



**First-tier Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: DA/00496/2019

THE IMMIGRATION ACTS

**Heard at Laganside, Belfast
On 30 March 2021**

Decision & Reasons Promulgated

14/04/2021

Before

JUDGE OF THE FIRST TIER TRIBUNAL GRIMES

Between

**GABRIEL PALKO
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms E McIlveen BL, instructed by Worthingtons Solicitors
For the Respondent: Mr C Appleby, Home Office Presenting Officer (via video link)

DECISION AND REASONS

Details of the Appellant and issues under appeal

1. The appellant is Gabriel Palko, his date of birth is 21 September 1995 and he is a national of Romania. On 25 September 2019 the respondent made a decision to make a Deportation Order against the appellant under regulation 23(6)(b) and regulation 27 of the Immigration (EEA) Regulations 2016 (the 2016 Regulations). That decision was certified under regulation 33 of the 2016 Regulations. However, following a notification of intention to seek a judicial review of the certification, the respondent issued a

supplementary refusal letter on 11 October 2019 confirming that the respondent had withdrawn the certification meaning that the appellant would not be removed from the UK whilst his appeal was pending. The appellant appealed under regulation 36 of the 2016 Regulations.

The Proceedings

2. At the hearing I had the following documents before me:
 - Home Office bundle
 - Respondent's review
 - Appellant's bundle (updated index and bundle of 140 pages)
 - Correspondence from the respondent and the appellant's representatives in relation to the appellant's criminal convictions.
 - CMR directions of 18 August 2020.

3. The parties agreed that the issues for determination are as set out in the appellant's skeleton argument, the respondent's review and the case management review directions as follows:
 - Whether the appellant has acquired permanent residence in the UK under regulation 15 of the 2016 Regulations;
 - Whether the appellant's removal is justified on grounds of public policy, public security or public health (regulations 23 and 27 of the 2016 Regulations);
 - Whether the decision to remove the appellant is in breach of his right to family life and that of his family members under Article 8 of the ECHR.

4. The hearing took place in Laganside Court Belfast where Ms McIlveen, her instructing solicitor Mr Moss, the appellant and his five witnesses, and the interpreter attended in person. Mr Appleby joined the hearing via the CVP video platform. Ms McIlveen highlighted that the third witness, Ms McAlinden, is 16 years old and Mr Appleby confirmed that he would not ask her any questions in cross-examination. I heard oral evidence from the appellant, his partner Ursula McCann, her daughter Niamh McAlinden (who just adopted her witness statement), the appellant's father Ioan Palko (through the Romanian interpreter) and the appellant's brother Daniel Palko. I heard submissions from Mr Appleby and Ms McIlveen, and I reserved my decision.

The Law

5. The relevant provisions of the 2016 Regulations are as follows:

“Exclusion and removal from the United Kingdom

23.—

...

(6) Subject to paragraphs (7) and (8), an EEA national who has entered the United Kingdom or the family member of such a national who has entered the United Kingdom may be removed if—

- (a) that person does not have or ceases to have a right to reside under these Regulations;

(b) the Secretary of State has decided that the person's removal is justified on grounds of public policy, public security or public health in accordance with regulation 27; or...

...

Decisions taken on grounds of public policy, public security and public health

27.— (1) In this regulation, a "relevant decision" means an EEA decision taken on the grounds of public policy, public security or public health.

(2) A relevant decision may not be taken to serve economic ends.

(3) A relevant decision may not be taken in respect of a person with a right of permanent residence under regulation 15 except on serious grounds of public policy and public security.

(4) A relevant decision may not be taken except on imperative grounds of public security in respect of an EEA national who—

(a) has a right of permanent residence under regulation 15 and who has resided in the United Kingdom for a continuous period of at least ten years prior to the relevant decision;

or

(b) is under the age of 18, unless the relevant decision is in the best interests of the person concerned, as provided for in the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20th November 1989.

(5) The public policy and public security requirements of the United Kingdom include restricting rights otherwise conferred by these Regulations in order to protect the fundamental interests of society, and where a relevant decision is taken on grounds of public policy or public security it must also be taken in accordance with the following principles—

(a) the decision must comply with the principle of proportionality;

(b) the decision must be based exclusively on the personal conduct of the person concerned;

(c) the personal conduct of the person must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society, taking into account past conduct of the person and that the threat does not need to be imminent;

(d) matters isolated from the particulars of the case or which relate to considerations of general prevention do not justify the decision;

(e) a person's previous criminal convictions do not in themselves justify the decision;

(f) the decision may be taken on preventative grounds, even in the absence of a previous criminal conviction, provided the grounds are specific to the person.

