Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: HU/18702/2019

THE IMMIGRATION ACTS

Heard at Field House
via Microsoft Teams
On 10 August 2021

Decision Promulgated
On 27 August 2021

Before:

UPPER TRIBUNAL JUDGE GILL

Between

Mr Thewarapperuma Arachchige Don Appellant
(ANONYMITY ORDER NOT MADE)

And

The Secretary of State for the Home Department Respondent

Representation:
For the Appellant: Mr Z Hussain, Solicitor advocate, of Zyba Law.
For the Respondent: Mr P Deller, Senior Home Office Presenting Officer

The appellant also attended via Microsoft Teams.

DECISION AND REASONS

Introduction

1. The appellant, a national of Sri Lanka born on 17 March 1977, appeals against a decision of Judge of the First-tier Tribunal Mace (hereafter the "judge") promulgated on 26 March 2021 following a hearing on 18 March 2021 held via a live link by which the judge dismissed his appeal on human rights grounds against a decision of the respondent of 1 November 2019 to refuse his application of 7 March 2019 for leave to remain in the United Kingdom on the basis of his family and private life.

2. The appellant's private life claim was based on private life established since his arrival in the United Kingdom in 2004 as a visitor. He has not had leave since although he has made applications for leave to remain as a partner and also an asylum claim which have been refused and his appeal dismissed (para 6 of the judge's decision).

3. The appellant's family life claim in his application of 7 March 2019 was based on his relationship with his children. He began a relationship with his partner, Ms Shanika Perera, in 2010. They have a daughter born in June 2011 and a daughter born in July 2013. Both children were born in the United Kingdom. The appellant's partner and children have limited leave to remain, granted in February 2019 (para 6 of the judge's decision). At para 19 of her decision, the judge recorded that the elder daughter was aged 9, nearly 10 years and the younger daughter was aged 7, nearly 8 years.

4. Certain concessions were made on the appellant's behalf and on the respondent's behalf at the hearing before the judge which she recorded at para 5 of her decision. This reads:

> "… After the evidence was concluded the representative for the Home Office helpfully and sensibly conceded the point that the appellant does have contact with both of his children on a regular basis and that he does exercise parental responsibility. The relationship between him and the children is genuine. On behalf of the appellant it was accepted that the protection issues raised in the grounds of appeal were not relevant for the purposes of this hearing. It was also accepted that the appellant could not succeed under paragraph EX. 1. as a partner and now that he and his partner have resumed their relationship, he could not succeed under EX.2. either."

5. The judge found that it would not be unreasonable to expect the appellant's children to leave the United Kingdom. I agree with Mr Hussain's submission at the hearing before me that the judge made this finding for the purposes of s.117B (6) of the Nationality, Immigration and Asylum Act 2002 (the "2002 Act") because she referred to s.117B at para 7 of her decision and (I note) also at para 22 of her decision where she stated her finding. Her reasons for her finding are summarised in part and quoted in part below.

6. Having made her finding that it would be reasonable to expect the appellant's children to leave the United Kingdom, the judge stated at para 23:

> "I have also considered whether there [sic] any other circumstances that would render the decision disproportionate in terms of Article 8. There is clearly family life and the decision would have consequences of such gravity to engage those rights. The decision is in accordance with the law. At this stage the immigration history of the appellant can be taken into account. There have been periods during which he has remained in the UK unlawfully although he has made repeated attempts to remedy his status. The aspects of his private and family life built up during those times should be given little weight. However, even were that not to weigh heavily against the appellant, for all the reasons discussed above, I am not satisfied that the decision constitutes a disproportionate breach of the Article 8 rights of the family."

7. Designated Judge of the First-tier Tribunal Shaerf (hereafter the "permission judge") granted permission to appeal. Although the permission judge described the grounds of appeal as "*verbose and prolix and amount to no more than a disagreement with the Judge",* it is clear from his final paragraph that he also granted permission on "*the express grounds*" notwithstanding that he observed that the appellant would need to consider carefully before the next hearing whether there was any substance in any of them.

