



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

Appeal Number: AA/13345/2010

**THE IMMIGRATION ACTS**

**Heard at Sheldon Court, Birmingham  
On 11<sup>th</sup> June 2013**

**Determination Promulgated  
On 30<sup>th</sup> July 2013**

**Before**

**Upper Tribunal Judge Southern  
Deputy Upper Tribunal Judge French**

**Between**

**KHAN MOHAMMED AHMADZAI**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr B. Bedford instructed by Sultan Lloyd solicitors  
For the Respondent: Mr J. Singh, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant is a citizen of Afghanistan who arrived in the United Kingdom as an unaccompanied minor asylum seeker on 28<sup>th</sup> March 2009. He has a date of birth of 1<sup>st</sup> January 1993, that being a notional date of birth allocated to him, there being no dispute that it is an appropriate indication of his age, even if his precise date of birth is not known. The asylum claim he made two days after arrival was refused, but on account of his age he was granted discretionary leave to remain until 1<sup>st</sup> July 2010.

2. The nature of the asylum claim is well known to the parties and there is no need to set out here a detailed recital of it. For present purposes it is sufficient to say that there were several aspects to his claim. The appellant is an orphan, his parents having been killed in a bombardment when he was 8 or 9 years old. Thereafter he lived with two elder brothers and an elder sister with a maternal uncle, who lived in Kabul, making frequent visits and providing food and money. One brother, who had worked for the Americans, was killed when shots were fired at a car he was travelling in. The other brother worked clearing landmines and lost both his legs in an explosion that happened about three years before the appellant left Afghanistan to travel to the United Kingdom, the journey arranged by agents engaged by his brother. Another problem described by the appellant was that he had injured a relative of a local girl when he came to remonstrate with the appellant for having spread rumours about the girl. That relative was a policeman and so would be able to cause problems for the appellant should he return. He would be at risk for those reasons in his local area and would be at risk of coming to harm if returned to Kabul because, as a child, he would face a risk of recruitment by the Taleban and possibly of sexual exploitation.
3. The appellant did not, as he might have done, seek to appeal against refusal to recognise him as a refugee, that right of appeal being provided for by section 83 of the Nationality, Immigration and Asylum Act 2002. Instead he waited until his discretionary leave was about to expire before making an application for further leave to remain. His appeal against the immigration decision that accompanied that application was dismissed by Immigration Judge Andrew following a hearing on 27<sup>th</sup> October 2010, the judge finding that the appellant's claim to have a well founded fear of persecutory ill-treatment on return to Afghanistan, now that he was very nearly an adult, was one that had not been made out. The judge dismissed the appeal also on humanitarian protection and human rights grounds.
4. The immigration judge accepted the appellant's account of the death of his parents and the fate that befell both brothers. But she did not accept that any risk arose on that account, as was evidenced by the time that had passed since those events had occurred during which the appellant remained at home without difficulty. Nor did the judge accept as true the account of the injured policeman.
5. The judge made this important finding:

"Whilst he is an orphan he is not without family in Afghanistan. Whilst he claims not to know the whereabouts of his uncle, brother and sister he has not shown they are no longer alive."

Although recognising the existence of the duty to trace relatives, the judge said she couldn't accept that negated the burden upon the appellant to show that adequate reception facilities would not be available on return to Afghanistan. She noted that although the

appellant relied upon evidence that he had made an unsuccessful attempt to use the services of the Red Cross he had provided the name of just one relative, and that with a different spelling than the one disclosed in his other appeal documents. The judge thought that if the appellant had provided the Red Cross with his uncle's name, as he had said he had, then that relative, as a taxi driver, "would be reasonably easy to trace". Further, the judge noted that the appellant had made no attempt to trace his sister.

6. Although the appellant was then still not quite 18 years old, the judge concluded that the appellant, who she had found not at risk in his home area, would not be at risk on return to Kabul and said:

"I do not consider it would be unreasonable for the appellant to remain in Kabul following his arrival there."

