IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-005344

First-tier Tribunal No:
DC/50101/2021
LD/00064/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:

23rd October 2023

Before

UPPER TRIBUNAL JUDGE O'CALLAGHAN

Between

LIRIDON SMAJLI
(NO ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr A Steadman, Counsel, instructed by SMA Solicitors
For the Respondent: Ms S Cunha, Senior Presenting Officer

Heard at Field House on 2 October 2023

DECISION AND REASONS

Introduction

1. This appeal concerns a deprivation of citizenship decision issued by the respondent on 14 April 2021.

2. The appellant's appeal was initially dismissed by the First-tier Tribunal (Judge of the First-tier Tribunal Hussain) on 23 September 2022. The

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appellant was granted permission to appeal to the Upper Tribunal. On 18 April 2023, a panel of the Upper Tribunal (Dove J, UTJ O'Callaghan) set aside the decision of the First-tier Tribunal.

3. The resumed hearing was conducted by means of a hybrid hearing. Ms Cunha was permitted to join the meeting remotely. Mr Steadman and the appellant were present in the hearing room.

Brief Facts

4. The appellant accepts that he is a national of Albania who was born in Shkoder. He is presently aged 45. He resides in the United Kingdom with his wife and his two British citizen children.

5. Having entered the United Kingdom, he presented himself to the respondent's Asylum Screening Unit on 14 July 1998, identifying himself in his true name. He falsely declared himself to be a citizen of the Federal Republic of Yugoslavia who had previously resided in the Autonomous Province of Kosovo. Additionally, he provided a false date of birth, 27 June 1981, so declaring himself to be aged 17, rather than his true age of 20.

6. He completed an asylum application form on 22 July 1998, again confirming that he was born in Kosovo in 1981. He gave his nationality as Kosovan, formerly Yugoslavian. He stated that he had entered the United Kingdom in the back of a lorry and had come to this country because it was safe.

7. In addition to the application form he provided a statement to the respondent detailing that he was a Kosovan national who had resided with his parents in Decan, Kosovo. He stated that his education had been disrupted in 1991 when all Albanian language schools were closed in the province. He subsequently became interested in politics, and although not a member of the Democratic League of Kosovo Party he attended demonstrations organised by the party in October 1997 demanding that Albanian language schools be reopened. On his evidence he was 16 at this time. He was not arrested at the demonstrations, but subsequently police turned up at the family home whilst he was out, assaulted members of his family and destroyed contents in the home. The appellant asserted that he was terrified of being arrested by the police, so he remained in hiding, during which time the police further visited the family home. He stated that his father arranged his travel out of Albania and into the United Kingdom.

8. The appellant now accepts that the personal history he provided to the respondent in 1998 was false.

9. The respondent sent a letter to the appellant in August 1998 identifying that there were concerns over his claimed age and asking that he provide evidence of his date of birth. The appellant's then legal representatives

replied on 13 May 1999 stating that due to the circumstances in Kosovo the appellant was unable to secure any formal documentation.

10. Despite still possessing doubts about the appellant's age, the respondent accepted that he could not secure formal identification due to the ongoing circumstances in Kosovo and proceeded to recognise him as a refugee. The appellant was granted indefinite leave to remain on 31 May 1999.

11. On 7 January 2000 the appellant applied for a travel document. He identified himself as a Kosovan national, born in Pristina. He explained that he was unable to secure a travel document from his own country because of prevailing circumstances in Kosovo. He signed the form confirming that the information provided was true to the best of his knowledge. The respondent issued a travel document in the appellant's false identity on 21 January 2000.

12. The appellant applied to naturalise as a British citizen on 28 July 2003, giving his false identity and confirming that he was a Yugoslavian national. He signed the application form to confirm that he had given correct information. The appellant was naturalised under section 6(1) of the British Nationality Act 1981 on 16 August 2003.

13. On 23 January 2007 the appellant's wife applied at the British Embassy, Tirana, for entry clearance to settle in the United Kingdom. Her application form detailed the appellant's false identity and his birthplace as Pristina. She explained that the couple had met in Albania in August 2004 and had been married in that country in 2005. The appellant had subsequently visited her on several occasions. The appellant's wife provided the appellant's British passport. In addition, she provided an Albanian marriage certificate detailing that the appellant was an Albanian national, and an Albanian birth certificate confirming the appellant's true place and date of birth.

