Appeal No: SN/10/2014
Hearing Date: 14 and 15 April 2015
Date of Judgment: 21 July 2015

SPECIAL IMMIGRATION APPEALS COMMISSION

Before:

SIR STEPHEN SILBER
UPPER TRIBUNAL JUDGE GOLDSTEIN
SIR BRIAN DONNELLY

"AA"

APPELLANT

and

SECRETARY OF STATE
FOR THE HOME DEPARTMENT

RESPONDENT

OPEN JUDGMENT

For the Appellant	Amanda Weston
Instructed by:	Birnberg Pierce and Partners
For the Respondent:	Rory Phillips QC and Steven Gray
Instructed by:	Government Legal Department
Special Advocate Representative:	Martin Goudie
Instructed by:	Special Advocate's Support Office

Sir Stephen Silber

Introduction

1. On 23rd November 1995, AA, who is a national of Algeria, entered the United Kingdom. On 3rd March 2010, he applied for naturalisation. By a letter dated 8th June 2010, his application for British citizenship was refused on the grounds that:

> "The Home Secretary is not satisfied that you can meet the statutory requirement to be of good character. It would be contrary to the public interest to give reasons in this case. The decision to refuse your application has been taken in accordance with the law and prevailing policy".

2. On 8th September 2011, AA's representatives requested that the decision to refuse his application should be reconsidered noting that he had not been provided with the reasons for the refusal. They asked that if the decision was maintained, they should be provided with "further and better particulars" of the reasons for the refusal. On 21st October 2011, a response was made to that request upholding the refusal decision on the basis that:

> "the Secretary of State possesses information which causes her not to be satisfied that your client meets the requirement to be of good character".

3. The decision was duly certified under s2 D(1) of the Special Immigration Appeals Commission Act 1997 ("SIAC Act"). This triggered the right to a statutory review to the Special Immigration Appeals Commission ("SIAC").

4. AA has invoked that right and in the present proceedings, he now seeks to challenge those decisions and the certification.

5. Ms. Weston, counsel for AA, contends that the decision refusing AA's application for naturalisation is flawed and that it should now be quashed. She submits that this Commission should now take into consideration a witness statement of AA made more than three years after the decisions under challenge. In addition, her case is that by failing to give AA a reasonable opportunity to address the allegation that he is not "of good character" and that

therefore he should be denied naturalisation, the Secretary of State has acted in breach of the United Kingdom's obligations under Articles 8 and 13 of the ECHR and Article 34 of the Refugee Convention. Ms Weston also contends that insofar as AA has been materially disadvantaged in an aspect of the decision making process because of his mental disorder, the Secretary of State has unlawfully discriminated against him in breach of Article 8 ECHR taken with Article 14 ECHR.

6. Ms. Weston also places emphasis on the general significance to AA of the effect on him of the refusal of his application for citizenship as well as its impact on his life and reputation as was explained by Lord Phillips in *R v Secretary of State for Home Department, ex parte Al Fayed* [1998]1 WLR, 763 at 787 F-G.

7. The Secretary of State for the Home Department ("the Secretary of State") opposes the challenge to her decision and she wishes to rely on closed material, which her counsel Mr. Rory Phillips QC submits shows that she was entitled not to be satisfied that AA met the "good character" requirements. There was a closed oral hearing on April 15th 2015 after an open hearing had taken place on the previous day. Many of the submissions of Counsel centred on the recent decision of this Commission in *AHK and others v Secretary of State for the Home Department* (Appeals SN/2/2014, SN/3/2014, SN/4/2014 and SN/5/2014) ("AHK1") and of the Divisional Court in R (on the application of the *Secretary of State for Home Department) v SIAC [2015] EWCA 1236* ("AHK2").

8. At the closed hearing, the Special Advocate, Mr. Martin Goudie, and Mr. Phillips made representations in respect of the closed evidence. There is a closed judgment to accompany this judgment.

The statutory landscape

9. AA's application for discretionary naturalisation was made pursuant to s.6 (1) to the British Nationality Act 1981("the 1981 Act") which provides that:

> "If, on an application for naturalisation as a British citizen made by a person of full age and capacity, the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen".

10. Schedule 1 of the 1981 Act as amended and, in so far as is relevant, provides that:

> "…the requirements for naturalisation as a British citizen under section 6(1) are, in the case of any person who applies for it—that [inter alia]…
>
> (b) that he is of good character; ..."