8. The permission judge stated that he granted permission to appeal:

> "… on the basis that it is "*Robinson obvious*" first that the Judge recorded at paragraph 5 of her decision the concession that Section EX.1 did not apply "as a partner" but did not subsequently address the applicability or otherwise of Section EX. 1 (a) "as a parent" having regard to the nature of the Appellant's parental relationship also recorded at paragraph 5 and second that the Judge's assessment of the proportionality of the refusal of the Appellant's claim under Article 8 of the European Convention outside the Immigration Rules is inadequate because it puts in the balance only the legal nature of the Appellant's continued presence in the United Kingdom without reference to his agreed relationship with his two children, his partner and their two children, both of whom were born in the United Kingdom and by the time of the hearing both of whom had lived here for more than seven years."

9. The grounds of appeal do not state, in terms, that the challenge was to the judge's finding that it would be reasonable for the appellant's children to leave the United Kingdom but the inference to be drawn is that the grounds of appeal were indeed directed at challenging that finding, as Mr Deller accepted at the hearing.

10. I turn now to the judge's decision.

The judge's decision

11. It is clear from the judge's decision that the appellant was estranged from Ms Perera at the time of his application of 7 March 2019 for leave to remain. The children lived with Ms Perera in northern England.

12. The judge heard evidence from the appellant and Ms Perera. To summarise:

    (i) (Para 9 of the judge's decision) the appellant's partner and children were in the process of moving to the south so that the children could be nearer the appellant. Their new home was less than 5 minutes from the appellant's home. The appellant and his partner had looked at schools together and had chosen one together. Even during the time that the appellant was not living with the children he continued to see them regularly. In addition, the children had always had access to a phone and have frequently communicated with the appellant.

    (ii) (Para 12 of the judge's decision) the appellant's daughters do not speak Sinhalese. They know one or two words of greetings. They cannot go to Sri Lanka as they are used to the United Kingdom and the customs and rules here. The appellant said that, if he tries to get his daughters to eat Sri Lankan food, they will say no. The children are healthy and very bright and doing well in their studies but the appellant said that adapting is not that easy. They have been educated here. He would need to find an English speaking school in Sri Lanka. There may be some around Colombo but they are too expensive for him. There is a vast difference between the standards of education here and there and it is very unfair on the children.

    (iii) (Para 13) The appellant said that he has lived in the United Kingdom for 17 years and Ms Perera has not returned to Sri Lanka since she arrived in the UK in 2010. His mother, who is in Sri Lanka, has mental health difficulties. She is being looked after by his brother. His father has another family in which there are half siblings.

    (iv) (Para 14) Ms Perera said that she would not be prepared to take the children to Sri Lanka. However, she also said that if it "*came to it*", she would go there with them.

13. At paras 11 and 15 of her decision, the judge referred to the fact that the appellant had submitted many letters of reference from friends and his church describing him as a loving and hardworking father. There were also letters from former colleagues that detailed that the appellant is a talented actor and an invaluable asset in productions as an actor, videographer and composer. He has worked on commercials and other projects and was described as a well-known personality in the community. He was described as an inventive talent.

14. Given the evidence that was before her, the judge said (para 15):

> "While the letters are dated 2015, that is still some time after the appellant left Sri Lanka and would indicate that he still has contacts there who hold him in high regard and may be able to assist him in obtaining employment. Photographs of the projects indicate that the appellant has remained involved with the Sri Lankan community in the UK, and an article from Newslanka shows his involvement with a cricket event supporting Sri Lankan youth talent at the Surrey cricket festival."