(6) Before taking a relevant decision on the grounds of public policy and public security in relation to a person ("P") who is resident in the United Kingdom, the decision maker must take account of considerations such as the age, state of health, family and economic situation of P, P's length of residence in the United Kingdom, P's social and cultural integration into the United Kingdom and the extent of P's links with P's country of origin.

....

(8) A court or tribunal considering whether the requirements of this regulation are met must (in particular) have regard to the considerations contained in Schedule 1 (considerations of public policy, public security and the fundamental interests of society etc.).

...

SCHEDULE 1 CONSIDERATIONS OF PUBLIC POLICY, PUBLIC SECURITY AND THE FUNDAMENTAL INTERESTS OF SOCIETY ETC.

Considerations of public policy and public security

1. The United Kingdom enjoys considerable discretion, acting within the parameters set by the law, to define its own standards of public policy and public security, for purposes tailored to its individual context from time to time.

Application of paragraph 1 to the United Kingdom

2. An EEA national or the family member of an EEA national having extensive familial and societal links with persons of the same nationality or language does not amount to integration in the United Kingdom; a significant degree of wider cultural and societal integration must be present before a person may be regarded as integrated in the United Kingdom.

3. Where an EEA national or the family member of an EEA national has received a custodial sentence, or is a persistent offender, the longer the sentence, or the more numerous the convictions, the greater the likelihood that the individual's continued presence in the United Kingdom represents a genuine, present and sufficiently serious threat affecting of the fundamental interests of society.

4. Little weight is to be attached to the integration of an EEA national or the family member of an EEA national within the United Kingdom if the alleged integrating links were formed at or around the same time as –

- (a) the commission of a criminal offence;
- (b) an act otherwise affecting the fundamental interests of society;
- (c) the EEA national or family member of an EEA national was in custody.

5. The removal from the United Kingdom of an EEA national or the family member of an EEA national who is able to provide substantive evidence of not demonstrating a threat (for example, through demonstrating that the EEA national or the family member of an EEA national has successfully reformed or rehabilitated) is less likely to be proportionate.

6. It is consistent with public policy and public security requirements in the United Kingdom that EEA decisions may be taken in order to refuse, terminate or withdraw any right otherwise conferred by these Regulations in the case of abuse of rights or fraud, including –

- (a) entering, attempting to enter or assisting another person to enter or to attempt to enter, a marriage, civil partnership or durable partnership of convenience; or
- (b) fraudulently obtaining or attempting to obtain, or assisting another to obtain or to attempt to obtain, a right to reside under these Regulations.

The fundamental interests of society

7. For the purposes of these Regulations, the fundamental interests of society in the United Kingdom include –

- (a) preventing unlawful immigration and abuse of the immigration laws, and maintaining the integrity and effectiveness of the immigration control system (including under these Regulations) and of the Common Travel Area;
- (b) maintaining public order;
- (c) preventing social harm;
- (d) preventing the evasion of taxes and duties;
- (e) protecting public services;
- (f) excluding or removing an EEA national or family member of an EEA national with a conviction (including where the conduct of that person is likely to cause, or has in fact

caused, public offence) and maintaining public confidence in the ability of the relevant authorities to take such action;

(g) tackling offences likely to cause harm to society where an immediate or direct victim may be difficult to identify but where there is wider societal harm (such as offences related to the misuse of drugs or crime with a cross-border dimension as mentioned in Article 83(1) of the Treaty on the Functioning of the European Union);

(h) combating the effects of persistent offending (particularly in relation to offences, which if taken in isolation, may otherwise be unlikely to meet the requirements of regulation 27);

(i) protecting the rights and freedoms of others, particularly from exploitation and trafficking;

(j) protecting the public;

(k) acting in the best interests of a child (including where doing so entails refusing a child admission to the United Kingdom, or otherwise taking an EEA decision against a child);

(l) countering terrorism and extremism and protecting shared values.”