11. There were originally difficulties in challenging any decision refusing naturalisation because prior to its repeal by s7(1) of the Nationality, Immigration and Asylum Act in 2002, s.44 (2) of the 1981 Act provided that the Secretary of State:

> ". . . shall not be required to assign any reason for the grant or refusal of any application under this Act the decision on which is at his discretion; and the decision . . . on any such application shall not be subject to appeal to, or review, any court".

12. After the repeal of that provision and before the Justice and Security Act 2013 ("JSA") came into force, there were still difficulties in challenging decisions refusing naturalisation where, as in the present case, there was a closed procedure in operation. These difficulties arose because of a deficiency which was identified by Ouseley J in *AHK* [2012] EWHC 1117 Admin and which was described by Richards LJ in *Ignaoua* [2014] 1 WLR 651 at [24] as being:

> "the impossibility or improbability of a claimant succeeding in a judicial review of this kind in the absence of a closed procedure".

13 The way in which the JSA dealt with this difficulty was by including in s.15 a procedure for the "review of certain exclusion decisions" and "certain naturalisation and citizenship decisions". "This application relates to a naturalisation decision and not to an exclusion decision". This was achieved

by inserting new ss. 2C and 2D in the SIAC Act. These sections apply where, as has happened in the case of AA, the decision refusing naturalisation is:

> "certified by the Secretary of State as a direction that was made wholly or partly in reliance on information which, in the opinion of the Secretary of State, should not be made public—(i) in the interests of national security, (ii) in the interests of the relationship between the United Kingdom and another country, or (iii) otherwise in the public interest."

14. As we have explained, after AA's claim was certified, he invoked the provisions in s.2C (2) and 2(D) (2) of the SIAC Act, which enabled a person to whom a naturalisation decision related to apply to SIAC to set it aside. On 31st March 2014, AA's representatives submitted such an application for review to this Commission. AA has served a witness statement, while evidence has been adduced on behalf of the Secretary of State.

Challenges to Certifications and Decisions Refusing Naturalisation

15. S2C (3) and s. 2D(3) of the 1997 Act are identically worded; they state in respect of challenges to decisions of the kind under challenge in this application:

> "In determining whether the decision should be set aside, the Commission must apply the principles which would be applied in judicial review proceedings."

16. The approach to be adopted to such challenges was set out in Rule 9(1A)(a) of the Special Immigration Appeals Commission (Procedure) Rules 2003 ("the 2003 Rules"), which provides that the notice of application for review must specify:

> "...by reference to the principles which would be applied in an application for judicial review, the grounds for applying for a review."

17. Rule 4 of the 2003 Rules sets out SIAC's duties in respect of disclosure and they are :

> "(1) When exercising its functions, the Commission shall secure that information is not disclosed contrary to the interests of national security, the international

> relations of the United Kingdom, the detection and prevention of crime, or in any other circumstances where disclosure is likely to harm the public interest.
>
> (2) Where these Rules require information not to be disclosed contrary to the public interest, that requirement is to be interpreted in accordance with paragraph (1).
>
> (3) Subject to paragraphs (1) and (2), the Commission must satisfy itself that the material available to it enables it properly to determine proceedings."

18. Rules 10 and 10A of the 2003 Rules, which impose a duty to search for exculpatory material in appeals, do not apply to reviews: rules 10(A1) and 10A(A1). Rule 10B(1) provides that on review the Secretary of State must file a statement of the evidence on which she relies in opposing the application; and material relevant to the issues. Rule 37(5) enables the Secretary of State with leave of SIAC or agreement of the special advocate, to amend or supplement her closed evidence. Rule 39(5)(c)(i) enables SIAC to direct any disclosure that appears to be necessary to determine proceedings.