15. At para 16, the judge said that the appellant's dedication to his children was well-established by the evidence.

16. The judge then considered the remainder of the evidence before her at paras 17-22 which read:

> "17. The starting point is that it is in the best interests of children to be with both of their parents. Both the appellant and his partner are loving and committed parents. The best interests of these children lie in them continuing to be cared for on a daily basis by both of their parents. Continuity of their education is also in their best interests. While Ms Perera stated that she would take the children and follow the appellant to Sri Lanka, her initial answer on being asked to consider that was that she would not take them. The appellant was clear that he would rather be separated from the children than have them leave the UK. Both the children and their mother have the right to be in the UK.
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> 18. In Runa v SSHD [2020] EWCA Civ 514 it was held that in the question of whether it was reasonable for the child to leave the UK, the focus had to be on the child. Parliament had not said that whenever one parent had a right to remain in the UK and the other parent did not, that it would be unreasonable to expect the child to leave the UK. In KO (Nigeria) [2018] UKSC 53 it was held that the reasonableness of the child leaving the UK is to be considered on the basis that the facts are as they are in the real world, so that if one parent has no right to remain, but the other does, that is background against which the best interests assessment is conducted. The ultimate question is whether it is reasonable to expect the child to follow the parent with no right to remain to their country of origin. Consideration must be undertaken regardless of whether the child is actually going to leave the UK. In SSHD v AB (Jamaica) & Anor [2019] EWCA Civ 661 also stated that there is only a single question to be addressed; is it reasonable to expect the child to leave the UK? The fact that the child will not be expected to leave does not obviate the need to ask the question. If it would be reasonable for the child to leave the UK with the parent being removed, then the decision does not constitute a breach of the Article 8 rights of the family.
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> 19. The children are aged 9, nearly 10 years, and 7, nearly 8 years. At their ages, school has become an important part of their lives and they have a wider focus than they would have done at a younger age. The longer a child has lived in the UK for a continuous period of at least seven years preceding the date of the application, the more they will have started to put down roots and integrate into life in the UK. The age from which they have spent that time in the UK is also relevant. The older the age at which they have done so, the more the balance will begin to shift towards it being unreasonable to expect the child to leave.
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> 20. The children's parents have experienced life in Sri Lanka and there is immediate family there who would also be able to help the children settle and integrate. The appellant accepted that there is schooling available where the children could be

taught in English to a good standard. He asserted that he would not be able to access that for them due to cost and possible distance from his in laws home. However, there was no supporting evidence as to the cost of schooling. Further, the documents referred to above demonstrate that the appellant was involved in the film industry previously and was reasonably well known as such. He has continued that work in the UK and appears to have maintained links with previous colleagues in Sri Lanka who clearly thought highly of him. It is reasonable to assume, even given the passage of time, that he would be able to turn to his contacts for assistance in finding employment again in order to support his family and access a good standard of education for the children.

21. The children are in good health and are intelligent and doing well at school. It is without question that a move to a country they have never lived in before would cause considerable disruption to their lives and would require a considerable period of adjustment for them. Leaving their friends and the country they have grown up in so far will, no doubt, be upsetting for them. However, that must be set against a background of the facts outlined above. Their parents are from Sri Lankan. The language will have been spoken in the home. They are familiar, at least, with the sounds of the language and understand some words, even if it is not their first language. In any event, there is schooling available in Sri Lanka where they could continue to be educated in English. The appellant has great ambition for his children to study to a level of higher education but that need not be prevented by a return to Sri Lanka now. They will not be deprived of the opportunity to apply to study in the UK in the future. The appellant has maintained links with the Sri Lankan community through his filming activities, his cricketing interests and friends. The culture of Sri Lanka will not be entirely alien to the children. There is family in Sri Lanka, including grandparents, who will be able to welcome the children and assist them, along with their parents, in integrating. The children are healthy and bright and have the support of parents who clearly put their interests above their own. That will also assist in helping the children to manage change.

22. I have given very careful consideration to whether it is reasonable to expect the children to leave the UK given their ages and their particular circumstances and the undoubted distress such a decision will cause them. However, for all the reasons given above I have come to the conclusion that section 117B is not met and that it would not be unreasonable to expect them to leave the UK."

Assessment

The first *"Robinson obvious"* point

17. The first "*Robinson obvious*" point raised by the permission judge was that the judge had failed to consider the parent route in EX.1 (a) of Appendix FM. In his opening submissions, Mr Hussain submitted, in reliance upon the grant of permission, that the judge had referred to the concession on the respondent's behalf that the appellant had a genuine relationship with his daughters and that he exercised parental responsibility but (in Mr Hussain's submission) the judge had failed to conduct any consideration of the parent route in EX.1 (a) which she failed to mention.

