



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

Appeal Number: DC/00041/2018

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice Centre
On 9th April 2019**

**Decision & Reasons Promulgated
On 11th April 2019**

Before

UPPER TRIBUNAL JUDGE COKER

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

**MIRANDA LENA
(aka ERMIRA SALLAKU)**

Respondent

Representation:

For the Appellant: Mr A Tan, Senior Home Office Presenting Officer
For the Respondent: Ms K McCarthy, instructed by Zelin and Zelin solicitors

DETERMINATION AND REASONS

1. On 20th August 2018 the SSHD made a decision, in accordance with s40(5) British Nationality Act 1981, to make an order to deprive Miranda Lena of her British Citizenship. Making the assumption that Ms Lena would not be successful in her appeal, the detailed decision letter stated ([34]):
 - A deprivation order will be made within four weeks of your appeal rights being exhausted, or receipt of written confirmation from you or your representative that you will not appeal this decision, whichever is the sooner.

- Within eight weeks from the deprivation order being made, subject to any representations you may make, a further decision will be made either to remove you from the United Kingdom, commence deportation action (only if you have less than 18 months of a custodial sentence to serve for has already been released from prison), all issue leave.
2. Ms Lena's appeal was allowed by First-tier Tribunal Judge Cruthers in a decision promulgated on 15th January 2019. The SSHD sought and was granted permission to appeal.
 3. I heard submissions from Ms McCarthy and Mr Tan.
 4. The First-tier Tribunal judge, in [34] stated

"Having weighed everything up as best I can, I have concluded both that: (1) here the reasonably foreseeable consequence of depriving the appellant of British citizenship would violate the U.K.'s obligations under the Human Rights Act 1998/article 8 the European Convention on Human Rights ("ECHR"); and (2) cumulatively, there are exceptional features here which mean that the respondent's discretion pursuant to subsection 40(3) should have been exercised differently."
 5. Although Ms McCarthy initially submitted that the judge had considered the evidence, applied the correct test and placed proper weight upon the public interest, she subsequently acknowledged that it was clear from [34] of the First-tier Tribunal Judge's decision that he had made an error of law in his consideration and application of the law such that the decision had to be set aside to be re-made.
 6. I am satisfied the judge erred in law and I set aside the decision to be remade.

Re-making the decision

7. Ms McCarthy submitted that Ms Lena fully accepted that "her behaviour lies against her". She accepted that she could not succeed in her appeal, noting that in accordance with the SSHD's decision letter, Ms Lena would have the opportunity to make representations within what appeared to be a reasonable timescale.
8. The appeal against the decision of the SSHD is dismissed.

Conclusions:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision and remake the decision in the appeal by dismissing Ms Lena's appeal against the decision of the SSHD.

Date 9th April 2019



Upper Tribunal Judge Coker