



## United Kingdom - Mr Kleanth Dashi v Secretary of State for the Home Department

The case concerned the decision to deprive the appellant of his British citizenship on the basis that he had exercised deception in relation to his identity when he first applied for asylum. The court considered the application of the discretion by the Home Office (hereafter the respondent) and the impact the decision would have on appellant's family, in particular his minor child. The court dismissed the appeal on the basis that the errors of law identified were not sufficient to affect the outcome of the decision.

**Case name (in original language) :** Mr Kleanth Dashi v SSHD, IAC

**Case status:** Decided

**Case number:** DC/00072/2018 (V)

**Citation:** Mr Kleanth Dashi v SSHD, IAC Appeal Number: DC/00072/2018 (V)

**Date of decision:** 09/11/2021

**State:** United Kingdom

**Court / UN Treaty Body:** UK Immigration and Asylum Chamber

**Language(s) the decision is available in:** English

**Applicant's country of residence:** United Kingdom

**Legal instruments:** European Convention on Human Rights (ECHR)

**Key aspects:** Deprivation of nationality

**Relevant Legislative Provisions:**

European Convention on Human Rights, Article 8

Borders, Citizenship and Immigration Act 2009, s. 55

British Nationality Act 1981, ss. 40(2), 40(3)

Human Rights Act 1998, s. 6

**Facts**

The applicant had entered the UK in 1995 to claim asylum. He claimed that he was named Sokol Rugova, a Kosovan national. In 2002, he obtained British citizenship following an application for naturalisation. However, in 2005, evidence was obtained as to the fact that he was instead an Albanian national of a different name. The deprivation decision was made as late as 2018, with the justification from the respondent that the British embassy in Tirana had provided them with information as to the applicant's deception only in 2013. The appellant lodged appealed the decision of the First Tier tribunal.

### **Legal arguments by the applicant**

The appellant did not deny having exercised deception.

He argued that the modality with which he was deprived of citizenship constituted a violation of Article 8 of the European Convention on Human Rights (ECHR). The appellant also lamented the delay in the deprivation decision, which added to the discomfort given the length of time he had resided in the UK. Furthermore, the appellant complained of the potential effects the decision would have on their children, in relation to access to education, housing or healthcare. The deprivation decision would put the appellant in a position of "limbo" in which he may not work and provide for his family.

He specifically put forward five grounds for appealing the decision of First Tier Tribunal: (1) the judge failed to make all the relevant considerations in relation to the discretion to deprive, such as the effect on his family life and long-term residence, and (2) that he simply upheld the respondent's decision; (3) the judge failed to consider the best interests of the appellant's minor child in light of s. 55 of the Borders, Citizenship and Immigration Act 2009. (4) The judge also committed an error of law in stating that he would leave the respondent discretion as to what form of permit it would allow the appellant, while the respondent' stated position was that she would consider whether to grant leave. (5) Lastly, the judge erred in lifting the anonymity order.

### **Legal arguments by the opposing party**

The respondent argued that the delay in the deprivation decision was justified on the basis that they had learnt of the appellant's deception from the British embassy in Tirana in 2013. Furthermore, the appellant never admitted the deception until

confronted with the discovery of it.

In relation to the effects of the deprivation decision on the appellant's children, the respondent argued that the time frame between the decision and the grant of leave would be relatively short.

The respondent accepted that the First Tier Tribunal judge had misunderstood the respondent's position in relation to granting the applicant leave to remain. However, according to case law, review of deprivation decision does not require consideration of expulsion.

## **Decision & Reasoning**

The court first addressed ground 5, i.e. the anonymity order and found that while the proceedings may have an impact on employment, as the appellant admits that he exercised deception, there was no necessity of reinstating the anonymity order.

In relation to grounds 1 and 2, the court cited the [case of Ciceri \(deprivation of citizenship appeals: principles\) \[2021\] UKUT 238 \(IAC\)](#), as guidance for the application of case law. The court stated that its decision would be based on an evaluation of, *inter alia*, whether the respondent had made irrelevant considerations, failed to make relevant ones or acted irrationally. In considering the deprivation letter, the court found that the document should be assessed as a whole. The court noted that the delay from 2013 to 2018 was not fully justified, but it was not unprecedented in the case law. The First Tier Tribunal approach to evaluating the proportionality of the decision was found to be correct.

It then distinguished the present case from the facts in *Laci v Secretary of State for the Home Department* [2021] EWCA Civ 769 as in that case the affected individual had their passport renewed shortly before being deprived of their citizenship. Therefore, the court was satisfied that there was no error in law when the First Tier Tribunal reviewed the respondent's decision. Furthermore, in relation to the delay in the deprivation decision, the Court rejected *Laci* as the authority for the proposition that any delay could interfere with the exercise of the discretion. Consequently, the court held that there had not been any relevant delay.

Lastly, the court addressed grounds 3 and 4. It accepted that there had been an interference with Article 8 of the ECHR in relation to the applicant's inability to work during the time between the deprivation decision and the potential grant of leave to

remain. However, this interference was found to be proportionate given that the applicant's wife would be allowed to work and no evidence as to her earnings had been put forward to show that she would not be able to provide for the family.

Next, while the First Tier Tribunal judge had made a mistake in relation to the respondent's intention and its effect on the child's best interest, such consideration would have little effect on the outcome. S. 55 of the Borders, Citizenship and Immigration Act 2009 does not apply given the appellant's wife's ability to provide and the short period of time between the deprivation decision the potential grant of leave.

### **Decision documents**

[Mr Kleanth Dashi v SSHD, IAC Appeal Number: DC/00072/2018 \(V\)](#)

### **Outcome**

The appeal was dismissed.

### **Caselaw cited**

Hysaj (Deprivation of Citizenship; Delay) [2020] UKUT 128

Begum v Special Immigration Appeals Commission; Begum v Secretary of State for the Home Department [2021] UKSC 7

[Ciceri \(deprivation of citizenship appeals: principles\) \[2021\] UKUT 238 \(IAC\)](#)

Laci v Secretary of State for the Home Department [2021] EWCA Civ 769