Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: DC/00087/2020
UI-2021-000905

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 10 May 2022	**On 7 July 2022**

Before

THE HON. MRS JUSTICE HILL
UPPER TRIBUNAL JUDGE FRANCES

Between

ALBINA KODRASI
(NO ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr A Pipe, Counsel instructed by Arlington Crown Solicitors
For the Respondent: Mr T Lindsay, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is an Albanian national, born on 26 August 1989. She appeals against a decision of Judge Chana of the First-tier Tribunal ("the Judge") promulgated on 4 August 2021 after a hearing on 1 July 2021. By that decision, the Judge dismissed the Appellant's appeal against the decision of the Secretary of State for the Home Department ("SSHD") dated 28 August 2020 to deprive the Appellant of British citizenship pursuant to section 40(3) of the British Nationality Act 1981 ("the 1981

Act"). Permission to appeal was granted by Upper Tribunal Judge Stephen Smith on 18 January 2022.

The factual background

2. On 26 October 2009, the Appellant made an application for a visa to enter the United Kingdom ("UK") to settle with her fiancée and sponsor Mr Gentian Gjura. They had met in Greece in June 2009. He was on holiday there, having been naturalised as a British citizen in 2007. The Appellant's application was initially refused but on 14 October 2010 her appeal was allowed and she entered the UK on 28 October 2010.

3. On 23 November 2011, the Appellant was granted indefinite leave to remain as the spouse of a settled person. On 3 December 2011 the Appellant and her husband married in the UK.

4. On 29 October 2013, the Appellant applied for naturalisation. During the application process, she gave her husband's date of birth as 15 March 1983, his nationality as British and his place of birth as Mitrovica, Kosovo. These details matched the identify that he had used in his application for naturalisation as a British citizen. The Appellant signed the relevant parts of the application paperwork indicating that she had not used deception and understood that a certificate of citizenship could be withdrawn it if was found to have been obtained by fraud, false representation or concealment of any material fact, or on the basis of any conduct the SSHD considered not to be conducive of the public good. On 20 March 2014, the Appellant was granted British citizenship.

5. In January 2018, the Appellant's husband was arrested for offences relating to alleged people smuggling. Although no charges were brought against the Appellant, her computer and telephone were examined during the investigation. In the calendar on her telephone, her husband's birthday was noted as 13 July, with the first such entry in 2013. His passport and bail conditions referred to his date of birth as 15 March 1983 and his place of birth as Mitrovica, Kosovo.

6. This anomaly as to the Appellant's husband's date of birth was investigated by the SSHD's status review unit. It was established that the Appellant's husband was not from Kosovo but Albania, with a date of birth of 13 July 1981. In June 2018, the Appellant's husband was informed that the SSHD was considering depriving him of his British citizenship due to fraud. By a letter from the SSHD dated 23 October 2018 he was deprived of his British citizenship.

7. The Appellant's husband appealed to the First-tier Tribunal. The appeal was heard on 3 May 2019. The Appellant gave evidence on her husband's behalf. First-tier Tribunal Judge Kimnell found that the Appellant's husband had been dishonest and dismissed his appeal by a decision dated 21 May 2019. He recorded at [19] of his decision the Appellant's evidence that she had only discovered her husband's true details in July 2018.

8. On 15 January 2020, the status review unit wrote to the Appellant to inform her that the SSHD was considering depriving her of her British citizenship due to fraud. The SSHD later confirmed that the fraud was alleged to relate to the information given in her application for naturalisation, not her entry clearance application.

9. The Appellant provided representations to the SSHD through her solicitors. She accepted that he had provided the SSHD with false information but said that she had never deceived or attempted to deceive the SSHD. She said that she had not known of her husband's true identity until the investigations into it by the Home Office in the summer of 2018, during which he admitted his true identity to her. She also relied on the family she and her husband had established in the UK (their two children were born in April 2014 and November 2019 respectively), her husband's operation of a business in the UK, their ownership of two properties and their payment of taxes.

10. By letter dated 28 August 2020 the SSHD wrote to the Appellant indicating that she was depriving the Appellant of her British citizenship. The Appellant appealed and asked the SSHD to review the decision ahead of the appeal hearing. The SSHD did so, but maintained her decision for the reasons already given.