18. Given that the judge had considered whether it was reasonable for the appellant's children to leave the United Kingdom for the purposes of s.117B(6), I asked Mr Hussain whether it was a material error of law for the judge not to have considered the same factual issue for the purposes of the parent route in EX.1 (a) of Appendix FM. He conceded that he could not contend that it would have made a material difference.

19. In effect, therefore, Mr Hussain accepted that there was nothing in the first "*Robinson obvious*" point identified by the permission judge that could materially assist the appellant. I will therefore make no further reference to it.

The second *"Robinson obvious"* point

20. The second "*Robinson obvious*" point relates to the judge's assessment at para 23 of her decision, i.e. that the judge's assessment of the proportionality of the refusal of the appellant's claim under Article 8 of the European Convention *outside the Immigration Rules* (my emphasis) is inadequate, in that, *"it puts in the balance only the legal nature of the appellant's continued presence in the United Kingdom without reference to his agreed relationship with his partner and his two children who were born in the United Kingdom and were qualifying children."*

21. At the hearing, Mr Hussain submitted that the judge found at para 23 that the appellant's family life was engaged. One would then normally expect a full analysis of Article 8 and an assessment of the proportionality balancing exercise.

22. I asked Mr Hussain what factors were not considered by the judge that she should have considered. He submitted that the fact that the elder daughter was nearly 10 years old and therefore had nearly qualified to become a British citizen was a relevant consideration in the proportionality balancing exercise in assessing the appellant's Article 8 claim outside the Immigration Rules. As a British child, she would be entitled to pursue her education in the United Kingdom. If she is expected to leave the United Kingdom, she would lose the chance of becoming a British citizen and also the rights that went with British citizenship. This should have been considered by the judge when assessing the appellant's Article 8 claim outside the Immigration Rules which she failed to do.

23. Mr Hussain accepted that the *"near-miss"* principle was not available to the appellant. However, he submitted that the argument was couched differently on the appellant's behalf, i.e. that the fact that the appellant's elder daughter would have attained the age of 10 years by the time the appellant had exhausted his appeal rights was a relevant consideration which the judge failed to take into account.

24. In response, Mr Deller submitted that it is not the case that the two-step approach in considering an individual's Article 8 claim involves an assessment of an individual's Article 8 claim under the Immigration Rules followed by an assessment of the Article 8 claim outside the Immigration Rules if the Article 8 claim under the Immigration Rules is unsuccessful. This is because there is no longer a ground of appeal that a decision is not in accordance with the Immigration Rules, although it was not inherently wrong for the judge to have dealt with Article 8 following the two-step approach that she followed.

25. Mr Deller submitted that, given that the judge had considered s.117B(6) and whether it was reasonable to expect the children to leave the United Kingdom, she had had proper regard to the s.117B factors and therefore did not err in law. All the factors that needed to be considered in the appellant's case were considered by the judge.

26. Mr Deller submitted that the fact that the appellant's elder daughter was nearly ten years did not mean that she should have been treated by the judge as a British citizen. Mr Deller submitted that the appellant was attempting to rely upon the "*near-miss*" principle notwithstanding Mr Hussain's attempt to couch his case on this issue differently.

27. In response, Mr Hussain submitted that it is necessary for the judge to have conducted a standalone assessment of the appellant's Article 8 claim outside the

Immigration Rules. Para 23 of her decision was an inadequate assessment. It only took into account the appellant's immigration history and failed to take into account the fact that the appellant's elder daughter was nearly ten years old and would be able to apply for British citizenship within three months of the hearing date, before the appellant had exhausted his appeal rights.

28. I have carefully considered the submissions of the parties. It is plainly the case that there is no longer a right of appeal to challenge a refusal under the Immigration Rules. The appellant's appeal against the respondent's decision to refuse his application for leave to remain on the basis of his family and private life was brought on the only ground available to him, i.e. on human rights grounds. Since there is no right of appeal against the refusal under the Immigration Rules, the judge's entire assessment of the appellant's Article 8 claim was an assessment of his Article 8 claim outside the Immigration Rules.