14. On 10 April 2007 the respondent wrote to the appellant detailing that she was aware of his genuine nationality and date of birth. She confirmed her intention to deprive him of his British citizenship. The appellant was given the opportunity to respond to the allegations.

15. By a letter dated 3 December 2007, the appellant's former representatives wrote on his behalf and confirmed his genuine identity as an Albanian national born in 1978. The letter detailed the appellant's sincere regrets at using a false identity, and an acceptance that he knew that he had committed wrong by providing false details when applying for asylum. The letter explained personal circumstances in Albania, and the reasons why he left the country. It was further explained that when arriving in this country he was informed by an agent that he must not make an asylum claim in his own identity as he would be returned to Albania. The appellant's position was that he acted on the instructions of the agent and subsequently was informed by a solicitor and an interpreter that he would not secure asylum if he gave details as to his genuine

identity. The letter detailed the appellant's belief at the time of his asylum application that he had no option but to provide false information. The letter further noted that since his arrival in the United Kingdom the appellant had studied and worked full-time, he was a law-abiding citizen and had no criminal record.

16. The respondent prepared a letter dated 14 April 2009 depriving the appellant of his British citizenship. The respondent confirmed at an earlier hearing of this appeal that the letter was placed on file, never served, and so is not now relied upon.

17. The respondent wrote to the appellant on 1 September 2010, detailing:

> 'Thank you for your letter of 24 August 2010 regarding Mr Liridon Smajli and his status as a British citizen. Please be assured that we did receive your previous letter where you state you now act for Mr Liridon Smajli and our records have been updated accordingly.
>
> This case was referred to us by the British Embassy in Tirana on the grounds that Mr Liridon Smajli obtained settlement and citizenship on the grounds of fraud by stating he was from Kosovo.
>
> Very careful consideration is given as to whether it is appropriate to deprive somebody of their British citizenship in order to ensure that the correct decision is made. Consequently this can be a lengthy process. The final decision in all cases is currently made by the Home Secretary himself.
>
> As yet a final decision has not been made on Mr Liridon Smajli's case but you will be notified as soon as it is made.'

18. HM Passport Office received a paid application from the appellant to renew his British passport on 16 May 2013. Having received a copy of his previous passport, a new passport was issued on 23 May 2013. A witness statement from Joanne Flannery, HM Passport Office, dated 4 September 2023, confirms:

> '8. As I understand it, there was no requirement for this person to submit any other passport or identity documents held. Production of his previous British passport in the identity provided sufficed for him to be granted British passport facilities in accordance with HM Passport Office policy.
>
> ...
>
> 10. A significant change of note has been the introduction of the one name policy introduced by HM Passport Office in February 2015. As stated on the GOV.UK website, 'Customers must only use 'one name for all official purposes', making sure the name they want to be known as on their passport, matches the name on their official UK or overseas documents.' Also '[…] We will only issue a passport when we are certain of the customer's identity and that they use their name for all official purposes.'

...

12. In 2021 HM Passport Office was notified by United Kingdom Visas and Immigration (UKVI) of deprivation proceedings relating to Mr Liridon Smajli born 27 June 1981, Pristina, Kosovo.'

19. The respondent did not communicate with the appellant for several years, resulting in a chasing letter from the appellant's previous legal representatives being received on 1 May 2019.

20. Following a further period of silence, the respondent's decision to deprive under section 40(3) of the 1981 Act was issued on 14 April 2021. It addresses the issue of delay at paras. 26 and 27:

> "26. Your representatives claimed it would be unfair and unjust to deprive you of your citizenship twenty years after you arrived in UK. Additionally that if a decision had been made on September 2011 you would have benefited from the previous Home Office policy that provided the Secretary of State did not normally deprive a person of citizenship if they had been resident in the UK for more than fourteen years.
>
> When the Home Office first became aware of your case it was one which could have been considered a potential nullity case. This has benefited you, in that you are able to continue to identify as a British citizen with all the rights and privileges that bestows as described by yourself – a stable job, a property and a private and family life. It was not until the Supreme Court decision in December 2017 that a firm determination was made and deprivation action resumed on cases such as yours, which was referenced later in *R (Hysaj) v Secretary of State for the Home Department [2020] UKUT 00128 (IAC)*.
>
> ...
>
> 28. It can be concluded that in depriving you, you were not subjected to an unlawful delay in the consideration of the matter and there is no unfairness in your case being considered under Chapter 55. Between April 2007 and up to date, you have continued to be a British citizen with all the rights and privileges that grants. The delay has not caused you to suffer any detriment that the Home Office has failed to alleviate. ..."