The hearing before the Judge

11. The Appellant gave evidence. She maintained that at the time of her naturalisation application in 2013 she had not known her husband's true identity. The evidence she provided to the First-tier Tribunal considering her husband's appeal was honest. She said that she considered that her husband had betrayed her by not telling her his true identity, and described serious arguments and the police being called to the house since she had discovered the truth. She gave evidence about meeting her husband's parents in Albania and visiting them from time to time. Her understanding was that they had left Kosovo due to the war, but there had been limited discussion about this with his parents, siblings or friends.

12. The Appellant's husband gave evidence that corroborated her account. He said that when he met her in 2009 she was very young, and he did not tell her the truth about his identity until 2018. He had told his parents not to bring up the subject of his background with his wife. The telephone which had his correct birthday recorded on it had initially belonged to him, but he gave it to his wife in 2016. The 'notification' function by which a reminder would be displayed on the telephone was switched off. He had forgotten to delete his date of birth before giving the phone to his wife and had turned off the notification function so that his wife did not see the reminders.

13. Mr Pipe also represented the Appellant before the First-tier Tribunal. He submitted that the National Crime Agency ("NCA") evidence from officer Christine Barrett about the calendar on the telephone was inconclusive, and insufficient on its own to prove that she had been deceitful in her

naturalisation application. Reliance was also placed on the decision letter dated 23 July 2018 sent to her husband, which conceded that the deprivation of his citizenship would not impact the Appellant and her children. The SSHD took no action against the Appellant at that time, despite having had the NCA evidence since 3 November 2017 (the date on the officer's statement). The Appellant therefore argued that she had a legitimate expectation that no such action would be taken against her.

14. The Appellant submitted that deprivation of her citizenship was in breach of the SSHD's policy in several respects, was not reasonable and proportionate in all the circumstances and was a breach of her rights under Article 8 of the European Convention of Human Rights.

15. The SSHD's position was that it was "simply incredible" that the Appellant had been married to her husband for several years without knowing his real name, his actual birthday or where he had been born. She was clearly aware that her husband's identity was false and therefore that her own British citizenship was obtained by fraudulent means.

The legal framework

16. Section 40 of the 1981 Act provides as follows in material part:

> "(3) The Secretary of State may by order deprive a person of a citizenship status which results from his registration or naturalisation if the Secretary of State is satisfied that the registration or naturalisation was obtained by means of—
>
> (a) fraud,
>
> (b) false representation, or
>
> (c) concealment of a material fact.
>
> (4) The Secretary of State may not make an order under subsection (2) if he is satisfied that the order would make a person stateless.
>
> (4A) But that does not prevent the Secretary of State from making an order under subsection (2) to deprive a person of a citizenship status if—
>
> (a) the citizenship status results from the person's naturalisation,
>
> (b) the Secretary of State is satisfied that the deprivation is conducive to the public good because the person, while having that citizenship status, has conducted him or herself in a manner which is seriously prejudicial to the vital interests of the United Kingdom, any of the Islands, or any British overseas territory, and
>
> (c) the Secretary of State has reasonable grounds for believing that the person is able, under the law of a country or territory

> outside the United Kingdom, to become a national of such a country or territory.
>
> (5) Before making an order under this section in respect of a person the Secretary of State must give the person written notice specifying—
>
> (a) that the Secretary of State has decided to make an order,
>
> (b) the reasons for the order, and
>
> (c) the person's right of appeal under section 40A(1) or under section 2B of the Special Immigration Appeals Commission Act 1997 (c. 68)."

17. The Home Office's 'Nationality Instructions' provide at paragraph 55.7.3 that if the fraud, false representation or concealment of the material fact did not have a direct bearing on the grant of citizenship, it will not be appropriate to pursue deprivation action. The instructions also provide at paragraph 55.7.14.1 that where a husband's deception takes place before a marriage, a wife cannot be regarded as complicit in any deception that took place before they met, and that if a wife's citizenship was gained in her own right, rather than on the basis of the marriage, she would not be deprived of it.