6. Article 8 of the European Convention on Human Rights provides that everyone has a right to respect for his private and family life, his home and his correspondence. It is for the respondent to demonstrate that any interference with the right to private and family life under Article 8 is in accordance with the law, corresponds to a pressing social need and is proportionate to the legitimate aim pursued.

The background

7. The background is set out in the papers before me. In summary the appellant claims that he first entered the UK on 4 August 2012. He says that his first job was working in a car wash for which he received cash in hand. He claims that he obtained his National Insurance Number in 2013 and was employed in Mid Ulster Car Wash where he was paid through the books. In 2015 he went to work in Linden Foods for 4 months then was employed by R&M Greenkeepers until January 2018. The appellant was arrested on 18 January 2018 and charged with possession with intent to supply of a Class A drug (cocaine). He was remanded in custody for 9 months before being released on bail. He was convicted on 18 February 2019 and sentenced to a Determinate Custodial Sentence of 3 years and 4 months imprisonment with a custodial period of 1 year 8 months and a licence period of 1 year 8 months. He was returned to custody on 29 March 2019 and was released on 20 February 2020. Since he was released from custody, he has been employed by Bailey Waste Recycling (NI) Ltd.
8. The appellant is in a relationship with Ursula McCann, she has a daughter, Niamh McAlinden, who is now 16 years old and claims that she views the appellant as her stepfather. The couple have a 3-year-old daughter (born on 23 October 2017). The appellant's father and brother live in Northern Ireland. He claims to be estranged from his mother in Romania.
9. The respondent made a decision to make a Deportation Order on 25 September 2019. The respondent did not accept that the appellant had been resident in the United Kingdom in accordance with the 2016 Regulations for a continuous period of five years because his period of residence had been broken by his time in prison. The respondent considered the appellant's criminal conviction noting that the sentencing judge found

the appellant's actions to be sufficiently serious to impose a significant sentence for what was his first offence. The respondent stated that the harm caused by the production and supply of drugs is far reaching and that the trade in illicit drugs has a severe and negative impact on society. The respondent considered that the offences occurred at a time when the appellant was in steady employment, had friends in the area and played for the local football team and had a responsibility to his long-term partner and their young child which he chose to put in jeopardy by committing this offence. The respondent considered that the appellant represents a genuine, present and sufficiently serious threat to the public to justify his deportation on grounds of public policy. Given the nature of the offences committed and the threat posed to society, the respondent decided that, even if the appellant had permanent residence as a result of five years continuous residence in the UK, the requirement for serious grounds of public policy would be satisfied. The respondent decided that the appellant's deportation complies with the principle of proportionality in accordance with regulation 27 (5) (a) as the appellant would have no problem reintegrating in Romania when he is deported. In considering rehabilitation, the respondent took into account the programs undertaken by the appellant in custody and the fact that the appellant has a partner and family in the UK but noted that they were unable to prevent him from committing the offence. The respondent considered that there is no reason why the appellant could not continue to work towards rehabilitation in Romania. The respondent concluded that the appellant's deportation is justified on grounds of public policy or public security in accordance with regulation 23 (6) (b), and that, given the threat posed by the appellant, the decision to deport him is proportionate and in accordance with the principles of regulations 27 (5) and (6).

10. The respondent also considered the appellant's claim that deporting him would breach Article 8 of the ECHR. The respondent considered whether the appellant would meet the exceptions to deportation on the basis of private and family life set out in the Immigration Rules and section 117C of the Nationality, Immigration and Asylum Act 2002 as, although these provisions do not apply to the appellant, they have been used as a guide for considering his Article 8 claim. The respondent considered the appellant's relationship with his child in accordance with paragraph 399 (a) of the Immigration Rules. The respondent accepted that the child is a British citizen who is under 18 and that the appellant has a genuine and subsisting parental relationship with the child. However, the respondent concluded that it would not be unduly harsh for the child to live in Romania or for her to remain in the UK if the appellant is deported. The respondent also considered the appellant's relationship with his partner, accepting that his partner is a British citizen and that the appellant has a genuine and subsisting relationship with her, and concluded that it would not be unduly harsh for the appellant's partner to move to Romania or to remain in the UK when the appellant is deported. The respondent also considered whether the appellant meets the private life exception to deportation under the Immigration Rules. The respondent accepted that the appellant is socially and culturally integrated in the UK but did not accept that he has been lawfully resident in the UK for most of his life and did not accept that there would be very significant obstacles to his integration in Romania upon his return (paragraph 399A). The respondent considered that it has not

been established that there are very compelling circumstances such that the appellant should not be deported and concluded that the appellant's deportation would not breach the UK's obligations under Article 8 of the ECHR because the public interest in deporting him outweighs his right to private and family life.

