Immigration Law Update Seminar | No8 Chambers | Bushra Ali Group

Immigration, Asylum & Human Rights Update

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Hot off the Press: Latest Case Law

- Article 3 Health Cases: Bye Bye N!

AM (Zimbabwe) v Secretary of State for the Home Department [2020] UKSC 17 (29 April 2020)
http://www.bailii.org/uk/cases/UKSC/2020/17.html

AM Zimbabwe allowed remitted to UT. N should be departed from in the light of Paposhvili

- New Afghanistan CG case

AS (Safety of Kabul) Afghanistan (CG) [2020] UKUT 130 (IAC) (1 May 2020)
http://www.bailii.org/uk/cases/UKUT/IAC/2020/130.html

Kabul: Risk from Taliban – Serious Harm – Relocation

Immigration, Asylum & Human Rights Update

1. Article 8
2. Asylum
3. EEA
4. Deportation
5. Questions

Article 8

Article 8: British Children, *Chikwamba* & *Zambrano*

Younas (section 117B (6) (b); Chikwamba; Zambrano) Pakistan [2020] UKUT 129 (IAC) (24 March 2020)
http://www.bailii.org/uk/cases/UKUT/IAC/2020/129.html

(1) An appellant in an Article 8 human rights appeal who argues that there is no public interest in removal because after leaving the UK he or she will be granted entry clearance must, in all cases, address the relevant considerations in Part 5A of the Nationality, Immigration and Asylum Act 2002 ("the 2002 Act") including section 117B(1), which stipulates that "the maintenance of effective immigration controls is in the public interest". Reliance on Chikwamba v SSHD [2008] UKHL 40 does not obviate the need to do this.

Younas (section 117B (6) (b); Chikwamba; Zambrano) Pakistan [2020] UKUT 129 (IAC) (24 March 2020)

(2) Section 117B(6)(b) of the 2002 Act requires a court or tribunal to assume that the child in question will leave the UK: Secretary of State for the Home Department v AB (Jamaica) & Anor [2019] EWCA Civ 661and JG (s 117B(6): "reasonable to leave" UK) Turkey [2019] UKUT 72 (IAC). However, once that assumption has been made, the court or tribunal must move from the hypothetical to the real: paragraph 19 of KO (Nigeria) & Ors v Secretary of State for the Home Department [2018] UKSC 53. The length of time a child is likely to be outside the UK is part of the real world factual circumstances in which a child will find herself and is relevant to deciding, for the purpose of section 117B(6)(b), whether it would be unreasonable to expect the child to leave the UK.

(3) The assessment of whether a child, as a result of being compelled to leave the territory of the European Union, will be a deprived of his or her genuine enjoyment of the rights conferred by Article 20 TFEU in accordance with Ruiz Zambrano v Office national de l'emploi (Case C-34/09) falls to be assessed by considering the actual facts (including how long a child is likely to be outside the territory of the Union), rather than theoretical possibilities.

Article 8: §117B and the Reasonableness Question

Runa v Secretary of State for the Home Department [2020] EWCA Civ 514 (08 April 2020)
http://www.bailii.org/ew/cases/EWCA/Civ/2020/514.html

§32 *'He submits that section 117B(6) is to be regarded as a benevolent provision, which can only operate in one way, potentially in favour of an appellant but never adversely to an appellant. I would accept Mr Anderson's submission in this regard.'*

Runa v Secretary of State for the Home Department [2020] EWCA Civ 514 (08 April 2020)

33. This is important because a conventional Article 8(2) inquiry can take into account, as part of the overall proportionality exercise, other public interest considerations, including the conduct of the parent or parents. Under section 117B(6) there is no room for such an inquiry to take account of the conduct of the parents: that is the effect of the decision of the Supreme Court in KO (Nigeria), which overruled the earlier decision of this Court in MM (Uganda) v Secretary of State for the Home Department [2016] EWCA Civ 617; [2016] Imm AR 954 and in that respect approved what had been said by Elias LJ in MA (Pakistan) (as that case was known before it became KO (Nigeria) when it went to the Supreme Court), at para. 36. Under section 117B(6) the only question is focussed on the child: would it be reasonable to expect the child to leave the UK? If the answer to that is No, there is no need to go on to consider Article 8(2) more generally. However, as a matter of principle, and as Mr Anderson rightly submitted, if the answer is Yes, there will still be a residual scope for Article 8(2) to be considered.