The Judge's decision

18. The Judge identified the first issue for determination as whether the Appellant made her application for naturalisation in the full knowledge that her husband's assertions as to his identity, date of birth and nationality were fraudulent: [76]. She reviewed the evidence as to the Appellant's contact with her husband's family and friends. She concluded that it was not credible that the Appellant had not thereby discovered that he was in fact from Albania: [78]-[86].

19. The Judge concluded that the NCA evidence to the effect that the Appellant's husband's true birthday was visible on her telephone from 2013-2019 undermined the credibility of the Appellant and her husband as it was inconsistent with their evidence that the notification function had been turned off: [88]. She also found that if the Appellant's husband was genuinely concerned about the Appellant finding out about his real birthday he would have deleted the entry from the calendar rather than simply switching off the notification function, which the Appellant could easily have switched back on: [89]. The Judge said that there was no evidence that the Appellant's previous telephone had broken and no other reason given for why the Appellant's husband would give her his telephone: [90].

20. In respect of the letter sent to the Appellant's husband indicating that deprivation of his citizenship would not impact on the Appellant or their children, the Judge observed that this letter had been sent before the Appellant's own deception had come to light: [93].

21. The Judge found that although the Appellant was not married to her husband at the time he made his naturalisation application, she continued her husband's deception in order to be able to benefit from it. She had knowingly and with intent made representations in her application which she knew were false and which involved concealment of material facts. The Judge did not accept the Appellant's explanation that she did not know her husband's true identity until 2018: [95]-[97]. She found that the SSHD had "therefore…exercised her discretion diligently and lawfully" and that she did not need to consider the Article 8 rights of the Appellant or her children, because there was no order for removal of any of them: [97]-[98].

The grounds of appeal

22. The Appellant advanced ten grounds of appeal against the Judge's decision. We address them in turn.

Ground (a)

23. First, the Appellant argued that the Judge erred by failing, once the condition precedent of fraud was established, to consider the Article 8 rights of the Appellant and her children, contrary to the approach set out in R (Begum) v Special Immigration Appeals Commission [2021] UKSC 7 and Ciceri v SSHD [2021] UKUT 00238 (IAC).

24. The Judge had failed to determine whether Article 8 rights were engaged and then decide for herself whether depriving the Appellant of citizenship would constitute a violation of those rights. She should have conducted (a) a determination of the "reasonably foreseeable" consequences of deprivation; and (b) an assessment of proportionality based on the evidence before her (which need not have been the same as the evidence before the SSHD).

25. The Judge had apparently been led into this error by the SSHD's written review which asserted at [53] that there was no decision to remove the Appellant such that Article 8 was not an issue for the Judge. This was wrong, even pre-Begum.

26. The Judge's failure in this respect was a material error, because the Appellant's Article 8 rights were *prima facie* engaged by her having been resident in the UK since 2010, her naturalisation in 2014 and her having two British children. Further, the assessment of the Article 8 issue involved *inter alia* the best interests of her children and an argument about delay based on the SSHD not having taken action against her when she took it against her husband (applying Laci v SSHD [2021] EWCA Civ 769).

27. The SSHD argued that the Judge had in fact given consideration to the question of whether Article 8 was engaged, albeit briefly, when she said at [98] that she did not need to consider Article 8 because there was no order to remove the Appellant or her children from the UK. It was therefore sufficiently clear that the Judge had concluded that Article 8 was not

engaged on the basis that removal from the UK and any associated interference with protected rights was not in prospect, and found accordingly.

28. Further, the conclusion that Article 8 was not engaged was the only conclusion properly open to the Judge because the only matters relied upon by the Appellant were the best interests of her children and the alleged delay by the SSHD. These were not matters that went to whether Article 8 was engaged but rather were issues that fell to be weighed in the balance if it was engaged.

29. In respect of the two issues, (i) there was no evidential basis for the contention that the Appellant's children would be prejudiced by the deprivation decision; and (ii) the delay argument was not persuasive for the reasons set out with respect to ground (e) below.

