



IAC-AH-SAR-V1

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

Appeal Number: DA/01141/2014

THE IMMIGRATION ACTS

**Heard at Bradford
On 8 July 2015**

**Decision & Reasons Promulgated
On 7 September 2015**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**ROLYS CHARLIE SEDJRO AIVOHOZIN
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant:

For the Respondent:

DECISION AND REASONS

1. The respondent, Roly Charlie Sedjro Aivohozin, is a citizen of France who was born on 18 June 1981. I shall hereafter refer to the appellant as the respondent and to the respondent as the appellant (as they appeared respectively before the First-tier Tribunal). The appellant claims to have been in the United Kingdom since September 2005. He was issued with an EEA Registration Certificate on 26 August 2010. On 23 May 2014, the respondent decided to remove the appellant from the United Kingdom by way of deportation under Section 32(5) of the UK Borders Act 2007 and Sections 5(1) and 3(5)(a) of the Immigration Act 1971. The appellant had

been convicted of three counts of fraud at Isleworth Crown Court and, on 10 May 2013, sentenced to a total of 32 months' imprisonment. The First-tier Tribunal (Judge Hillis) in a decision promulgated on 16 April 2015, allowed the appeal of the appellant on Article 8 ECHR grounds.

2. I find that Judge Hillis erred in law such that his decision should be set aside. I have reached that decision for the following reasons. First, I agree with the respondent that, where the judge has found [44] that "the relevant test is whether or not deportation is justified on 'serious grounds' of public policy", he has made no proper finding as to the continuous period of time during which this appellant has been living in the United Kingdom. The judge was aware that the matter was at issue because he records the submission of the respondent to that effect [26]. Regulation 21 of the 2006 Regulations provides that "a relevant decision may not be taken in respect of a person with a permanent right of residence under Regulation 15 except on serious grounds of public policy or public security ...". The judge's decision is simply silent as to this disputed issue; he appears to have taken for granted the fact that the appellant had been continuously living in the United Kingdom for the period which he claimed.
3. Secondly, the judge was aware that the appellant was subject of an European Arrest Warrant (EAW). In his decision, the judge, however, makes no mention of that warrant whatsoever. It is possible that the warrant may have been of relevance in the judge's analysis; at [45] the judge had taken into account "all the circumstances of the three offences of fraud, the contents of the reports, the learned judge's sentencing remarks and the oral testimony regarding the appellant's attitude since his release from prison". The judge took into account also that the appellant had not offended whilst on bail or whilst on licence following his release from prison on 18 September 2014. Without the judge making any reference to the European Arrest Warrant, it is difficult to see what influence, if any, that warrant and the circumstances surrounding it had upon the judge's analysis of the failure to mention the warrant at all represents a serious omission in that analysis.
4. In the circumstances, I find that the judge has erred in law such that his decision is required to be set aside. I consider it appropriate that this matter should be remitted to the First-tier Tribunal (not Judge Hillis) for that Tribunal to re-make the decision.

Notice of Decision

5. The decision of the First-tier Tribunal promulgated on 16 April 2015 is set aside. The appeal should be remitted to the First-tier Tribunal (not Judge Hillis) for that Tribunal to re-make the decision.

Signed

Date 2 September 2015

Upper Tribunal Judge Clive Lane