19. In *AHK 2*, the Divisional Court considered the approach to challenges to certifications, and it concluded that:

    a. It was less than helpful to characterise the nature of scrutiny required by SIAC "by reference to the anxiety with which it is conducted.... What is required is a complete understanding of the issues involved and recognition by SIAC that the inability on the part of the Special Advocates to take instructions on the closed material heightens the obligation to review the material with care. In that regard, the possibility that other (potentially innocent) explanations might be available to rebut it (or the inferences drawn from it) has to be considered". See [28] of the OPEN judgment.

    b. "The limitations on the ability to have a complete understanding of the position from the perspective of the interested parties to contrast with the arguments advanced by the [Secretary of State] is equally of importance when it comes to the issue of material which should be available [to SIAC]" so that "the claimant will be able to challenge in full the reasons advanced for the decision not only as to relevance but also accuracy and completeness". See [29] of the OPEN judgment.

    c. The Special Advocates cannot completely take the place of fully informed instructions and a court must be mindful of this limitation. Without access at least to the material relied on by the writer of the summary, its rationality and

the basis of the recommendation are untestable: See [31] of the OPEN judgment.

d. The suggestion that there is a requirement that SIAC must have "all the material which the summary or report writer could have accessed, that is to say, everything known about the relevant interested party" goes too far and cannot be justified: see [34] of the OPEN judgment

e. "Recognizing that Special Advocates cannot obtain instructions on the material, in the context of this type of review, it is also right that the [Secretary of State] should disclose the underling material upon which the summary or report writer actually relied to identify facts or reach the conclusion. Needless to say that material must be sufficient to justify the contents of the report or summary but it need not be exhaustive of all that is known" see [34] of the OPEN judgment.

f. This disclosure obligation was in addition to and different from the duty of candor which is the obligation on the part of the Secretary of State to disclose any material which might undermine the evidence on which reliance is placed or otherwise assist the case advanced by the interested parties": see [35] of the OPEN judgment.

g. In relation to old cases, the Secretary of State must disclose material "which is sufficient (in the view of the summary or report writer) to support what is alleged and the conclusions reached". An appellant is not prejudiced by this course: see [36] to [37] of the OPEN judgment.

20. As we explained in paragraph 8 above, s.6 (1) of the 1981 Act provided that the decision as to whether to grant or to refuse an application for naturalisation is to be taken by the Secretary of State. Ms Weston has not sought to challenge the submissions of Mr. Phillips that:

a. The burden of proof is on the applicant to satisfy the Secretary of State that the requirements (including that he is of "good character") are met on the balance of probabilities.

b. If this test is not satisfied the Secretary of State must refuse the application;

c. The Secretary of State is entitled to set a high standard for the good character requirement. Thus in *R v Secretary of State for the Home Department ex p Fayed (No 2)* [2001] Imm. A.R. 134, Nourse LJ stated (at [41]) that:

"In *R v Secretary of State for the Home Department, ex parte Fayed* [1998] 1 WLR 763, 773F–G, Lord Woolf MR referred in passing to the requirement of good character as being a rather nebulous one. By that he meant that good character is a concept that cannot be defined as a single standard to which all rational beings would subscribe. He did not

mean that it was incapable of definition by a reasonable decision-maker in relation to the circumstances of a particular case. Nor is it an objection that a decision may be based on a higher standard of good character than other reasonable decision-makers might have adopted. Certainly, it is no part of the function of the courts to discourage ministers of the Crown from adopting a high standard in matters which have been assigned to their judgment by Parliament, provided only that it is one which can reasonably be adopted in the circumstances". No criticism was made of a recent decision in the Administrative Court in *R (on the application of Khan) v SSHD* [2013] EWHC 1294 (Admin), in which a claimant unsuccessfully challenged a refusal to grant naturalization on the grounds that the claimant was not of "good character" which was based solely on a conviction of the claimant for an offence of using a mobile telephone whilst driving.

(iv) "The test for disqualification from citizenship is subjective. If the Secretary of State is not satisfied that an applicant is of good character, and has good reason not to be satisfied, she is bound to refuse naturalization." per Stanley Burnton LJ in *Secretary of State for the Home Department v SK Sri Lanka* [2012] EWCA Civ 16 [31]:

(v) The good character requirement cannot be waived. An applicant may seek to persuade the Secretary of State that he is of good character, but if he or she does not satisfy the Secretary of State that the good character requirement is met, any grant of naturalization would be *ultra vires*.

(vi) A decision regarding character in the context of citizenship is at the political (rather than legal) end of the spectrum: see Lord Bingham's speech in *A v Secretary of State for the Home Department* [2005] 2 AC 68 at [29]; and Lord Sumption's speech in *R (on the application of Lord Carlile of Berriew QC and others) v Secretary of State for the Home Department* [2014] UKSC 60 at [33].

The Grounds of Challenge: Consideration of the witness statement of A.