Runa v Secretary of State for the Home Department [2020] EWCA Civ 514 (08 April 2020)

36.I would therefore reject Mr Biggs's primary submission as to the interpretation of section 117B(6). I would, however, accept his alternative submission, that the provision calls for a fact-finding exercise so that the full background facts must be established against which the only statutory question posed by that provision can then be addressed. I would emphasise again, as the Supreme Court did in KO (Nigeria) and this Court did in MA (Pakistan) and AB (Jamaica) that, once all the relevant facts have been found, the only question which arises under section 117(6)(b) is whether or not it would be reasonable to expect the child to leave the UK. The focus has to be on the child.

37.I would also accept Mr Biggs's submission that the test under section 117B(6) is not whether there are "insurmountable obstacles" to the maintenance of family life outside the UK. That would be so even in an ordinary Article 8 case: see GM at paras. 42-52, in particular paras. 43-44 (Green LJ). That is all the more so in a case which is not a conventional Article 8(2) one but arises under section 117B(6).

Article 8: Adults and Foster Carers (plus credibility and errors of law)

Uddin v The Secretary of State for the Home Department [2020] EWCA Civ 338 (12 March 2020)

http://www.bailii.org/ew/cases/EWCA/Civ/2020/338.html

11. I note in that regard the conventional warning which judges give themselves that a person may be untruthful about one matter (in this case his history) without necessarily being untruthful about another (in this case the existence of family life with the foster mother's family), known as a 'Lucas direction' (derived in part from the judgment of the CACD in R v Lucas [1981] QB 720 per Lord Lane CJ at 723C). The classic formulation of the principle is said to be this: if a court concludes that a witness has lied about one matter, it does not follow that he has lied about everything. A witness may lie for many reasons, for example, out of shame, humiliation, misplaced loyalty, panic, fear, distress, confusion and emotional pressure. That is because a person's motives may be different as respects different questions. The warning is not to be found in the judgments before this court. This is perhaps a useful opportunity to emphasise that the utility of the self-direction is of general application and not limited to family and criminal cases.

Uddin v The Secretary of State for the Home Department [2020] EWCA Civ 338 (12 March 2020)

15. The deputy Judge also held that the FtT's determination was carefully prepared by a very experienced judge who made a meticulous and balanced assessment of the evidence in the round. I entirely concur with the import of his observation in so far as it recognises that tribunal judges are specialist judges who are expected to know the expert materials in their field such that an appellate court should have appropriate regard for that specialist experience. That is quite different from an implication that there is a factor to be considered in an appeal that experienced judges should not be expected to make a mistake. In commenting that it "would have been an elementary and unlikely error for any judge in a jurisdiction which revolves around Article 8 ECHR issues" he was applying an assumption which is an inappropriate approach to an appeal.

Uddin v The Secretary of State for the Home Department [2020] EWCA Civ 338 (12 March 2020)

31. Dependency, in the Kugathas sense, is accordingly not a term of art. It is a question of fact, a matter of substance not form. The irreducible minimum of what family life implies remains that which Sedley LJ described as being whether support is real or effective or committed.

32. Subsequent case law has built upon but not detracted from Kugathas. In Ghising [2012] UKUT 00160 (IAC), Lang J sitting with Upper Tribunal Judge Jordan in the UT considered the authorities since Kugathas. They observed that family life between adult children and their birth parents will readily be found without evidence of exceptional dependence. In so far as it has been suggested that Kugathas had ever described a rigid test of exceptional dependency, this was dispelled and I respectfully agree with their conclusion that each case is fact sensitive.

Uddin v The Secretary of State for the Home Department [2020] EWCA Civ 338 (12 March 2020)

34.The Secretary of State goes further and submits that foster care is a "special category", in which it is incumbent upon an appellant to prove family life in a way that would otherwise be presumed in a birth family. I can find no support for this proposition in the case law. The principles in Kugathas, as described in the judgments to which I have referred, are of general application. I can discern no intention, articulated or implied, to limit the test of real or effective or committed support to birth families. Rather, at paragraph [18] of Kugathas the court describes the special case which is the converse of that asserted by the Secretary of State, namely that in some cases a natural tie between parent and infant may displace the principle of general application that a family life will need to be proved based on the substance of the relationship asserted.

35....