Upper Tribunal Decision of 18 April 2023

21. The Presidential panel noted at [21] that in her decision letter of 14 April 2021 the respondent had made no reference to the appellant being issued with a second passport in 2013.

22. The panel additionally observed:

> '23. As for the issuing of the second passport, Ms Cunha relied upon the judgment of Morris J in *R (Gjini) v. Secretary of State for the*

Home Department [2021] EWHC 1677 (Admin), [2021[1 WLR 5336, as establishing that the respondent would have acted inconsistently with article 8 rights by not issuing the passport to the appellant whilst consideration as to deprivation was ongoing.

24. Despite Ms Cunha's efforts, we are satisfied that the Judge materially erred in his assessment of the impact of the reasonably foreseeable consequences of deprivation upon the appellant's article 8 rights by failing to place into the assessment the issuing of the second passport in May 2013 and the appellant's belief flowing from receiving his passport that the respondent was not intending to deprive him of his citizenship. The judgment in *Gjini* is not determinative of the matter. The then relevant written ministerial statement concerned with the refusal and withdrawal of passport facilities was dated 25 April 2013, and so recently in force when the appellant was issued with his second passport. It confirmed that whilst a decision to refuse a passport under the public interest criteria would be used only sparingly, such decision must be necessary and proportionate. It was noted that 'passports are issued when the Home Secretary is satisfied as to: (i) the identity of an applicant; and (ii) the British nationality of an applicant; and (iii) there being no other reasons – as set out below – for refusing a passport'. The respondent is silent as to the issuing of the passport in her decision of April 2021, and no reasons have been provided to date as to why it was not considered necessary and proportionate in May 2013 to refuse to issue the second passport.

25. Whilst not dispositive, the appellant's understanding of events following the issuing of the passport in 2013 and up until the decision in April 2021 are properly to be taken into account, and in this matter the failure to do so was a material error of law.

26. The materiality of such error flows into the alternative consideration of issue (2) above, the exercise of discretion. The Judge was required to consider whether the respondent had left out of account the issuing of the second passport and whether it should have been given weight, being mindful that the evaluation by the respondent of the public interest is only susceptible only to public law challenge. The Judge failed to undertake this consideration, and so materially erred in law.'

23. The Upper Tribunal preserved the finding made at [38] of the First-tier Tribunal decision that the appellant had engaged in deception in securing refugee status and subsequently that such deception flowed into his securing indefinite leave to remain and British citizenship. Those findings were properly to be preserved.

Law

24. Section 40(3) of the 1981 Act (as amended):

(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.

25. Following the Supreme Court judgment in *R (Begum) v. Special Immigration Appeals Commission* [2021] UKSC 7, [2021] A.C. 765, the Upper Tribunal confirmed in *Ciceri (deprivation of citizenship appeals: principles)* [2021] UKUT 00238 (IAC), at [30], that in deprivation appeals:

(1) The Tribunal must first establish whether the relevant condition precedent specified in section 40(2) or (3) of the British Nationality Act 1981 exists for the exercise of the discretion whether to deprive the appellant of British citizenship. In a section 40(3) case, this requires the Tribunal to establish whether citizenship was obtained by one or more of the means specified in that subsection. In answering the condition precedent question, the Tribunal must adopt the approach set out in paragraph 71 of the judgment in *Begum*, which is to consider whether the Secretary of State has made findings of fact which are unsupported by any evidence or are based on a view of the evidence that could not reasonably be held.

(2) If the relevant condition precedent is established, the Tribunal must determine whether the rights of the appellant or any other relevant person under the ECHR are engaged (usually ECHR Article 8). If they are, the Tribunal must decide for itself whether depriving the appellant of British citizenship would constitute a violation of those rights, contrary to the obligation under section 6 of the Human Rights Act 1998 not to act in a way that is incompatible with the ECHR.