7. On that basis the judge dismissed the appeal on protection grounds and, having found an absence of family life, rejected the article 8 claim because she was satisfied that there would not be a disproportionate interference with the appellant's right to respect for his private life should he be returned to Afghanistan.
8. The appellant secured permission to appeal to the Upper Tribunal. This was on the basis that, although Judge Andrew accepted that the respondent had failed in her duty to seek to trace the appellant's relatives in Afghanistan, an obligation of the Reception Directive (2003/9/EC of January 2003 as transposed into domestic law by the Asylum Seekers (Reception Conditions) Regulations 2005), she made no finding as to whether that breach of duty had prejudiced the appellant's claim. The grounds challenged other aspects of the First-tier Tribunal determination also.
9. That appeal came before Deputy Upper Tribunal Judge Parkes on 31<sup>st</sup> January 2011. By then the appellant was an adult, being just 18 years and 1 month old. That led the deputy judge to the conclusion, at paragraph 19 of his determination, that:

"Whatever the situation may have been section 55 and the obligation on the Secretary of State to make efforts to locate family members no longer apply. It follows that if errors were made by the Immigration Judge on those points then they cannot be said to be material.

The reason for that is that the appellant's representatives effectively argued that the appellant was entitled to asylum by reason of age. His claim based on his membership of a particular social group was rejected by the immigration judge with reasons that cannot be impugned and he is not entitled to refugee status on the position at the date of the hearing....."

10. Permission to appeal to the Court of Appeal having been granted, this was one of the appeals considered in *KA (Afghanistan) & Ors v SSHD [2012] EWCA Civ 1014*. The principles by which those appeals were to be determined having been set out in that decision, the appeal of this

particular appellant was remitted to the Upper Tribunal with the consent of the parties. It is helpful to set out the statement of reasons in full:

“The parties are agreed that for the reasons set out below, the appellants appeal to the Court of Appeal against the decision of the Upper Tribunal dated 9 February 2011 should be allowed and remitted for re-determination of the article 8 ground according to law.

The FTT took account of the appellant's having family to return to in its consideration of proportionality under article 8. The FTT erred in drawing inferences against KA for failing to trace his family without taking account of the secretary of state's failure to do so, in circumstances in which, on the particular facts of this case as found by the tribunal, the tracing exercise might have borne fruit. When the UT considered the matter on appeal it simply held that the failure was immaterial.

The Secretary of State accepts that had the FTT properly taken account of the Secretary of State's failure to trace it may have reached a different conclusion on the evidence (and to that extent KA has suffered a disadvantage). The proper course of action is to allow the appeal and remit the matter to the Upper Tribunal on article 8.”

11. It is important to note the limited extent of that remittal. The issue at large for reconsideration is not the appellant's claim on asylum grounds but his human rights claim, founded upon the submission that there would be a breach of his protected rights under article 8 of the ECHR as a consequence of the immigration decision under appeal, that being a refusal to vary the appellant's leave. As a consequence of that decision the appellant has leave to remain only under section 3C of the Immigration Act 1971, which will cease with the final disposal of this appeal. That would mean, if he is unsuccessful in his appeal, he would no longer have any lawful basis to remain in the United Kingdom, although no removal decision has been made.
12. Before examining the facts in this particular appeal it is necessary to look at the principles to be applied to the analysis of them that is to be carried out, as were identified by the Court of Appeal in *KA & Ors*.
13. The main thrust of the complaint being made was that, if the respondent's duty to trace had been discharged it would or might have confirmed the asserted lack of family support available upon return. That was capable of being “a powerful indicator of the well-foundedness of an asylum claim”.
14. Applying what was termed “the *Rashid / S* line of authority to the present context, concerning the loss of benefit of policies that should have been but were not applied, while bearing in mind the *Ravichandran* principle that the Tribunal should examine the position as at the date of the hearing, but recognising that the current circumstances might include a present need to remedy injustice caused by past omissions to act in accordance with legal obligations, Maurice Kay LJ identified the complexity of the principles to be unravelled and applied:

“It is a complicated question and not simply a matter of the systemic breach entitling these appellants, without more ado, to the allowing of their appeals with remittals to the Secretary of State to considered grants of leave to remain, which is the primary relief sought. Nor does it admit of the simplistic analysis that the appellants were over 18 when their cases came before the FTT or the UT and, as a consequence and in accordance with the *Ravichandran* principle, the breach had become irrelevant to the requisite consideration of their cases by reference to the circumstances prevailing at the time of the hearings. When the *Rashid / S* principle applies, it modifies the strict application of *RRavichandran*.”.