36.The existence of family life after a young person has achieved his or her majority is a question of fact. There is no presumption, either positive or negative, for the purposes of Article 8. Continued cohabitation will be a highly material factor to be taken into account and while not determinative, a young adult still cohabiting with a family beyond the attainment of majority is likely to be indicative of the continued bonds of effective, real or committed support that underpin a family life.

Uddin v The Secretary of State for the Home Department [2020] EWCA Civ 338 (12 March 2020)

40. Accordingly, the following principles can be described from the authorities:

i. The test for the establishment of Article 8 family life in the Kugathas sense is one of effective, real or committed support. There is no requirement to prove exceptional dependency.

ii. The test for family life within the foster care context is no different to that of birth families: the court or tribunal looks to the substance of the relationship and no significant determinative weight is to be given to the formal commerciality of a foster arrangement. It is simply a factual question to be considered, if relevant, alongside all others.

iii. The continued existence of family life after the attainment of majority is also a relevant question of fact. No negative inference should be drawn from the mere fact of the attainment of majority, while continuing cohabitation after adulthood will be suggestive of ongoing real, effective or committed support which is the hallmark of a family life.

Article 8: proportionality, insurmountable obstacles and little weight

GM (Sri Lanka) v The Secretary of State for the Home Department [2019] EWCA Civ 1630 (04 October 2019)

http://www.bailii.org/ew/cases/EWCA/Civ/2019/1630.html

See also:

Lal v The Secretary of State for the Home Department [2019] EWCA Civ 1925 (08 November 2019)
http://www.bailii.org/ew/cases/EWCA/Civ/2019/1925.html

GM (Sri Lanka) v The Secretary of State for the Home Department [2019] EWCA Civ 1630 (04 October 2019)

29. *Third, the test for an assessment outside the IR is whether a "fair balance" is struck between competing public and private interests. This is a proportionality test: Agyarko (ibid) paragraphs [41] and [60]; see also Aliparagraphs [32], [47] - [49]. In order to ensure that references in the IR and in policy to a case having to be "exceptional" before leave to remain can be granted, are consistent with Article 8, they must be construed as not imposing any incremental requirement over and above that arising out of the application of an Article 8 proportionality test, for instance that there be "some highly unusual" or "unique" factor or feature: Agyarko(ibid) paragraphs [56] and [60].*

30. *Fourth, the proportionality test is to be applied on the "circumstances of the individual case": Agyarko (ibid) paragraphs [47] and [60]. The facts must be evaluated in a "real world" sense: EV (Philippines) v SSHD [2014] EWCA Civ 874 at paragraph [58] ("EV Philippines").*

GM (Sri Lanka) v The Secretary of State for the Home Department [2019] EWCA Civ 1630 (04 October 2019)

(iii) The application of section 117B(4) and (5) and the weight to be attached to family life created when immigration status was precarious

36. Mr Jafferji, whilst acknowledging that the reasoning of the FTT was ambiguous, argued that taken as a whole and upon a fair reading the Judge wrongly applied the "little weight" provisions of section 117B(4) and (5) to the generality of the evidence relating to family life and in so doing made an error of law and also of assessment. On our reading of the text of the judgment it is unclear whether the judge did improperly discount the family life evidence by reference to section 117B(4) and/or (5). But we do see how the criticism could well be correct. The Judge did refer to sections 117B and it is of some relevance that the UT construed the judgment as applying section 117B(4) and (5). The starting point is that neither section has any material relevance in the context of a family life case such as the present. In Rhuppiah the Court clarified that the "little weight" provision in section 117B(4) applied only to private life, or a relationship formed with a qualifying partner, established when the person was in the United Kingdom unlawfully. It did not therefore apply when family life was created during a precarious residence ie. a temporary, non-settled, but lawful, residence, which is the case in this appeal. At paragraph [22] the Court held:

GM (Sri Lanka) v The Secretary of State for the Home Department [2019] EWCA Civ 1630 (04 October 2019)

47. In domestic law an analysis of whether a person confronted with insurmountable obstacles to return arises under the IR where the individual concerned is resident in breach of the IR: Agyarko paragraphs [44] and [45]. The insurmountable obstacles assessment amounts to a free-standing prima facie test. It is prima facie because to ensure that the IR are compatible with Article 8, even where residence is in breach of the rules, leave can be granted in exceptional circumstances where removal would result in "unjustifiably harsh consequences" or where the family would face "very serious hardship" or "very significant difficulties in continuing family life outside the UK": Agyarko (ibid) paragraphs [45] and [48].