My Findings

The 2016 Regulations

11. The respondent decided to remove the appellant in accordance with regulation 23(6) (b) of the 2016 Regulations on the basis that his removal is justified on grounds of public policy as set out in regulation 27. Regulation 27 of the EEA Regulations provides for three levels of protection for a qualified person depending on whether s/he has resided in the UK for a continuous period of ten years, has acquired a permanent right of residence through residence for five years under regulation 15 or has residence of less than five years. There are therefore three levels of assessment in the EEA deportation regime: a 'basic' protection acquired where the EEA Regulations apply; a 'middle tier' protection which is acquired after obtaining permanent residence; and a 'top tier' protection acquired after obtaining permanent residence and 10 years continuous residence. The 'middle' tier requires that expulsion be justified on 'serious grounds' of public policy whereas the 'top' tier requires that the exclusion decision be justified on 'imperative grounds' of public policy.
12. Accordingly, as set out above, I must firstly consider whether the appellant has acquired permanent residence in the UK as this determines the assessment of the public policy, public security or public health grounds in regulation 27.
13. In the deportation decision the respondent said that R&M Greenkeepers Ltd were contacted by the Home Office and confirmed that the appellant worked for them from 30 June 2016 until 17 January 2018. In the respondent's review the respondent considered the evidence provided in the appellant's bundle, in particular the document from HMRC which indicates that he was employed in the 2013/2014 tax year. The respondent stated that as the appellant was on remand from 19 January 2018, even if it were accepted that he was employed from the first day of the 2013/2014 tax year (which is not supported from HMRC letter at page 53 of the appellant's bundle), the appellant has still failed to demonstrate that he was living in the UK continuously in accordance with regulation 15. At the hearing Mr Appleby reiterated the submission that the appellant had failed to demonstrate any evidence of employment in 2012/2013 he also highlighted that there was a lack of documentary evidence in terms of payslips to demonstrate when the appellant began employment in 2013 and no evidence as to the date on which he obtained his National Insurance number.
14. The appellant has been consistent in his evidence that he entered the UK on 4 August 2012. In his sentencing remarks the judge refers to the appellant having been in the UK since 2012 as does the author of the pre-sentence report. I accept on the basis of the evidence before me that the appellant entered the UK on 4 August 2012 as claimed.

15. In his oral evidence the appellant said that when he arrived in the UK, he started working for some Romanian people but that he did not know at the time that he needed paperwork. It is stated in the pre-sentence report that when the appellant came to the UK, he began working for a man in a car wash but that, following a dispute as to pay, he took money to the value of £3000 and ceased that employment. He told the probation officer that, as a result of this debt, he agreed to store the cocaine which led to his arrest and conviction. In his oral evidence the appellant said that his former employer was the owner of Express Hand Car Wash, he said that the money he took from the former employer was money owed to him and his cousin. In his oral evidence the owner of Mid Ulster Truck and Car Wash, Mr Hamilton, said that he first met the appellant through other friends and that he wanted to give him a chance so he gave him a job and arranged for the appellant to stay with his mother. He said that he could not remember exactly when the appellant began working for him, but he said that he remembered that it was around Easter 2013 when he started work on building the car wash. He said that he paid the appellant through the books from the outset.
16. On the basis of all of this evidence it therefore appears that the appellant arrived in the United Kingdom in August 2012 and began working on a cash in hand basis until Easter 2013 when he started working at Mid Ulster Truck and Car Wash. I accept on the basis of the evidence from HMRC and from Mr Hamilton as well as the appellant's own evidence that the appellant was in employment from Easter 2013, probably from around April 2013. It is not in dispute that the period of the appellant's residence for the purposes of calculating permanent residence was interrupted by his arrest on 19 January 2018.
17. The question is therefore whether the appellant was living in the UK in accordance with the 2016 Regulations between January and April 2013. Although not argued before me, it is not the case that the only way to establish residence in accordance with the 2016 Regulations is through evidence of employment. Regulation 6 defines a "qualified person" as, inter alia, a "jobseeker", meaning a person who entered the UK in order to seek employment who enjoys a right to reside for 91 days, and a "worker".
18. I have considered the evidence from the appellant that he worked "off the books" since his arrival in the UK in August 2012. This is consistent with what is reported in the pre-sentence report. It is consistent also with Mr Hamilton's evidence. There is no evidence from HMRC as to any employment before April 2013 because, on the appellant's own evidence, he was being paid cash in hand during this period. There is no evidence that the appellant was in receipt of benefits during this period. I accept the appellant's oral evidence on this matter.
19. Accordingly, I find on the balance of probabilities on the evidence before me that the appellant was a jobseeker or a worker between January and March 2013. In these circumstances I find that the appellant has established that by January 2018 he had acquired permanent residence in the United Kingdom under regulation 15.
20. In these circumstances I am required to assess whether his deportation is justified on serious grounds of public policy and public security. This requires considering the

