

IN THE HIGH COURT OF JUSTICE  
ADMINISTRATIVE COURT  
BETWEEN

Claim no. AC-2024-LON-000866



THE KING on the application of  
MS

- and -

SECRETARY OF STATE FOR THE HOME DEPARTMENT

**Defendant**

---

~~DRAFT~~ CONSENT ORDER

---

UPON the Claimant's application for interim relief, expedition and permission being listed for an oral hearing on 18 July 2024;

AND UPON the Claimant being granted refugee status on 2 July 2024 and the parties agreeing as follows;

**BY CONSENT, IT IS ORDERED THAT:**

1. The hearing on 18 July 2024 is vacated.
2. The Claimant's application for interim relief is withdrawn.
3. The Claimant's application for permission to apply for judicial review is withdrawn, save for the damages claim for just satisfaction of the alleged breaches of the Claimant's rights under Articles 4 and/ or 8 ECHR ("the damages claim").
4. The Claimant's damages claim is to be transferred to the Central London County Court for determination of liability and quantum where it is to be linked with the Claimant's other damages claims<sup>1</sup> and stayed (from the date of transfer) for 6 months to allow the parties to explore settlement.
5. The Defendant is to pay the Claimant's reasonable costs in relation to his application for permission to apply for judicial review and application for interim relief on the standard basis, to be assessed if not agreed.
6. There shall be a detailed assessment of the Applicant's publicly funded costs in accordance with the Civil Legal Aid (Costs) Regulations 2013.

---

<sup>1</sup> Damages claim arising from the claim no AC-2022-LON-002284 and damages claim arising from the Upper Tribunal Judicial Review claim no JR-2024-LON-001489, insofar as these are transferred to the County Court before 1 January 2025.

Dated this      day of July 2024

*The Treasury Solicitor*

*Gold Jennings*

---

**Gold Jennings**

11 Jerusalem Passage

London

EC1V 4JP

Tel: 0208 445 9268

Ref: RE/240319

Solicitors for the Claimant

---

**Government Legal Department**

102 Petty France

London

SW1H 9GL

Tel: +442072104715

Ref: Z2403230/BAQ/HOI4

Solicitor for the Defendant

Approved by Mr Justice Lavender sitting as High Court Judge

BY THE COURT

---

**STATEMENT OF REASONS**

---

1. The Claimant, a Sudanese national, arrived in the UK on 25 May 2023, claimed asylum and was detained. On 1 June 2022, the Claimant was served a Notice of Intent that his asylum claim could be deemed inadmissible and that he could be removed to Rwanda or France or Italy.
2. The Claimant was referred into the National Referral Mechanism for identification as a potential victim of trafficking and was issued with a positive Reasonable Grounds Decision on 21 June 2022.
3. The Claimant was released from detention on immigration bail granted by the FTT on 14 July 2022.
4. The decision to subject him to the Inadmissibility Policy, and not to withdraw the Notice of Intent, was challenged in separate judicial review proceedings (AC-2022-LON-002284).
5. On 24 January 2023, the Claimant was formally recognised as a victim of trafficking having received a positive Conclusive Grounds decision. The Claimant lodged a claim for VTS leave to remain as a trafficking victim on 28 March 2023 pursuant to section 65 of the Nationality and Borders Act 2022.
6. As the Claimant was not provided with any decision on the claim for VTS leave or KTT leave, the Claimant issued an application for judicial review on 13 March 2024 challenging:
  - (i) The Defendant's alleged unlawful and unpublished policy of pausing VTS decisions for MEDP cohort victims.