21. An essential part of Ms. Weston's case is the contention that this Commission should take account of AA's witness statement, which was made on 22nd December 2014, more than three years after the decision refusing AA's application for naturalization. The Secretary of State submits that it should not be admitted by this Commission save for determining whether AA's Article 8 rights were infringed by the refusal to grant him naturalization if those rights were engaged by the decision to refuse him naturalization.

22. Ms. Weston contends that SIAC should consider AA's witness statement in determining the present challenge because:

a. Parliament had provided an alternative procedure to judicial review in which reasons which had not been available to the individual concerned could effectively be challenged;

b. An important part of the effectiveness of the procedure is the role of Special Advocates in making relevant submissions. In order to make the Special Advocate's role effective and indeed meaningful, they have to have the contrary evidential position to put. That may appropriately be put by way of a witness statement rather than by 'instructions'.

c. The Secretary of State had adopted a procedure whereby AA was unable to mount any meaningful challenge to the decision (save on grounds of fairness) by way of judicial review because he has no reasons. To take the position that AA's contrary position, which may potentially (he does not know) be relevant to the reasons under challenge, should be excluded is to seek to nullify the remedy provided by Parliament. That is consistent with the Respondent's approach which has been to seek in litigation to limit the Commission's powers of scrutiny.

d. The material in [AA's] statement relevant to "good character" and fairness (save in relation to a matter which AA thought may have occurred two years ago) all relate to facts in existence at the time of the decisions

23. Those submissions ignore the fact that the witness statement was not before the Secretary of State when she refused to grant AA's naturalization application. As we have explained in paragraph 14 above, in considering a challenge to the certification decision, this Commission "must apply the principles which would be applied in judicial review proceedings". As was explained in AHK1, this means that on applications like the present one, this Commission is carrying out "a review and not an appeal on the facts" (see paragraph 31), and this entails a very careful scrutiny of "the factual basis for the judgment exercised by the Secretary of State" (see paragraph 29).

24. The need for this Commission to focus on the material actually considered by the decision-maker, who in this case was the Secretary of State, and not on later materials is a well-known principle of judicial review jurisprudence (see *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs* 453, 511 per Lord Carswell and *R (Naik) v Secretary of State for Home Department* [2011] EWCA Civ 1546[63]. Of course, AA's witness statement was not in

existence at the time of the decisions under challenge and so it could not be considered by the Secretary of State. Therefore this Commission cannot consider it save for determining if there has been a breach of AA's Article 8 rights.

25. We are fortified in reaching this conclusion by the well-known rule that fresh evidence should not ordinarily be admitted in judicial review to justify a decision as was explained by the Court of Appeal *in R v Secretary of State for the Environment ex parte Powis* [1981] 1 WLR 584 at 595. None of the exceptions to that rule apply in the present case.

26. Ms. Weston complained that if this Commission could not consider AA's witness statement, it would be grossly unfair to AA. We are unable to agree. AA is not precluded from making a fresh application for naturalization in which he could rely on his witness statement and indeed any further information that AA might wish to adduce. In that event, the Secretary of State would then have to consider AA's witness statement. If AA was then dissatisfied with the decision of the Secretary of State, he could bring an application before this Commission in which the Secretary of State's consideration of AA's witness statement would be subject to a review on judicial review grounds.

Breaches of AA's Article 8 Rights

27. Ms. Weston contends that by refusing AA's naturalization application on the grounds that he cannot meet the statutory requirement of being of good character, this engaged his right to respect for his private life in terms of his reputation and his mental health with the consequence that the refusal of his application infringed his rights under Article 8 of the ECHR. She proceeds to submit that insofar as the Secretary of State relied on untested material adverse to AA, this was unfair and it was inconsistent with the prohibition on arbitrary interference with the right to respect for his private life.

28. Mr. Phillips contends that only an arbitrary refusal of citizenship could raise an issue under Article 8 and that there is no case made out that there was an

arbitrary decision made by the Secretary of State. He proceeds to submit that in any event there is no evidence of interference with AA's Article 8 rights and that Article 8(2) prevents any claim being made for interference with AA's Article 8 rights.

Were AA's Article 8 rights engaged?