48.In relation to the position under Article 8 outside the IR, under ECHR case law the extent to which obstacles to return can be overcome is simply a "relevant factor" in relation to "non-settled" applicants; it is not thetest: Agyarko paragraph [48].

Asylum

Country Guidance & Christian Conversion

PS (Christianity - risk) Iran CG [2020] UKUT 46 (IAC) (20 February 2020)

http://www.bailii.org/uk/cases/UKUT/IAC/2020/46.html

1. This country guidance applies to protection claims from Iranians who claim to have converted from Islam to Christianity.

2. Insofar as they relate to non-ethnic Christians, this decision replaces the country guidance decisions in FS and Others (Iran - Christian Converts) Iran CG [2004] UKIAT 00303 and SZ and JM (Christians - FS confirmed) Iran CG [2008] UKAIT 00082 which are no longer to be followed.

3. Decision makers should begin by determining whether the claimant has demonstrated that it is reasonably likely that he or she is a Christian. If that burden is discharged the following considerations apply:

i) A convert to Christianity seeking to openly practice that faith in Iran would face a real risk of persecution.

ii) If the claimant would in fact conceal his faith, decision-makers should consider why. If any part of the claimant's motivation is a fear of such persecution, the appeal should be allowed.

iii) If the claimant would choose to conceal his faith purely for other reasons (family pressure, social constraints, personal preference etc) then protection should be refused. The evidence demonstrates that private and solitary worship, within the confines of the home, is possible and would not in general entail a real risk of persecution.

PS (Christianity - risk) Iran CG [2020] UKUT 46 (IAC) (20 February 2020)

4. In cases where the claimant is found to be insincere in his or her claimed conversion, there is not a real risk of persecution 'in-country'. There being no reason for such an individual to associate himself with Christians, there is not a real risk that he would come to the adverse attention of the Iranian authorities. Decision-makers must nevertheless consider the possible risks arising at the 'pinch point' of arrival:

i) All returning failed asylum seekers are subject to questioning on arrival, and this will include questions about why they claimed asylum;

ii) A returnee who divulges that he claimed to be a Christian is reasonably likely to be transferred for further questioning;

iii) The returnee can be expected to sign an undertaking renouncing his claimed Christianity. The questioning will therefore in general be short and will not entail a real risk of ill-treatment;

iv) If there are any reasons why the detention becomes prolonged, the risk of ill-treatment will correspondingly rise. Factors that could result in prolonged detention must be determined on a case by case basis. They could include but are not limited to:

a) Previous adverse contact with the Iranian security services;

b) Connection to persons of interest to the Iranian authorities;

c) Attendance at a church with perceived connection to Iranian house churches;

d) Overt social media content indicating that the individual concerned has actively promoted Christianity.

MH (review; slip rule; church witnesses) Iran [2020] UKUT 125 (IAC) (11 March 2020)

http://www.bailii.org/uk/cases/UKUT/IAC/2020/125.html

(i) Part 4 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 contains a 'toolkit' of powers, the proper use of which saves time and expense and furthers the overriding objective. (ii) A judge of the FtT who is minded to grant permission to appeal on the basis of a seemingly obvious error of law should consider whether, instead, to review the decision under appeal pursuant to rule 35. (iii) A decision which contains a clerical mistake or other accidental slip or omission may be corrected by the FtT under rule 31 (the 'slip rule'). Where a decision concludes by stating an outcome which is clearly at odds with the intention of the judge, the FtT may correct such an error under rule 31, if necessary by invoking rule 36 so as to treat an application for permission to appeal as an application under rule 31. Insofar as Katsonga [2016] UKUT 228 (IAC) held otherwise, it should no longer be followed. (iv) Written and oral evidence given by 'church witnesses' is potentially significant in cases of Christian conversion (see TF & MA v SSHD [2018] CSIH 58). Such evidence is not aptly characterised as expert evidence, nor is it necessarily deserving of particular weight, and the weight to be attached to such evidence is for the judicial fact-finder.

Cessation of Refugee Status

Mirror Image Approach: Is Relocation Alternative Available?