29. In undertaking that assessment, the first issue that fell for consideration in the circumstances of this case was whether s.117B(6) was satisfied, i.e. whether it would be reasonable to expect the appellant's daughters to leave the United Kingdom. If the judge had found that s.117B(6) was satisfied, it would not have been necessary for her to consider whether any other factors that also fell for consideration in the proportionality balancing exercise cumulatively rendered the decision disproportionate. This is because the fact that s.117B(6) was satisfied would have meant that the decision was disproportionate for that reason alone. That conclusion would have been reached in the assessment of the appellant's Article 8 claim outside the Immigration Rules.

30. Given that the judge found that it would not be unreasonable to expect the appellant's daughters to leave the United Kingdom, it was necessary for her to proceed to consider whether there were any other factors in the applicant's case that also fell for consideration and that cumulatively render the decision disproportionate. That is precisely the approach the judge took.

31. It is therefore important to note that the two-step approach in assessing an individual's Article 8 claim is undertaken outside the Immigration Rules. The appellant's submission, that there is first an assessment under the Immigration Rules followed by an assessment outside the Immigration Rules, is misconceived.

32. Given that the judge's entire assessment, in relation to both s.117B(6) and at para 23, related to the appellant's Article 8 claim outside the Immigration Rules, the submission that the judge's findings in the second and third sentences of para 23 (that there was family life, that the decision would have consequences of such gravity as to engage those rights and that the decision was in accordance with the law) should have been followed by a full proportionality exercise is devoid of any substance. The judge's assessment of whether it would be reasonable to expect the appellant's daughters to leave the United Kingdom was *itself* part of the proportionality balancing exercise that she was required to undertake in assessing the appellant's Article 8 claim outside the Immigration Rules.

33. I acknowledge that it would have been better if the judge had commenced her assessment of the appellant's Article 8 claim by making the findings she made in the second and third sentences of para 23, followed by her assessment of whether it would be reasonable to expect the appellant's daughters to leave the United Kingdom. However, that is a matter of form, rather than substance.

34. I therefore reject the appellant's submission that the judge erred by failing to conduct a full proportionality balancing exercise after making her findings in the second and third sentences of para 23 of her decision. She did conduct a full proportionality balancing exercise. Her reasoning in relation to whether or not it would be reasonable to expect the appellant's children to leave the United Kingdom was part of that assessment.

35. The permission judge was misconceived in stating that the judge's assessment of proportionality outside the Immigration Rules was inadequate because it put in the balance only the legal nature of the appellant's continued presence in the United Kingdom without reference to his relationship with his daughters and his partner. This is because, as I have said, the judge's entire assessment of whether it would be reasonable to expect the appellant's daughters to leave the United Kingdom (in the context of which she took into account the appellant's relationship with his daughters and his partner and that his daughters were born in the United Kingdom and were qualifying children) related to her assessment of the proportionality balancing exercise in relation to the appellant's Article 8 claim outside the Immigration Rules.

36. Para 18 of the grounds of appeal relies upon the fact that the appellant's elder daughter would be 10 years old very soon and could then become naturalised. At the hearing, Mr Hussain submitted that the judge erred in failing to take into account, in assessing proportionality, the fact that the appellant's elder daughter was three months short of being eligible to apply for British citizenship and that the judge should have taken into account that she would become eligible to apply for British citizenship before the appellant had exhausted his appeal rights.

37. However, in the first place, this issue was not relied upon in the appeal before the judge. There is no mention of it in the skeleton argument that was before the judge.

38. In any event, I agree with Mr Deller that this is a near-miss argument notwithstanding Mr Hussain's attempt to couch it differently. The appellant's elder daughter was not a British citizen as at the date of the hearing before the judge and therefore could not be treated as if she was.

The remaining grounds

39. I shall deal first with the issues/grounds that were specifically addressed by Mr Hussain at the hearing and in his skeleton argument.

40. Para 17(v) of the grounds of appeal and para 11 of Mr Hussain's skeleton argument contend that the judge erred in law by failing to consider certain country guidance information that it is contended *"supported the difficulty that anyone would have as a female in Sri Lanka and the difficulties in having a fulfilling and inclusive life as opposed to the restrictions that general Sri Lankan society places upon a person.*"

41. However, the fact is there was no country guidance evidence submitted to the judge, as Mr Hussain accepted. The appellant's skeleton argument that was before the judge made no mention of this issue. Furthermore, and as I said at the hearing, all that is before the Upper Tribunal is the view of the author of the grounds concerning the situation that a female in Sri Lanka would face on the country guidance evidence considered by the author. That is no basis for any suggestion that the judge erred in law in failing to take into account a view not expressed to her that has been taken on

country guidance evidence not submitted to her in support of a submission not made to her.