29. The Strasbourg Court has made it clear in *Genovese v Malta* (2014) EHRR 25 that there will only be very limited circumstances in which Article 8 rights could conceivably be engaged by the refusal of an application for citizenship and it gave one possible situation in which such rights could be engaged when it stated that

> "30…The provisions of Article 8 do not, however, guarantee a right to acquire a particular nationality or citizenship. Nevertheless, the Court has previously stated that it cannot be ruled out that *an arbitrary denial of citizenship might in certain circumstances* raise an issue under Article 8 of the Convention because of the impact of such a denial on the private life of the individual (see *Karassev v. Finland* (dec.), no. 31414/96, ECHR 1999-II, and *Slivenko v. Latvia* (dec.) [GC], no. 48321/99, § 78, ECHR 2002-I" (emphasis added)

30. This approach was repeated by the Strasbourg Court on 15 January 2015 in *Petropavlovskis v Latvia* (Application no.44230/06)) at paragraph 83, in which it was explained that:

> "neither the Convention nor international law in general provides for the right to acquire a specific nationality".

31. In *AHK v Secretary of State for Home Department* [2013] EWHC 1426 (Admin), Ouseley J observed of the decision in *Genovese* that it:

> "… proceeds on the basis that a breach of Article 8 can arise in the context of the refusal of naturalisation where there was an arbitrary or, as in that case, a discriminatory refusal. It does not support any broader potential for a refusal of naturalisation to interfere with Article 8."

32. This approach was adopted in AHK1 in which this Commission explained at paragraph 22 that:

> 'It will be for a given appellant to lay the groundwork for such a claim, on the basis of specific fact"

33. In *Al-Jedda v Secretary of State for Home Department* [2013] UKSC 62, [2014] AC 253, an issue for the consideration of the Supreme Court related to the deprivation of citizenship. Lord Wilson JSC giving the judgment with which all the other members of the Court agreed stated that:

> "12…The European Convention on Human Rights 1950 does not identify a right to a nationality but the European Court of Human Rights recognises that the arbitrary denial of citizenship may violate the right to respect for private life under Article 8 of the Convention (*Karassev v Finland*, Application No 31414/96, 12 January 1999)"

34. A similar approach was adopted more recently by Kenneth Parker J in *R (Kurmekaj) v Secretary of State for Home Department* [2014] EWHC 1701 (Admin) who explained that the threshold for engagement and infringement of Article 8 "is a high one, namely that the decision has to be of an arbitrary nature" (Paragraph 48). The insurmountable difficulty for Ms. Weston is she has not adduced any argument or evidence to indicate, let alone prove, that the decisions refusing AA citizenship were "arbitrary".

35. There is authority that another way in which an Article 8 claim can be brought is that:

> "The consequences of the refusal to recognise the applicant as a citizen of Finland, taken separately or in combination with the refusal itself, could be considered sufficiently serious so as to raise an issue under Article 8"(*Karassev v Finland* (1999) 28 EHRR CD 132 at page 12

36. Such cases have to be of substantial seriousness because the Court of Appeal has explained that the mere fact that citizenship is withheld cannot of itself be either a failure to respect or interference with family life as was explained by Tuckey LJ giving the judgment of the Court of Appeal in *R (Montana) v Secretary of State for Home Department* [2001] 1 WLR 552, 559 at paragraph 19).

37. In order to ascertain if on the facts of his case, AA's claim is sufficiently serious to be able to pursue a claim for infringement of his Article 8 rights, it becomes necessary to see if his witness statement reveals any matters other than the mere refusal of the citizenship application which AA could raise as an issue under Article 8. He states that although he has been granted Indefinite

Leave to Remain ("ILR") in the United Kingdom, the decision to refuse him citizenship "has had a terrible impact on my mental health". He explains that:

> "to deal with the fact that I am being maligned with secret accusations by secret agencies , and that my reputation is attacked without any way for me to meaningfully defend myself; this takes a heavy toll on me"

38. This allegation required corroboration from a psychiatrist and AA relies on a letter dated 16 October 2013 to his GP from Dr Kazuya Iwata, a Specialist Registrar to Dr F Anwar, a Consultant Psychiatrist, who explains that he saw AA, who said that he was having "a bad day today", but he concluded that:

> "My overall impression was that [AA]'s mental state has been fluctuating in that he has good days and bad days, but that overall, he reported an improvement of his psychotic symptoms. His bad days seem to be triggered by social stressors, which his care coordinator is helping with".