- (ii) The Defendant's alleged unlawful and unpublished policy of pausing KTT decisions for MEDP cohort victims.
  - (iii) Unreasonable delay in making decisions in the Claimant's claims.
  - (iv) Refusal of re-entry into MSVCC support.
7. The Claimant sought interim relief, expedition, and ultimately declaratory relief as to the policies, the delay, and damages.
  8. On 28 March 2024, the Defendant filed an AOS and initial Summary Grounds of Defence addressing ground (iv) and the interim relief application which in short agreed to withdraw the decisions dated 30 January 2024 and 14 February 2024 refusing MSVCC support and to make a fresh decision by 11 April 2024.
  9. On 2 April 2024, the Claimant's asylum claim was admitted for substantive consideration within the UK leading to the settlement of AC-2022-LON-002284.
  10. The Defendant made a fresh MSVCC re-entry decision, again refusing support, on 11 April 2024, which served on 23 April 2024.
  11. At paragraph 6 of her Addendum Summary Grounds of Defence dated 25 April 2024, the Defendant confirmed her position as follows:

*In respect of KTT-leave*

- i. As set out in the judgment in *R (XY) v SSHD* [2024] EWHC 81 there was a pause in decision making for certain victims of trafficking while the Defendant sought to appeal the decision in *KTT v Secretary of State for the Home Department* [2022] EWCA Civ 307, and while consideration was given to next steps following the refusal of permission to appeal to the Supreme Court in that case. This pause affected individuals with a positive Conclusive Grounds Decision and an asylum claim outstanding based in a material part on a risk of re-trafficking. Decision making on KTT leave for that cohort generally resumed in the spring of 2023 following the publication of the updated Discretionary Leave policy on 16 March 2023.
- ii. However, that cohort included individuals who were being considered for inadmissibility action under the MEDP with Rwanda. Decision making on KTT leave did not in fact resume in those cases, pending notification of the position to Ministers. It was said by the Defendant that this was delayed due to summer parliamentary recess, and that it was confirmed in October 2023 that the notification had been put to ministers, who had no comment.
- iii. Thereafter, the recommencement of decision-making awaited approval of wording for a template decision letter to reflect that if they were granted leave, and later subjected to an adverse admissibility decision, this would mean they would not meet the KTT criteria. That template was made available to caseworkers in February 2024 and first resumed decisions in KTT leave MEDP cases were made in March 2024. Therefore, decisions in those cases were not in fact made during the period between March 2023 and March 2024.

*In respect of VTS leave under section 65 of the Nationality and Borders Act 2022*

- iv. On 29 June 2023, the Court of Appeal held in AAA [2023] EWCA Civ 745 that there were substantial grounds for thinking that asylum seekers under the MEDP would face a real risk of ill-treatment by reason of refolement if they were removed to Rwanda. A decision was made by the Defendant to pause decision-making on VTS leave for those who arrived in the UK on or after 1 January 2022 and who had received a Notice of Intent informing them that their asylum claim may be considered inadmissible and that they may be removed to Rwanda. That pause was initially pended the resolution of the AAA litigation in the Supreme Court, and then following the hand-down of the Supreme Court ruling on 15 November 2023, pending consideration of how to respond to the ruling.
  - v. VTS leave decisions require consideration of whether the need for assistance of a recipient of a conclusive grounds decision is capable of being met in a country to which they may be removed in accordance with an agreement between the country and the UK. Pending the outcome of the litigation it was the Defendant's position that it was uncertain whether Rwanda could lawfully be treated as such country. There was no public announcement of that pause but a number of challenges brought on the grounds of delay were resolved on the basis that a decision on VTS leave would be made within a specified period after the decision of the Supreme court in AAA.
12. The Claimant was affected by the above matters until April and May 2024 when KTT and VTS decisions were made.
  13. On 2 May 2024, the Claimant filed an application to rely on amended grounds of claim, an amended application for interim relief/ expedition, and a reply to the Addendum SGD. A permission and interim relief hearing was listed for 18 July 2024, following an Order by Mould J dated 13 June 2024.
  14. A negative KTT decision was made on 12 March 2024, followed by a VTS refusal on 5 April 2024, which the Defendant agreed to review in pre-action response dated 19 April 2024. Following the review the VTS refusal was maintained on 14 May 2024 and was subject to separate claim for judicial review before the Upper Tribunal (JR-2024-LON-001489).
  15. The Claimant was granted refugee status on 2 July 2024.
  16. Since the Claimant is no longer subject to the delay complained of, the parties have agreed to compromise the judicial review claim and for the Claimant's claim under the Human Rights Act 1998 in respect of the previous delay to be dealt with by the County Court.