(3) In so doing:

(a) the Tribunal must determine the reasonably foreseeable consequences of deprivation; but it will not be necessary or appropriate for the Tribunal (at least in the usual case) to conduct a proleptic assessment of the likelihood of the appellant being lawfully removed from the United Kingdom; and

(b) any relevant assessment of proportionality is for the Tribunal to make, on the evidence before it (which may not be the same as the evidence considered by the Secretary of State).

(4) In determining proportionality, the Tribunal must pay due regard to the inherent weight that will normally lie on the Secretary of State's side of the scales in the Article 8 balancing exercise, given the importance of maintaining the integrity of British nationality law in the face of attempts by individuals to subvert it by fraudulent conduct.

(5) Any delay by the Secretary of State in making a decision under section 40(2) or (3) may be relevant to the question of whether that decision constitutes a disproportionate interference with Article 8, applying the judgment of Lord Bingham in *EB (Kosovo) v Secretary of State for the Home Department* [2009] AC 1159. Any period during which the Secretary of State was adopting the (mistaken) stance that the grant of citizenship to the appellant was a nullity will, however, not normally be relevant in assessing the effects of delay by reference to the second and third of Lord Bingham's points in paragraphs 13 to 16 of *EB (Kosovo)*.

(6) If deprivation would not amount to a breach of section 6 of the 1998 Act, the Tribunal may allow the appeal only if it concludes that the Secretary of State has acted in a way in which no reasonable Secretary of State could have acted; has taken into account some irrelevant matter; has disregarded something which should have been given weight; has been guilty of some procedural impropriety; or has not complied with section 40(4) (which prevents the Secretary of State from making an order to deprive if she is satisfied that the order would make a person stateless).

(7) In reaching its conclusions under (6) above, the Tribunal must have regard to the nature of the discretionary power in section 40(2) or (3) and the Secretary of State's responsibility for deciding whether deprivation of citizenship is conducive to the public good.

26. A Presidential panel confirmed in *Chimi (deprivation appeals; scope and evidence) Cameroon* [2023] UKUT 00115 (IAC) that a Tribunal determining an appeal against a decision taken by the respondent under section 40(3) of the 1981 Act should consider the following questions:

(a) Did the respondent materially err in law when she decided that the condition precedent in s40(2) or s40(3) of the British Nationality Act 1981 was satisfied? If so, the appeal falls to be allowed. If not,

(b) Did the respondent materially err in law when she decided to exercise her discretion to deprive the appellant of British citizenship? If so, the appeal falls to be allowed. If not,

(c) Weighing the lawfully determined deprivation decision against the reasonably foreseeable consequences for the appellant, is

the decision unlawful under s6 of the Human Rights Act 1998?
If so, the appeal falls to be allowed on human rights grounds.
If not, the appeal falls to be dismissed.

27. In considering questions (a) and (b), the Tribunal must only consider evidence which was before the respondent, or which is otherwise relevant to establishing a pleaded error of law in the decision under challenge.

28. In considering question (c), the Tribunal may consider evidence which was not before the respondent but, in doing so, it may not revisit the conclusions she reached in respect of questions (a) and (b).

29. The recent Court of Appeal judgments in *Shyti v Secretary of State for the Home Department* [2023] EWCA Civ 770 (4 July 2023) and *Ahmed v Secretary of State for the Home Departmen*t [2023] EWCA Civ 1087 (28 September 2023) were not said by the representatives to be relevant to this appeal.

Decision and Reasons

30. At the outset I express my gratitude to Mr Steadman and Ms Cunha for their helpful written submissions.

31. On behalf of the appellant Mr Steadman did not seek to contend that there was any public law error in the respondent's consideration of the condition precedent question. His submissions focused on the questions of whether the respondent had made a public law error in considering her discretion and whether the decision was in breach of article 8.

32. Section 40(3) of the 1981 Act empowers, but does not require, the respondent to deprive a person of their British citizenship where she is satisfied that their naturalisation was obtained by means of fraud, false representation or concealment of a material fact. Section 40A provides for an appeal against such a decision. The recent decision in *Chimi* provides guidance as to the task to be undertaken when a tribunal considers an appeal in relation to a section 40(3) decision.

33. The appellant accepts that he made false representations as to his true identity so as to secure refugee status. He further accepts that he would not have secured refugee status if he had provided the respondent with his true identity. It was in his false identity that he secured settlement and naturalisation.