principles contained in regulation 27 and the considerations in Schedule 1 of the 2016 Regulations. To justify interfering with the appellant's right to free movement and residence the Secretary of State must establish a genuine, present and sufficiently serious threat to one (or more) of the fundamental interests of society. This threat must be justified to the appropriate standard based on the level of protection the individual has acquired. Therefore, the greater the protection afforded to the individual the more substantial the reasons in favour of deportation needs to be.

21. In considering public policy and public security I have taken account of the appellant's criminal convictions. The appellant's criminal record indicates only one conviction, that which triggered the deportation proceedings. I take into account that this is a serious conviction involving the possession with intent to supply nearly a kilo of Class A drugs. An offence such as this is likely to cause harm to wider society. I take into account the sentencing remarks where the sentencing judge was satisfied that the appellant was a "storeman" in relation to the drugs. The judge took into account some degree of pressure put upon the appellant, his age, circumstances and his guilty plea and imposed a sentence of three years and four months. I take into account that this is a significant sentence intended to reflect the seriousness of the offence.
22. In the appellant's favour I also take into account the contents of the pre-sentence report in particular the assessment that, in the absence of any violent or aggressive behaviour, the Probation Board for Northern Ireland (PBNI) assessed that the appellant does not meet the threshold for presenting a significant risk of serious harm to others. I take account of the letter from the Prison Governor of 1 July 2020 which indicates that the appellant was found to have cannabis on the day after committal and was found guilty at adjudication. It also indicates that the appellant was assessed by PBNI as presenting a low risk of reoffending. It also states that he attained enhanced regime, the highest level of status based on the prisoner's behaviour. It sets out the courses undertaken by the appellant in prison and indicates that he passed a drugs test and worked in the recycling department until he was released. The Governor concludes that his time in custody was spent progressing through the regimes and engaging with probation and prison staff towards his release and that his pathway in prison was a positive one.
23. I take into account that where an EEA national has received a custodial sentence, or is a persistent offender, the longer the sentence, or the more numerous the convictions, the greater the likelihood that the individual's continued presence in the United Kingdom represents a genuine, present and sufficiently serious threat affecting of the fundamental interests of society. This appellant committed one serious offence, he received a significant sentence, he has served that sentence and has been assessed as not posing a significant risk of serious harm and as presenting a low likelihood of reoffending.
24. I take into account the appellant circumstances including the fact that he lives with his partner, stepdaughter and young child. I take into account his evidence that he is working and that he looks after the youngest child while his partner works five evenings a week.