Secretary of State for the Home Department v MS (Somalia) [2019] EWCA Civ 1345 (29 July 2019)

http://www.bailii.org/ew/cases/EWCA/Civ/2019/1345.html

SB (refugee revocation; IDP camps) Somalia [2019] UKUT 358 (IAC) (14 October 2019)

http://www.bailii.org/uk/cases/UKUT/IAC/2019/358.html

EEA

The Supreme Court on *Zambrano* & Compulsion

Patel v Secretary of State for the Home Department [2019] UKSC 59 (16 December 2019)

http://www.bailii.org/uk/cases/UKSC/2019/59.html

The Supreme Court relied upon the recent decision from the CJEU in *KA v Belgium* Case C-82/16, [2018] 3 CMLR 28.

What lies at the heart of the *Zambrano* jurisprudence is the requirement that the EU citizen be compelled to leave the EU territory if the third-country national, with whom the EU citizen has a relationship of dependency, is removed [22].

In *KA* the CJEU drew a distinction between an adult Union citizen and a Union citizen who is a child. The decision in *Chavez-Vilchez* Case C-133/15, [2018] QB 103 is about children. *Chavez-Vilchez* does not relax the level of compulsion required in the case of adults and it will only be in "exceptional circumstances" that such a case would succeed [27]. The *Patel* appeal therefore failed.

In *Shah* the Supreme Court found that the Court of Appeal was wrong to consider that Mrs Shah's decision to leave would be voluntary and that therefore there was no compulsion. The overarching question was whether the son would be compelled to leave with his father, who was his primary carer. In answering that question, the Supreme Court had to take into account the child's bests interests and his relationship with each parent (*Chavez-Vilchez* para 71). The compulsion test is practical. It is to be applied to the actual facts. The First-tier Tribunal found the son would be compelled to leave. That is sufficient compulsion for the purposes of *Zambrano* [30]. The *Shah* case was therefore successful.

Chen children can rely upon the unlawful income of parent

Bajratari (Citizenship of the Union - Right of residence of a third-country national who is a direct relative - Judgment) [2019] EUECJ C-93/18 (02 October 2019)

http://www.bailii.org/eu/cases/EUECJ/2019/C9318.html

Article 7(1)(b) of Directive 2004/38/EC… must be interpreted as meaning that a Union citizen minor has sufficient resources not to become an unreasonable burden on the social assistance system of the host Member State during his period of residence, despite his resources being derived from income obtained from the unlawful employment of his father, a third-country national without a residence card and work permit.

Surinder Singh cases and the ‘centre of life’ requirement

ZA (Reg 9. EEA Regs; abuse of rights) Afghanistan [2019] UKUT 281 (IAC) (31 July 2019)
http://www.bailii.org/uk/cases/UKUT/IAC/2019/281.html

(i) The requirement to have transferred the centre of one's life to the host member state is not a requirement of EU law, nor is it endorsed by the CJEU.

(ii) Where an EU national of one state ("the home member state") has exercised the right of freedom of movement to take up work or self-employment in another EU state ("the host state"), his or her family members have a derivative right to enter the member state if the exercise of Treaty rights in the host state was "genuine" in the sense that it was real, substantive, or effective. It is for an appellant to show that there had been a genuine exercise of Treaty rights.

ZA (Reg 9. EEA Regs; abuse of rights) Afghanistan [2019] UKUT 281 (IAC) (31 July 2019)

(iii) The question of whether family life was established and/or strengthened, and whether there has been a genuine exercise of Treaty rights requires a qualitative assessment which will be fact-specific and will need to bear in mind the following:

(1) Any work or self-employment must have been "genuine and effective" and not marginal or ancillary;

(2) The assessment of whether a stay in the host state was genuine does not involve an assessment of the intentions of the parties over and above a consideration of whether what they intended to do was in fact to exercise Treaty rights;

(3) There is no requirement for the EU national or his family to have integrated into the host member state, nor for the sole place of residence to be in the host state; there is no requirement to have severed ties with the home member state; albeit that these factors may, to a limited degree, be relevant to the qualitative assessment of whether the exercise of Treaty rights was genuine.

(iv) If it is alleged that the stay in the host member state was such that reg. 9 (4) applies, the burden is on the Secretary of State to show that there was an abuse of rights.

Retained Rights and Documentation

Rehman (EEA Regulations 2016 - specified evidence : Pakistan) [2019] UKUT 195 (IAC) (08 April 2019)
http://www.bailii.org/uk/cases/UKUT/IAC/2019/195.html

The principles outlined in Barnett and Others (EEA Regulations; rights and documentation) [2012] UKUT 142 are equally applicable to The Immigration (European Economic Area) Regulations 2016. Section 1 of Schedule 1 to these regulations provides that the sole ground of appeal is that the decision breaches the appellant's rights under the EU Treaties in respect of entry to or residence in the United Kingdom. The provisions contained in regulations 21 and 42 must be interpreted in the light of European Union law. In some cases, this might involve ignoring the requirement for specified evidence altogether if a document is not in fact required to establish a right of residence.