15. At paragraph 25 of his judgement, Maurice Kay LJ set out the guiding principles that we must now apply, which recognise that the assessment is fact specific in any particular case and that there is no single answer to the question posed in cases of this nature:

“... much will turn on their specific facts. There is a hypothetical spectrum. At one end is an applicant who gives a credible and cooperative account of having no surviving family in Afghanistan or of having lost touch with surviving family members and having failed, notwithstanding his best endeavours, to re-establish contact. It seems to me that, even if he has reached the age of 18 by the time his appeal is considered by the tribunal, he may, depending on the totality of the established facts, have the basis of a successful appeal by availing himself of the *Rashid/S* principle and/or section 55 by reference to the failure of the Secretary of State to discharge the duty to endeavour to trace. In such a case *Ravichandran* would not be an insurmountable obstacle. At the other end of the spectrum is an applicant whose claim to have no surviving family in Afghanistan is disbelieved and in respect of whom it is found that he has been uncooperative so as to frustrate any attempt to trace his family. In such a case, again depending on the totality of established facts, he may have put himself beyond the bite of the protective and corrective principle. This would not be because the law seeks to punish him for his mendacity but because he has failed to prove the risk on return and because there would be no causative link between the Secretary of State's breach of duty and his claim to protection. Whereas, in the first case, the applicant may have lost the opportunity of corroborating his evidence about the absence of support in Afghanistan by reference to a negative result from the properly discharged duty to endeavour to trace, in the second case he can establish no such disadvantage...”

16. With than in mind, we move on to examine the evidence offered by the appellant, who gave oral evidence before us at the hearing, and the competing submissions advanced. The questions to be addressed include the following:

- a. Did this appellant give a credible and cooperative account of having no surviving family in Afghanistan or having lost touch with them?
- b. Did he use his best endeavours to re-establish contact?
- c. What findings of fact can be drawn from the determination of Judge Andrew that should inform this enquiry?
- d. Was the appellant uncooperative in an attempt to frustrate any attempt to trace his family?

17. The appellant adopted an updated and recent witness statement, dated

6<sup>th</sup> June 2013. In that statement he said:

“I confirm that after arriving in the United Kingdom I have not had any contact with any of my family members. However, I have always explained that I left behind my brother Tahseeldar and sister who were living with my maternal uncle in Kabul...”

18. Before the appellant gave oral evidence the representatives made clear the respective positions adopted. For the respondent Mr Singh made clear that it was not accepted that the appellant had lost contact with his relatives in Afghanistan; that he had failed to cooperate with the attempts that were made, by the Red Cross, to trace relatives in that he had provided inadequate information to them to ensure that any attempt to contact relatives would be unsuccessful, so that he would be returning to Afghanistan as an adult who could look to those relatives for assistance in re-establishing himself. Mr Bedford, for the appellant, said that the appellant had lost contact with those relatives, had done all that could be expected of him to facilitate the tracing attempt made by the Red Cross and that his claim was to be assessed on the basis that he would have no family members to assist him on return.

19. Expanding upon that submission, Mr Bedford said that the appellant's case is that his brother and sister moved to Kabul, to stay with their uncle, at the same time that the appellant left Afghanistan and that the whereabouts of the uncle's home was unknown to the appellant.

20. In the screening interview, which took place shortly after his arrival in the United Kingdom, the appellant was asked to provide details of his family in Afghanistan. He said that he had been living in Bark village in Logar Province where he had lived since birth. He lived there with his brother, Tahseldar, who had lost his legs in a mine explosion. He mentioned also his sister, and said that her whereabouts were “not known”. He made no mention at all of his maternal uncle, who he was later to explain lived and worked in Kabul and visited regularly and provided food and money, now that his brother was unable to work. In respect of his brother he said, in answer to a question asking for his present address:

“Still in Afghanistan. He was at my home in Lowgar as far as I am aware.”

Contradicting that, he said at a later interview that the brother, as well as his sister, had moved to Kabul. His evidence before us was that his brother and sister moved to live with his uncle at about the same time that he had left to travel to the United Kingdom. He said also that he himself had never visited Kabul and he was not provided with his uncle's address and so had no idea where his remaining relatives were now living and that he had had no contact with them.