30. We are not persuaded by the Respondent's submission that it can be inferred from [98] of the Judge's decision that Article 8 was not engaged. However, we find that the Judge's failure to properly address Article 8 was not material because on the facts of this case the Appellant could not establish a breach of Article 8. We are of the view that Article 8 is not engaged or, if it is, the decision to deprive the Appellant of British citizenship ('deprivation decision') is proportionate. Our reasons are as follows.

31. It is not in dispute that removal is not a reasonably foreseeable consequence of the deprivation decision and the decision does not affect the status of the Appellant's two children who are British citizens ([42] of the Respondent's decision of 28 August 2020). There was no suggestion the Appellant's children would suffer any difficulty or prejudice as a result of the deprivation decision. On the evidence before the Judge, the best interests of the children were not affected by the deprivation decision.

32. The Respondent took deprivation action against the Appellant's husband and, after his appeal was dismissed, she initiated proceedings against the Appellant. The Respondent's action and any delay caused by taking this course was reasonable in the circumstances. The Appellant's complicity in her husband's fraud would only be actionable once his fraud was proved.

33. The delay in pursuing deprivation action against the Appellant was not 'extraordinary' and her case is distinguishable from Laci on its facts. The Appellant's right to a British passport and the right to vote are benefits of citizenship. These issues are not relevant to the engagement of Article 8.

34. We accept the Appellant has established family and private life in the UK. However, there is no interference with her Article 8 rights because the deprivation decision does not give rise to consequences of such gravity so as to engage Article 8.

35. Further and alternatively, taking the Appellant's case at its highest, the deprivation decision is proportionate. There was insufficient evidence before the Judge to establish a breach of Article 8.

36. This conclusion is dispositive of the appeal because the remaining grounds are incapable of showing the Respondent's decision of 28 August 2020 was unlawful or perverse.

Ground (b)

37. Next, the Appellant submitted that the Judge erred at [97] by conflating her consideration of the condition precedent with the exercise of the SSHD's discretion. The latter issue should have been considered separately

38. The SSHD highlighted that this ground, and grounds (c), (d), (f), (g), (h), (i) and (j), all related to the issue of the condition precedent of fraud. Following Begum and Ciceri it was clear that the First-tier Tribunal's approach was limited to a review of the SSHD's finding that she was satisfied that the condition precedent was made out on administrative law principles. The Appellant appeared to have contended before the Judge that her role was to conduct a full reconsideration of the deprivation decision, but that was incorrect. Here, the SSHD's findings of fact were plainly supported by the evidence and there was nothing before the Judge to illustrate that the SSHD's decision was perverse.

39. Further, the SSHD argued that any error by the Judge in conducting a full reconsideration was not material to the outcome of the appeal, because the Judge's approach was overly generous to the Appellant; she gave cogent reasons for her rejection of the Appellant's case; and she was bound to do so on the materials before her. The condition precedent was lawfully established and Article 8 was not engaged. Therefore, there was no basis on which it could properly be concluded that the discretion was not exercised lawfully.

40. It is not in dispute that the Respondent's decision on the condition precedent can only be challenged on public law grounds following [71] of Begum (set out at Annex A). We find that any error by the Judge in conducting a merits review was not material.

41. The Respondent was entitled to rely on the evidence from the NCA in concluding that the Appellant was aware of her husband's deception and continued that deception in her naturalisation application.

42. The Appellant was aware of the criminal investigation which also led to her husband's deprivation of citizenship. She failed to submit evidence of her explanation for why her husband's correct date of birth was in her mobile telephone calendar. The response to the deprivation decision dated 18 September 2020 makes no mention of it and it was not relied on in the grounds of appeal.

43. The Judge considered this explanation advanced at the appeal hearing and rejected it. There was no evidential basis upon which the judge could have concluded the Respondent's discretion was not lawfully exercised. There was no material error of law as alleged in ground (b).

Ground (c)

44. By this ground the Appellant argued that the Judge made a material omission by failing to consider the relevance of the SSHD's concession that it was not alleged that the Appellant had provided false details in her entry clearance application: this showed that she was unaware of her husband's deception in 2009.

45. The SSHD relied on the principle that a judge need not deal with every aspect of the evidence in a judgment: she was entitled to leave out reference to this issue as it was plainly not material to her decision-making.

