently not aware of that, nor had Mrs O'Brien been provided with a file record.

3. It is unfortunate that the solicitors for Mr S did not raise the point by way of a Rule 24 response, which might have led to a rapid resolution.
4. Mrs O'Brien acknowledged that the SSHD is not practically prejudiced in any event by the outcome in the First-tier Tribunal. She did not wish to withdraw the appeal in light of the record, there being a "policy issue" about the extent to which substantive Article 8 matters are apt to be considered on an appeal under the EEA Regulations.
5. We are unable to find error of law in a determination which reaches exactly the result envisaged by both parties. The determination **shall stand**.
6. An anonymity order remains in place.

A handwritten signature in black ink, appearing to read 'Hugh Macleman'. The signature is written in a cursive style with a large, stylized initial 'H'.

18 December 2014
Upper Tribunal Judge Macleman