34. In respect of question (b) posed in *Chimi* the appellant contends that the respondent erred in law when she decided not to exercise her discretion to deprive him of his British citizenship. The focus of Mr Steadman's careful and concise submission was that there was scope for an article 8

assessment to bite when considering this question as the issue of delay, the mainstay of the article 8 proportionality assessment in this appeal, is also relevant to the initial condition precedent assessment, it being irrational for the respondent to conclude that she acted diligently and swiftly so as to provide the appellant with adequate procedural safeguards. Reliance was placed upon the Supreme Court judgment in *Begum*, at [64]:

> '64 … whether the authorities acted diligently and swiftly, and whether the person deprived of citizenship was afforded the procedural safeguards required by article 8 … .'

35. Upon careful consideration, I conclude that the article 8 assessment is not engaged in the public law review undertaken by question (b). At [64] of his judgment Lord Reeds attention was expressly directed to the appellate process enabling the procedural requirements of the European Convention on Human Rights to be satisfied, which is the core of the consideration to be undertaken by question (c) in *Chimi*.

36. I therefore turn to question (c). It is proper to observe that a heavy weight is to be placed upon the public interest in maintaining the integrity of the system by which foreign nationals are naturalised and so permitted to enjoy the benefits of British citizenship: *Laci v. Secretary of State for the Home Department* [2021] EWCA Civ 769, [2021] Imm. A.R. 1410, at [80], approving *Hysaj (Deprivation of Citizenship: Delay)* [2020] UKUT 128 (IAC), [2020] Imm. A.R. 1044, at [110].

37. Any delay by the respondent in making a decision may be relevant to the question of whether that decision constitutes a disproportionate interference with rights protected by article 8, applying *EB (Kosovo) v Secretary of State for the Home Department* [2009] AC 1159. Any period during which the respondent was adopting the mistaken position that the grant of citizenship to the appellant was a nullity will not normally be relevant in assessing the effects of delay by reference to the second and third of Lord Bingham's points in *EB (Kosovo)*, at [13] - [16]: *Ciceri,* at [30(5)].

38. Only exceptionally will it be right for a person who has obtained citizenship by deception to be allowed to retain it. Thus, to be relevant, delay in the decision whether to deprive must be in the realm of inexcusable and/or unreasonable. A reduction in weight to be given to the public interest may be proper where the impact of delay is such that an appellant develops ties and puts down roots in the United Kingdom with an attendant fading of the sense of impermanence in his position arising from the knowledge that deprivation is under consideration. In this matter, the appellant's understanding of the situation is material to the impact of delay. Once it is accepted that unreasonable delay is capable of being a

relevant factor then the weight to be given to it in the particular case is a matter for a tribunal: *Laci*, at [77].

39. Ms Cunha submitted that the respondent's consideration of the matter was protracted because she did not know what to do, as there was ongoing judicial consideration as to whether her policy of nullity was appropriate. Much of the delay can be explained by respondent as flowing from the uncertainty of litigation. In any event, in respect of *EB (Kosovo)* the respondent did not expressly inform the appellant that she would not pursue deprivation, and so the appellant could not properly assume that such action would not be undertaken. Additionally, reliance was placed by the respondent upon the appellant only chasing for a decision by his legal representatives' letter of 2019, several years after he was made aware that the respondent was considering deprivation.

40. Mr Steadman accepted that there is no numerical bright line by which a point in time is reached where the public interest is properly to be reduced consequent to delay. It is a fact-sensitive assessment. However, delay from 2007 to 2021 was an exceptionally long period of time, and the public interest could properly be reduced where no additional adverse factors weigh against the appellant.

41. At the outset of the article 8 assessment, I find the appellant's application for a replacement passport is not adverse to him in the proportionality assessment. He had informed the respondent approximately 5 ½ years previously as to having used a false identity. He was advised by his then legal representative that when renewing his passport, he was required to make the application in the identity in which the passport was issued. The appropriateness of the legal advice is established by the evidence of Ms Flannery in her witness statement. The respondent had taken no steps by 2013 to notify HM Passport Office as to ongoing consideration of deprivation action. HM Passport Office was first notified in 2021 that a deprivation decision had been issued, some eight years after the renewal application. Observing the relevant policy at the time, where the respondent was to be satisfied as to the identity of an applicant for a passport, no cogent reason has been provided by the respondent as to why it was not considered necessary and proportionate to refuse the renewal application at the time. Consequently, I accept that the appellant, acting on legal advice, did not intend to deceive or mislead HM Passport Office when making the application to renew in 2013.