Deportation

Unduly Harsh?

Secretary of State for the Home Department v PG (Jamaica) [2019] EWCA Civ 1213 (11 July 2019)

http://www.bailii.org/ew/cases/EWCA/Civ/2019/1213.html

Secretary of State for the Home Department v KF (Nigeria) [2019] EWCA Civ 2051 (22 November 2019)

http://www.bailii.org/ew/cases/EWCA/Civ/2019/2051.html

Secretary of State for the Home Department v PG (Jamaica) [2019] EWCA Civ 1213 (11 July 2019)

'I recognise of course the human realities of the situation, and I do not doubt that SAT and the three children will suffer great distress if PG is deported. Nor do I doubt that their lives will in a number of ways be made more difficult than they are at present. But those, sadly, are the likely consequences of the deportation of any foreign criminal who has a genuine and subsisting relationship with a partner and/or children in this country... Many parents of teenage children are confronted with difficulties and upsetting events of one sort or another, and have to face one or more of their children going through "a difficult period" for one reason or another, and the fact that a parent who is a foreign criminal will no longer be in a position to assist in such circumstances cannot of itself mean that the effects of his deportation are unduly harsh for his partner and/ or children.' [39] Holroyde LJ

Unduly Harsh: Latest from the UT

Patel (British citizen child - deportation) [2020] UKUT 45 (IAC) (29 January 2020)
http://www.bailii.org/uk/cases/UKUT/IAC/2020/45.html

(4) The possession of British citizenship by a child with whom a person (P) has a genuine and subsisting parental relationship does not mean that P is exempted from the 'unduly harsh' requirements. Even though the child may be British, it has to be unduly harsh both for him or her to leave with P or to stay without P; not just harsh. Thus, some substantial interference with the rights and expectations that come with being British is possible, without the position becoming one of undue harshness to the child.

Imran (Section 117C(5); children, unduly harsh : Pakistan) [2020] UKUT 83 (IAC) (11 February 2020)

http://www.bailii.org/uk/cases/UKUT/IAC/2020/83.html

1. To bring a case within Exception 2 in s.117C(5) of the Nationality, Immigration and Asylum Act 2002, the 'unduly harsh' test will not be satisfied, in a case where a child has two parents, by either or both of the following, without more: (i) evidence of the particular importance of one parent in the lives of the children; and (ii) evidence of the emotional dependence of the children on that parent and of the emotional harm that would be likely to flow from separation.

2. Consideration as to what constitutes 'without more' is a fact sensitive assessment.

Public interest in deportation: fixed or moveable?

Akinyemi v The Secretary of State for the Home Department [2019] EWCA Civ 2098 (04 December 2019)

http://www.bailii.org/ew/cases/EWCA/Civ/2019/2098.html

'The correct approach to be taken to the 'public interest' in the balance to be undertaken by a tribunal is to recognise that the public interest in the deportation of foreign criminals has a moveable rather than fixed quality. It is necessary to approach the public interest flexibly, recognising that there will be cases where the person's circumstances in the individual case reduce the legitimate and strong public interest in removal. The number of these cases will necessarily be very few i.e. they will be exceptional having regard to the legislation and the Rules. I agree with the appellant that the present appeal is such a case.' [39] Sir Ernest Ryder SPT

Criminality & Social and Cultural Integration

CI (Nigeria) v The Secretary of State for the Home Department [2019] EWCA Civ 2027 (22 November 2019)
http://www.bailii.org/ew/cases/EWCA/Civ/2019/2027.html

'The judge should simply have asked whether – having regard to his upbringing, education, employment history, history of criminal offending and imprisonment, relationships with family and friends, lifestyle and any other relevant factors – CI was at the time of the hearing socially and culturally integrated in the UK. The judge should not, as he appears to have done, have treated CI's offending and imprisonment as having severed his social and cultural ties with the UK through its very nature, irrespective of its actual effects on CI's relationships and affiliations – and then required him to demonstrate that integrative links had since been "re-formed".' [77] Leggatt LJ

Questions?

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