



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Numbers: AA/02074/2014  
IA/23229/2014

**THE IMMIGRATION ACTS**

Heard at Field House  
On 11<sup>th</sup> June 2015

Decision & Reasons Promulgated  
On 23<sup>rd</sup> June 2015

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE APPLEYARD**

**Between**

**MR DAMIAN DAMIAN ILIAZI AKA DAMAT ILJAZI  
(ANONYMITY ORDER NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr. I. Komusanac, Solicitor.

For the Respondent: Mr. C. Avery, Home Office Presenting Officer.

**DECISION AND REASONS**

1. The respondent cancelled the appellant's refugee status by a decision dated 19 March 2014 and served IS151B on 19 March 2014 for the appellant's removal under Section 10 of the Immigration and Asylum Act 1999. In addition the respondent refused the

appellant's leave to re-enter the United Kingdom as a returning resident and cancelled his leave by a decision dated 15 May 2014. The appellant appealed both decisions claiming that he is firstly a refugee, secondly entitled to be granted Humanitarian Protection and thirdly that removal from the United Kingdom would breach the United Kingdom's obligations under the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms with particular reference to Articles 2, 3 and 8.

2. The appellant's appeal came before Judge of the First-tier Tribunal Cameron on 13 August 2014. In a decision dated 26 August 2014 he dismissed the appellant's appeals. At the hearing the appellant's representative indicated to the judge that the appellant was no longer seeking to raise risk on return and that the matter to be considered was therefore under Article 8 and that the decision was not in accordance with the law as it did not follow the respondent's own policy in relation to revoking leave.
3. The appellant sought permission to appeal which was initially refused on 1 October 2014. However, on 22 January 2015 Upper Tribunal Judge Allen granted permission. His reasons for so doing were:-

"It is arguable, as is argued in the grounds, that the judge erred in not finding that the respondent had not acted in accordance with the law in not considering the relevance and application of her policy concerning revocation and indefinite leave to remain."

4. Thus the appeal came before me today.
5. The nub of Mr. Komusanac's argument was that the First-tier Tribunal did not consider the appellant's appeal in the framework of the statutory grounds of appeal, namely that the decision to revoke the appellant's indefinite leave to remain is contrary to the respondent's own policy and thus not in accordance with the law.
6. Mr. Avery resisted these arguments asserting there was no evidence that the Secretary of State had failed to consider her own policy and that the submission to that effect was no more than speculative. The refusal letter highlighted evidence which amounted to incontrovertible proof that the respondent was entitled to revoke the appellant's refugee status. There was no evidence before me to suggest that the respondent did not give consideration to her own policy. The appellant had partaken in a comprehensive deception and his claim was flawed. The appeal had properly been considered on its merits.
7. In the course of making his submissions I asked Mr. Avery if there was any evidence he could point to which would assist me in concluding that the respondent did consider her own policy. He was unable to do this. He accepted that the refusal letter makes no mention of it but contended that there was no obligation upon the respondent to refer to it there.

8. I find in all the circumstances that the judge has materially erred in not finding that the respondent had not acted in accordance with the law in not considering the relevance and application of her policy concerning revocation and indefinite leave to remain. I am unable to find any evidence to suggest that this was done. It is unfortunate and I appreciate the respondent's frustration, but in all the circumstances the appellant is entitled to the benefit of that policy being considered and accordingly, having not applied the policy contained in "Asylum Policy Instruction, Revocation of Indefinite Leave Version 3.0 of 10 June 2013" to the appellant's case, the respondent's decision is not in accordance with the law.

### **Decision**

9. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.
10. I set aside the decision.
11. I remake the decision in the appeal by allowing it to the limited extent that the appeal is remitted back to the respondent for the lawful decision to be made.

Signed

Date 19 June 2015

Deputy Upper Tribunal Judge Appleyard