42. Relevant to the article 8 assessment is the decision of the respondent dated 14 April 2009. No explanation has been provided by the respondent as to why it was placed on file, nor as to why it was not subsequently served. The decision letter of April 2021 is silent as to the draft previous decision, and whilst the April 2009 decision was for a time relied upon by

the respondent in these proceedings, such reliance was subsequently withdrawn. The 2009 decision is short, running to a little over two pages. It advised the appellant of the respondent's decision to deprive him of his British citizenship with formal deprivation to occur if the appellant did not appeal or was unsuccessful on appeal. It is clear from reading the document that the respondent was considering deprivation, and not proceeding on the basis that naturalisation was a nullity. This undermines the respondent's position before this Tribunal that the delay from 2007 was occasioned by her awaiting the conclusion of litigation in respect of her nullity policy, such conclusion eventually being reached by her concession before the Supreme Court in *R (Hysaj) v. Secretary of State for the Home Department* [2017] UKSC 82, [2018] 1 W.L.R. 221.

43. The submission as to uncertainty of litigation is further undermined by the respondent having been willing to make decisions under her nullity policy at a time when the appellant was awaiting a decision, as evidenced by the respondent's three nullity decisions in *R (Kaziu and Others) v. Secretary of State for the Home Department* [2015] EWCA Civ 1195, [2016] 1 WLR 673 being issued between February and June 2013.

44. A requirement that the respondent is to be chased for a decision before delay can properly be a factor when assessing the weight to be given to the public interest cannot be located in *EB (Kosovo)*. Delay or deferment by a public authority in the performance of its legal duty may amount to a breach of such duty and, as such, be unlawful: *R v Secretary of State for the Home Department, Ex p Mersin* [2000] INLR 511, [2000] I.N.L.R. 511. An additional burden is not properly to be placed upon an appellant to have to chase for a decision, in circumstances where, as here, the respondent has written to confirm that the process could be 'lengthy', and the decision would be conveyed as soon as it was made. The appellant was properly entitled to rely upon these observations and so not required to chase.

45. In this matter the appellant acknowledged in December 2007 that he falsely represented his true identity to the respondent. A decision to deprive was drafted on 14 April 2009, with reference to an address understood at that time to be the appellant's home. It was placed on file and never served. By September 2010 the respondent corresponded with the appellant at his home address, confirming that consideration as to deprivation was ongoing, and acknowledging that the process was a lengthy one. No step was taken to then serve the letter on file. The appellant properly applied to renew his passport in 2013 and I accept that its receipt led to the appellant genuinely believing that the likelihood of deprivation action being commenced was receding. Despite the appellant sending a chasing letter in May 2019, it took a further twenty-three months for a decision letter to be issued om 14 April 2021.

46. The gap in time from the appellant acknowledging his misrepresentation and the respondent's decision to deprive was thirteen years and five months. The gap between the respondent drafting her deprivation decision in April 2009 and her issuing her decision letter in April 2021 was twelve years. No adequate reason has been given for such delay. During this time, the appellant was joined by his wife and they had two minor British citizen children. He has worked in positions of responsibility and developed a wide circle of friends.

47. Having undertaken a careful assessment of the particular facts arising in this appeal, I consider this to be an exceptional case where the public interest is properly to be reduced. The respondent's inaction, unexplained to the appellant throughout, and additionally unexplained to this Tribunal in these proceedings, ran from December 2007 to April 2021, an extraordinarily long period of time. When taken with the appellant's personal circumstances during that time including the deepening of his ties within the community and the ongoing relationship with his wife and children, such inaction is sufficiently compelling to conclude that the deprivation of the appellant's British citizenship would be disproportionate, and unjustifiable.

48. In the circumstances, the appellant's appeal is properly to be allowed.

Notice of Decision

49. By a decision sent to the parties on 18 April 2023 the Upper Tribunal set aside the decision of the First-tier Tribunal dated 23 September 2022.

50. The decision is remade, and the appeal is allowed.

D O'Callaghan
Judge of the Upper Tribunal
Immigration and Asylum Chamber

12 October 2023