42. I turn to paras 10 and 17 of the grounds of appeal and para 12 of Mr Hussain's skeleton argument.

43. Para 10 of the grounds contends that there was "*evidence from objective third party sources that suggested the significant harm that any such move [by the appellant's daughters to Sri Lanka] would cause to the children generally but in particular their wellbeing."*

44. However, there was no such evidence before the judge, as Mr Hussain accepted. To the contrary, the evidence before the judge was that the children were healthy (paras 12 and 21 of the judge's decision).

45. Para 17 of the grounds of appeal reads:

> "17. In relation to KO (Nigeria) & Others v SSHD [20181 UKSC 53 which set out a list of factors, it is submitted that there are several factors in this case such which [sic] were not considered adequately;
>
> i) There would be a significant risk to the children's mental health
>
> ii) The Appellant has not been to Sri Lanka since he first arrived in the UK nearly 17 years ago, his partner has not been in Sri Lanka since she arrived in the UK the children have never been to Sri Lanka.
>
> iii) The children cannot speak, read or write Sinhalese and there was no evidence to suggest that they could learn this within a reasonable time period
>
> iv) The children had never attended school in Sri Lanka and had no familiarity with the system nor a comparable system
>
> v) Country guidance information supported the difficulty that anyone would have as a female in Sri Lanka and the difficulties in having a fulfilling and inclusive life as opposed to the restrictions that general Sri Lankan society places upon a person
>
> vi) The significant private life of both qualifying children in the UK which demonstrated that taking them away from this would be unduly harsh and risk their mental well being
>
> These matters were not fully applied in the final determination."

46. At the hearing, Mr Hussain relied upon the fact that the judge had referred at para 21 of her decision to it being without question that a move to a country the children have never lived in before would cause considerable disruption in their lives and would require a period of adjustment for them, and that it would be no doubt upsetting for them to leave their friends and the country they have grown up in. He therefore submitted that the judge accepted that there would be a psychological impact on the children which he submitted should have been considered in the general proportionality balancing exercise outside the Immigration Rules.

47. However, I revert to the point I have made above in relation to the second "*Robinson obvious"* point. The judge's entire assessment of the case related to her assessment of the proportionality balancing exercise outside the Immigration Rules. Thus, by taking into account what she considered would be the psychological impact on the children of leaving the United Kingdom in the absence of any medical or other expert evidence, she went as far as she could in considering this aspect of the appellant's case.

48. Mr Hussain submitted that the psychological impact on the appellant's children of leaving the United Kingdom as acknowledged by the judge taken together with the remaining factors relied upon at para 12 (ii)-(vi) of the grounds should have been sufficient to "*get the appellant over the line*".

49. I have dealt with the point raised at para 17(v). I agree with Mr Deller that the remainder of para 17 of the grounds, which is mirrored in para 12 of Mr Hussain's skeleton argument, amounts to a perversity challenge. Alternatively, para 17 of the grounds and para 12 of Mr Hussain's skeleton argument amount to no more than a disagreement with the judge's reasoning and findings. She did consider the factors relied upon.

50. It is not necessary for me to set out in terms the remaining grounds, which the permission judge correctly described as verbose and prolix, and the remainder of Mr Hussain's skeleton argument given that these documents are in file. I am satisfied that these grounds/submissions amount to no more than a disagreement with the reasoning and findings of the judge. The judge did consider all relevant factors.

51. For all of the reasons given above, I am satisfied that the judge did not err in law.

Decision

The making of the decision of the First-tier Tribunal did not involve the making of any error of law sufficient to require it to be set aside.

The appellant's appeal to the Upper Tribunal is dismissed.

Upper Tribunal Judge Gill Date: 11 August 2021

NOTIFICATION OF APPEAL RIGHTS

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

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

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

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

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

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