21. The appellant said that he had tried “many times” to re-establish contact with his relatives in Kabul. The evidence established that he did approach the Red Cross in May 2009 and the appellant produces a

letter from that organisation dated 23<sup>rd</sup> December 2009 the content of which, given its potential significance, I reproduce in full:

“Dear Khan,

**Tracing enquiry regarding Tahsil Dar**

We refer to your enquiry of 6<sup>th</sup> May 2009 and very much regret that with the details you have given us, the International Committee of the Red Cross (ICRC) has been unable to obtain any information from any of the sources given regarding the present location of your relative.

We would like to assure you that all appropriate sources of information have been tried and we are very sorry our enquiries in this case have been unsuccessful.

Please bear in mind that even though the ICRC has been unable to find your relative, this does not mean that your relative cannot be traced through other channels.

Following our investigation we now consider your case closed. However, should any information reach us in the future we will not fail to inform you. Alternatively, should you obtain any new appropriate additional information, we will be pleased to review the case.

Please feel free to discuss any of the above with us. I am sorry that we do not have more welcoming news.”

22. A number of things may be noted about this evidence. On its face, it is plain that the tracing enquiry has been requested in respect of the appellant's brother only. That is reinforced by the reference, in the body of the letter to “your relative”, in the singular. Secondly, it appears that the appellant has provided the Red Cross with a somewhat different spelling of his brother's name than he has used in proceedings before the Tribunal. No explanation is offered for that, but we do not consider this, in itself, of any real significance. Thirdly, and more significantly, there is nothing at all to indicate that the appellant has provided details of his sister or his maternal uncle, the latter being the obvious focus of any tracing enquiry because the appellant says that his siblings moved to stay with him in Kabul.

23. In his recent witness statement, prepared for this hearing, the appellant says that he remembers an interview with the Red Cross when he did provide full details of all his family members, including his uncle. That assertion has to be considered in the context not just of the absence of any reference by that organisation to the most obviously significant relative in carrying out those enquiries but also in the light of the appellant's evidence as a whole, the judge having found, for reasons that cannot now be challenged, that the appellant had advanced a false account about aspects of his claim, such as the whole episode of the difficulties with the police officer who came to remonstrate about rumours being spread about his female relative.

24. This is hard to reconcile with the request being a genuine attempt to

trace relatives, disclosing a cooperative approach by the appellant to achieve that outcome. Indeed, a failure to provide the most useful information, which would be that the relatives were now living in Kabul with the maternal uncle who was working as a taxi driver, seems likely to frustrate the whole purpose of the attempt to trace those relatives.

25. We do not accept that the appellant did disclose details of his uncle and sister to the Red Cross when asking for tracing enquiries to be carried out so that his hope was that the attempt would fail.

26. This is important because there is no reason at all to suppose that, had the respondent made an attempt to discharge the duty to carry out her own tracing enquiries, the appellant would have provided any better information, if that could be avoided, given the additional information secured during the screening process. It also reinforces the respondent's case that, tracing enquiries were not in fact required because the appellant was able to contact those relatives should he choose to do so.

27. In his oral evidence at this hearing the appellant described, for the first time, how he had made attempts himself to trace his relatives. He said that last year, that is at some time during 2012, he had given to a friend who was returning to visit his village in Logar a letter containing his present contact details in this country and asked that friend to "give this letter to anyone, my uncle or anyone". There are two difficulties with this. First, it is hard to see why the appellant thought a visit to the village was likely to achieve delivery of the letter to his uncle because now that all family members were living with the uncle in Kabul there is no disclosed reason for him to visit the village. Secondly, if this were true it is impossible to understand why no mention of it were made in the witness statement, prepared with the assistance of his solicitors, for this hearing, in which the appellant deals specifically with his response to the finding of the judge at the earlier appeal that "he was not satisfied that I had done enough to try and find my family in Afghanistan".

28. When cross examined about this at the hearing By Mr Singh, the appellant attempted to explain the reason for thinking that a visit to the village may serve to establish contact with his relatives by saying that he was not sure, in fact, whether or not his brother and sister went to stay with his uncle in Kabul:

"The thing is when I left Afghanistan they said they may have gone to Kabul so I thought they may have done so."