46. We are satisfied the Judge was well aware of this concession and she specifically referred to it at [16]. Given that it was accepted the Appellant did not use deception in her entry clearance application, there was no error of law in the Judge's failure to mention it her discussion and findings and it is apparent this matter was not taken against the Appellant when the decision is read as a whole.

Ground (d)

47. The Appellant submitted that the Judge erred in failing to find that the issue she had to decide was whether the Appellant was aware of her husband's fraud at the time she made the application for naturalisation in October 2013, and by then considering later events such as those in 2015 considered at [82].

48. The SSHD submitted the Judge gave clear and reasoned findings that the Appellant was not a credible witness after hearing evidence tested in cross-examination and the Upper Tribunal should be slow to interfere with those findings. The judge's finding that the Appellant's explanations were not capable of belief was open to her.

49. We consider that it is apparent from [36], [49], [71], [75], [76] and [97] that the Judge was well aware of the issue she had to decide. It was the Appellant's case that she did not know of her husband's deception until 2018. The Judge was entitled to take into account evidence post-dating the application for naturalisation in rejecting this explanation.

Ground (e)

50. Next, the Appellant argued that the Judge made a material error in finding at [93] that the SSHD had acted as soon as the Appellant's deception came to light: in fact, the SSHD had had the NCA evidence since November 2017 and relied on no new evidence against the Appellant. This

delay, the SSHD having initially taken action against the Appellant's husband and not her, was relevant to the consideration of the discretion, following Laci.

51. The SSHD argued that none of the three possible ways in which delay can be relevant to Article 8 (see EB (Kosovo) (FC) (Appellant) v SSHD [2008] UKHL 41 at [13]-[16]) applied: (i) delay while no decision was taken, in which the Appellant might strengthen their private and family life, was not relevant as this was not a removal case; (ii) the Appellant was not in a precarious position: she had been given no assurance that action would not be taken against her, and if in fact she had been party to her husband's deception she could have had no misapprehension that she would not face similar action; and (iii) the delay in the Appellant's case was not of such a length that it indicated "a dysfunctional system which yields unpredictable, inconsistent and unfair outcomes". Further, Laci could be distinguished because the nine years' delay in that case was of "extraordinary length" [77] and deprivation action was being pursued against the Appellant's husband in this case.

52. In our view, there is no error of law disclosed in this ground. The delay was not unreasonable or of "extraordinary length" and was not capable of materially affecting the Respondent's refusal to exercise discretion in the Appellant's favour.

Ground (f)

53. By this ground, the Appellant submitted that the Judge failed to consider material evidence/made a material mistake of fact in confusing an entry on the calendar on the telephone with a notification. The NCA evidence had not addressed the notifications issue.

54. The SSHD argued that there was no evidence before the Judge about the meaning of a notification in this context, and it could comfortably include an entry in the calendar on the telephone.

55. Contrary to the Appellant's submission on this point, the judge did consider the evidence about the mobile telephone at [88] to [90]. On the Appellant's own evidence, her husband's true date of birth was in the calendar on her mobile phone from 2013. In any event, the Appellant's explanation was not before the Respondent and at the time the deprivation decision was made.

56. The Appellant was given the opportunity to submit evidence in response to the Respondent's letter of 15 January 2020. On 3 February 2020, the Appellant submitted 26 items of documentary evidence, but did not include the evidence dated 2016 in relation to the mobile telephone (pages 129 to 135 of the Appellant's bundle). The Appellant relied on the same letter in response to the deprivation decision dated 28 August 2020. The Appellant's explanation and the documentary evidence from the

mobile telephone company was first raised at the appeal hearing before the Judge who gave adequate reasons for rejecting the explanation.

Ground (g)

57. Next, the Appellant argued that the Judge failed to consider documentary evidence or material matters because unchallenged evidence had been placed before her as to why the Appellant's husband had given her the telephone: he had had a two year contract for his telephone and then having upgraded his handset, had given the Appellant his old one in 2016.

58. The SSHD argued that in light of the approach First-tier Tribunals should take to the condition precedent issue (as set out in Ciceri), it was conceptually flawed for the Appellant to rely on documentation pertinent to that issue before the Tribunal when the same had not been before the SSHD.