39. This letter does not disclose any impact on AA's private life sufficiently serious to raise an issue under Article 8 because it does not show or even indicate that the refusal decision has had any impact on AA's mental health, which in any event was improving.

40. AA also complains that if he had a British passport, he could visit his elderly mother, who lives in Algeria. He explains that "of course, I cannot go to Algeria" and that his mother could not realistically travel further than Tunisia or Morocco to visit him. AA says that he has always been refused visit visas by the Tunisian and Moroccan authorities, but that if he had a British passport, he could travel to Tunisia without a visa. We do not consider that this raises an interference with AA's private life sufficiently serious to raise an issue under Article 8. The main reason why AA cannot visit his mother is that he does not have an Algerian passport and that is not the fault of the Secretary of State or the consequence of the decision to refuse him naturalisation

41. This constitutes a further reason why AA's Article 8 claim must fail. For the purpose of completeness, we mention that Ms Weston also contends that a procedure, which has been adopted by the statutory regime under review that fails to permit of an effective means of rebutting allegations or vindicating Article 8 rights, contains inadequate protection against arbitrary interference

and thus gives rise to a breach of Article 8 rights. That submission overlooks the fact that the Strasbourg Court has decided that the SIAC procedures for excluding individuals from the United Kingdom, which entail a closed procedure and the use of special advocates similar to the procedure for dealing with certifications as in the present case, "offer sufficient guarantees for the purposes of Article 8" (*IR v United Kingdom* (2014) 58 EHRR SE14 at paragraph 63).

42. It is true that the procedure for excluding individuals under consideration in the *IR* case involved an appellate procedure, while the procedure in the present challenge is not an appellate procedure. It is, however, clear that if challenges to decisions are permitted on judicial review grounds, they will then be ECHR compliant (see, for example, *R (Alconbury Developments Limited) v Secretary of State for the Environment* [2001] UKHL 23 [2003] 2AC 595 at paragraph 52 per Lord Steyn and paragraph 62 per Lord Nolan). It is unnecessary to come to a final conclusion on this because the provisions of Article 8(2) show that there is not a breach of Article 8, as we will now explain.

Article 8 (2) ECHR

43. Even if it were the case that AA's Article 8 right are engaged, there is a further (and we believe an insuperable) obstacle that AA has to overcome before he could succeed on his Article 8 claim. That arises because even if AA can establish interference with his private life sufficiently serious to raise an issue under Article 8, he will be unable to establish a breach of those rights, as Article 8 is a qualified right. Article 8(2) provides that:

> "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 wellbeing 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"

44. The decision to refuse AA naturalization was "in accordance with the law", namely section 6 of the 1981 Act as well as being necessary to meet the

legitimate aims of public safety and the protection of the rights of others. Thus any claim of AA under Article 8 must fail.

Article 13 of the ECHR

45. AA's grounds contend that the alleged failure to give him a reasonable opportunity to address the allegation that he is not of good character infringes his Article 13 ECHR rights. Article 13 provides that:

> "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity".

46. We have been unable to understand or accept this submission in the light of the decision in *IR* (supra) and the right of AA to make challenges on judicial review grounds.

Article 14 of ECHR

47. As we have explained, Ms Weston contends that "if and insofar as the Appellant has been materially disadvantaged in any aspect of the decision-making process and remedy by reason of his mental disorder, the [Secretary of State] has unlawfully discriminated against the Appellant in breach of article 8 taken with article 14"

48. There is no evidence that the Appellant has been materially disadvantaged or disadvantaged in any way in any aspect of the decision-making process and remedy by reason of his mental disorder. So there has been no breach of Article 8 taken with Article 14.

Article 34 of the Refugee Convention

49. Ms. Weston contends that Article 34 of the Refugee Convention shows the standards of fairness that were required of the Secretary of State and this Commission. Article 34 provides that:

> "The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to

expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings".

50. It is common ground that this Article confers no right to be granted citizenship by reason of refugee status. This Commission in AHK1 concluded that there was nothing in Article 34 that should affect its approach to applications of the kind that we are considering (see paragraphs 11,12, 15 and 16). In any event, AA has been granted ILR and that constitutes a step to facilitate his assimilation in this country. So we do not consider that there has been a breach of Article 34.

Conclusion

51. For the reasons set out in this judgment and the accompanying closed judgment, we reject the challenges.