When it was put to him that in his witness statement he had said that:

"... I have always explained that I left behind my brother Tehseeldar and my sister who were living with my maternal uncle in Kabul..."

he said simply that this was "wrong".



29. We have no doubt at all that this is an untruthful embellishment and that no such attempt was made by the appellant to take advantage of the friend's visit to locate his family.
30. In the recent witness statement, which the appellant adopted as part of his evidence, the appellant summarised the nature and extent of the private life he has established since his arrival in the United Kingdom in 2009.
31. He said that it was precisely because he was unable to establish contact with relatives in Afghanistan that the relationships he formed here were so important to him. In that respect, he refers in particular to the bond he has established with his foster family allocated to him on arrival by Social Services. But we do not understand Mr Bedford to be suggesting that the nature of those relationships is such as to create family life. And, absent is any real evidence of continuing dependency. However, although the appellant no longer lives with that family, we do accept that the relationships subsists in some respect and form an important part of the private life the appellant enjoys here.
32. The appellant describes how he has pursued his education here and the bundle prepared by his representatives includes copies of the various certificates and qualifications he has obtained.
33. He describes also how he has developed an active and happy social life, being involved in working with the Children's' Society and playing cricket with friends. In sum, he says he now feels settled in the United Kingdom and wishes to make his home here as he sees a good and secure future for himself. Having lived here for the time he has he says:
- "My way of thinking has completely changed now and I know it will be extremely difficult for me to return to living in a strictly controlled and restrictive society such as in Afghanistan."
34. Mr Bedford submitted that the appellant falls "at the top end of the *KA* spectrum". He sought to argue that the appellant was "believed in saying that he was not in contact with his family". But, in our judgement, that is not a correct analysis of the outcome of the initial appeal hearing and the determination of Judge Andrew, who plainly did not accept that the appellant was a witness so truth in all that he said about that.
35. In any event, having heard oral evidence from the appellant, and it having been made unambiguously clear before that took place that the issue was challenged and so at large, we do not accept that the appellant's uncle, having had sufficient commitment to the appellant to visit the village home regularly, provide food and money, and to take in to his own home the appellant's injured brother and his sister after arrangements had been made for the appellant to come to this country would have kept from him the details of where the appellant's only

surviving relatives would be living. There has been offered no reason whatever why such an extraordinary decision should have been made by the appellant's uncle and we do not accept that to be the case.

36. When asked what was the disadvantage suffered by the appellant as a consequence of the respondent's failure to discharge her duty to trace relatives, or attempt to do so, Mr Bedford said that key to the decision was that the appellant did have family to return to. But, given the conclusions we have set out above, that advances the appellant's case not at all. That is because as, on our findings of fact, the appellant did not cooperate with the attempt to trace, effectively frustrated the attempt that was made by the Red Cross to ensure that it would not succeed and plainly would not have cooperated with any attempt that may have been made by the respondent, there was in fact no causative link between the respondent's failure to make any attempt to trace relatives and the failure of his claim.

37. With that in mind, we examine the appellant's claim that he should now succeed on the basis of an infringement of his rights under article 8 of the ECHR as a consequence of the decision under challenge, which is a refusal to vary his leave by way of the grant of further leave to remain.

38. Article 8 of the ECHR provides:

Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of the rights and freedoms of others.

39. In *R (Razgar) v SSHD* [\[2004\] UKHL 27](#) Lord Bingham set out the questions that should be addressed in taking a structured approach to carrying out the assessment that is required. Although *Razgar* was a case concerning a removal decision, it is uncontroversial that the approach is the correct one in a case such as this where the challenge is to a decision of another kind. Those questions are:

- (1) Will the proposed removal be an interference by a public authority with the exercise of the applicant's right to respect for his private or (as the case may be) family life?
- (2) If so, will such interference have consequences of such gravity as potentially to engage the operation of article 8?
- (3) If so, is such interference in accordance with the law?
- (4) If so, is such interference necessary in a democratic society in the interests of national security, public safety or the economic well-being of the

country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others?

(5) If so, is such interference proportionate to the legitimate public end sought to be achieved?