59. In reply, the Appellant argued that there must be a role for oral evidence before the First-tier Tribunal on the condition precedent issue, and that she was entitled to rely on this and documentary evidence that was not before the SSHD in support of her argument that the SSHD's approach was irrational.

60. In our view, the correct approach is that set out at [71] of Begum. In addition, the Appellant had the opportunity to put this evidence before the Respondent and failed to do so (see grounds (f) and (g) above). The Judge's rejection of this explanation was open to her on the evidence before her and she gave adequate reasons for her conclusions. This evidence did not assist the Appellant in establishing a public law error on the part of the Respondent.

Ground (h)

61. The Appellant submitted that the Judge made a mistake of fact in finding that the reason for her husband giving her the telephone was that hers had broken: this was never her case. The Judge had also failed to consider the significance of the evidence that the Appellant received the telephone after her naturalisation application was made.

62. For the reasons given above, this ground is not relevant to reviewing the Respondent's assessment following Begum, nor is the mistake of fact material.

Ground (i)

63. By this ground the Appellant argued that the Judge had failed to consider that First-tier Tribunal Judge Kimnell made no adverse findings about the Appellant's credibility and that there was documentary evidence supporting her account. These were all material to the assessment of her credibility.

64. In our view, there was no error of law in the judge's assessment of credibility. The Judge's rejection of the Appellant's claim she was unaware of her husbands identity until 2018 was open to the Judge on the evidence before her. The Judge took into account the decision of Judge Kimnell at [14] in any event.

Ground (j)

65. Finally, the Appellant submitted that the Judge had failed to give adequate reasons for finding at [84] that it was not credible that the Appellant's husband's family would not lie on his behalf, when the evidence was that he had warned them about the issue and that the Appellant was kept away from his family as much as possible.

66. We consider this issue is not material to the review required by [71] of Begum and it discloses no material error of law.

Conclusion

67. Grounds (b) to (d) and (f) to (j) are incapable of demonstrating that the Respondent's decision, that the condition precedent was satisfied, was unlawful or perverse. The alleged delay was not relevant to the engagement of Article 8 and was reasonable in the circumstances. On the facts asserted, Article 8 was not engaged and/or the deprivation decision was proportionate. The Judge's failure to consider Article 8 did not amount to a material error of law. Accordingly, for these reasons the appeal is dismissed.

Notice of Decision

The appeal is dismissed

Signed: Date: 17 May 2022

Mrs Justice Hill
The Hon. Mrs Justice Hill Frances

J Frances
Upper Tribunal Judge

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:

2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically).**

3. Where the person making the application is in detention under the Immigration Acts**, the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically).**

5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.

6. The date when the decision is "sent' is that appearing on the covering letter or covering email.

ANNEX A

Begum at [71]

“Nevertheless, SIAC has a number of important functions to perform on an appeal against a decision under section 40(2). First, it can assess whether the Secretary of State has acted in a way in which no reasonable Secretary of State could have acted, or has taken into account some irrelevant matter, or has disregarded something to which he should have given weight, or has been guilty of some procedural impropriety. In doing so, SIAC has to bear in mind the serious nature of a deprivation of citizenship, and the severity of the consequences which can flow from such a decision. Secondly, it can consider whether the Secretary of State has erred in law, including whether he has made findings of fact which are unsupported by any evidence or are based upon a view of the evidence which could not reasonably be held. Thirdly, it can determine whether the Secretary of State has complied with section 40(4), which provides that the Secretary of State may not make an order under section 40(2) “if he is satisfied that the order would make a person stateless”. Fourthly, it can consider whether the Secretary of State has acted in breach of any other legal principles applicable to his decision, such as the obligation arising in appropriate cases under section 6 of the Human Rights Act. In carrying out those functions, SIAC may well have to consider relevant evidence. It has to bear in mind that some decisions may involve considerations which are not justiciable, and that due weight has to be given to the findings, evaluations and policies of the Secretary of State, as Lord Hoffmann explained in *Rehman* and Lord Bingham reiterated in *A*. In reviewing compliance with the Human Rights Act, it has to make its own independent assessment.”