40. It is clear that the appellant, being a person who has been living in this country since 2009, will have established a private life and that the consequence of his being required to leave the United Kingdom, being a consequence of him having no lawful basis to remain here, would be such as to bring about an interference with his enjoyment of that private life. The second question returns a positive answer, as although the appellant has spent only just over three of his twenty years living here, so that most of his youth and formative years have been spent in Afghanistan, even those three years in the life of a young adult represent a significant part of his experience. We accept also, as he has described in his statement, that his life here has been very different from the way of life in Afghanistan, so that that difference will be noticeable to him in his every day activity should he now return to his country of nationality.
41. The third question needs to be addressed with some care. On the one hand, it might be considered that since the respondent made her decision after having failed to discharge a duty to seek to trace relatives which duty, if it had been discharged, may or may not have shed light upon and so informed the decision that was subsequently made to refuse the appellant's claim, that the decision itself must, necessarily, be unlawful. However, as is made clear by *KA*, at paragraph 17, this consequence does not flow "without more ado" to the conclusion that the appeal must be allowed, just as it does not follow, as the deputy Upper Tribunal Judge thought, that just because the appellant had attained his majority the failure to trace was irrelevant (see para 14 above).
42. Having said that, we recognise that the discussion before the Court of Appeal concerned the protection claim whereas we are here concerned only with the appellant's claim under article 8. It seems to us that the position is this: If there were a causal link between the respondent's failure to trace and the refusal of his claim then that would render the decision itself unlawful in which case there would be no need to progress any further with the questions posed by Lord Bingham. The decision which led to the interference would be one that would not be in accordance with the law and so would itself be an unlawful interference. But here the position of this appellant is otherwise. As I have explained, there is no causal link between the respondent's failure and the decision under appeal because the appellant does not fall, as Mr Bedford suggests, at the higher end of the spectrum identified by Maurice Kay LJ but at the very bottom of it. In the refusal letter, as well as expressing reservations about the factual basis of the appellant's claim the respondent went on to assess it taken at its highest and still concluded that it was not made out.

43. Having reached this point we do not understand Mr Bedford to suggest that the fourth question could return anything other than a positive answer, which in our judgement it clearly does. That brings us to the final question of proportionality.
44. The appellant came to the United Kingdom to advance a claim to be in need of international protection that was found to be not made out. That included findings that he had given an entirely false account of some of his experiences in Afghanistan. We are satisfied that he set out to frustrate the attempt that was made to locate relatives in Afghanistan. If he had cooperated with that attempt by providing correct and complete information, as we have found he could have done but chose not to, then he could have been safely reunited with his relatives in Kabul soon after his arrival here. But he did not do so. The consequence is that he received precisely that to which a proper application of the respondent's policy entitled him to, which was discretionary leave to remain until he could face preparations for his return upon reaching adulthood.
45. He has used his time in the United Kingdom to good effect. He has received some education, collected some qualifications, including in spoken English and matured into the person he is today with the support of his foster family, social workers, teachers and others. That will stand him in good stead to assist him in re-establishing himself in his country of nationality where he can look to a relative who has provided him with substantial support and assistance in the past to do so again.
46. Even if, which we do not accept to be the case, the appellant is unable to contact his uncle or siblings on return to Kabul, there is insufficient evidence to establish that he cannot expect to successfully re-establish himself as a young adult returning to his home country after a relatively short period of years living abroad.
47. However, as we have made clear, we are satisfied that the appellant would be able to re-establish himself with the assistance of his relatives in Kabul. Mr Bedford referred us to evidence of difficulties faced by those returning to Afghanistan but accepted that those difficulties are largely alleviated by having family members to whom to look for support.
48. Drawing all this together we are satisfied that any interference with the appellant's private life will be proportionate to the legitimate and lawful aim being pursued. The appellant will be able to establish afresh a private life in Afghanistan, which although will be different from that he enjoys here, will be one enjoyed in his own country of nationality. In addition, he will have the benefit of access to relatives, which he does not have here.
49. For all these reasons this appeal to the Upper Tribunal, restricted as it

is by the terms of the remittal by the Court of Appeal to a reconsideration of the article 8 claim, is dismissed.

Signed

Upper Tribunal Judge Southern  
17 July 2013