25. Considering all of this evidence in my view it has not been established that at this time the personal conduct of the appellant represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society.
26. I have considered the proportionality of the decision to deport the appellant. I take account of the appellant's life in Northern Ireland. It is not in dispute that the appellant has a genuine and subsisting relationship with his partner, stepdaughter and three-year-old child. I take into account that at the time the relationship was established and when the child was born the appellant was living legally in the UK under the 2016 Regulations.
27. In the absence of evidence to the contrary, it must be in the best interests of the appellant's child to continue to reside with both parents. Of course, her best interests are a relevant consideration but are not determinative of the issues in this appeal.
28. I accept that the appellant has an ongoing relationship with his father who lives in Northern Ireland and has a number of health issues. I accept that he has a relationship with his brother who also lives in Northern Ireland. I also accept that the appellant has friendships in Northern Ireland for example with Mr Hamilton who attended the hearing and gave oral evidence.
29. The appellant's evidence and that of his family members is that they no longer have contact with the appellant's mother who appears to live in Romania. I find that there were some inconsistencies in the evidence of the appellant, his father and his brother as to family members remaining in Romania. However, I accept the appellant's evidence that he has returned to Romania on two occasions and on each occasion has stayed in a bed-and-breakfast. I therefore accept that he does not have any significant relationships with family in Romania.
30. I have considered the factors set out in regulation 27(6). I take account of the fact that the appellant lived in Romania until he was around 17 years old. He has been in the UK for almost nine years and is still young and in good health. He has a partner, stepdaughter and young child in the UK with whom he lives. The appellant's stepdaughter is in education, attending a childcare course at further education college. I take into account that the appellant and his partner are in employment and therefore supporting themselves. The appellant gave oral evidence in English and talked about his employment and playing football. I take account of the evidence from Mr Hamilton. I accept that the appellant has demonstrated a good level of social and cultural integration into the UK. His father and brother are in Northern Ireland. I accept that he does not have any significant relationships with family in Romania.
31. I have considered the issue of rehabilitation in assessing proportionality. I have borne in mind the relevant case law as highlighted by the Court of Appeal in **Essa R (on the application of) v Upper Tribunal (IAC) [2012] EWCA Civ 1718**. I have considered whether the decision to deport may prejudice the prospects of rehabilitation from offending in the UK. According to the letter from the Prison Governor the appellant undertook work in custody to reduce the risks of reoffending. I take into account that

the appellant received an adjudication for possession of cannabis. In oral evidence he said that this was found in his cell and that both he and his cellmate were adjudicated in relation to this matter. I note that it does not form a significant part of the report from the Prison Governor and does not affect the assessment from PBNI as to the appellant's risk of reoffending. There is no evidence of any further rehabilitation work being undertaken with the Probation Board since the appellant's release. However, I take account of positive evidence from the prison and from PBNI and in particular the assessment that the appellant presents a low likelihood of reoffending. There is no evidence of any further offences committed since his release from custody.

32. I must weigh all of the evidence before me in relation to the risk of the appellant reoffending and whether he poses a threat to one of the fundamental interests of society. His conviction does not in itself justify deportation. I have considered the proportionality of the decision and all of the factors set out above.
33. On the basis of the evidence before me and considering all of the relevant factors I am not satisfied that the respondent's decision to deport the appellant is proportionate. I am not satisfied that the decision to remove the appellant under regulation 23 (6) (b) of the 2016 Regulations is justified on serious grounds of public policy and public security in accordance with regulation 27 and schedule 1 of the 2016 Regulations.
34. In the event that I am wrong as to the appellant's acquisition of permanent residence I consider the appeal in accordance with regulation 27 on the basis that regulation 27 (3) and (4) do not apply. I have considered all of the evidence set out above. I take account of the serious nature of the appellant's conviction, however as against that I take into account the assessment from PBNI that he does not present a significant risk of serious harm and the assessment that the appellant presents a low risk of reoffending. I take account of the appellant's ongoing employment and family situation in Northern Ireland. I find that the appellant's deportation is not justified on grounds of public policy or public security in accordance with regulation 23 (6) (b) of the 2016 regulations.

Article 8

35. I consider the appellant's Article 8 appeal in accordance with the guidance in **Razgar [2004] UKHL 27**. The appellant has been in the UK for almost 9 years. He has established a family life with his partner, stepdaughter and three-year-old daughter. He also has a wider private life with his father brother, friends and employment in Northern Ireland. As set out above, I am satisfied that his deportation is not justified under the 2016 Regulations, therefore his removal is not in accordance with the law.
36. In considering proportionality I take into account the best interests of the three-year-old child which must be to continue living with both parents.
37. I take account of the appellant's conviction for a serious offence. As against that I take into account the positive reports from the Prison Governor and PBNI and in particular the assessment that the appellant presents a low risk of reoffending.

38. Apart from his criminal conviction, it appears that the appellant has integrated well into society, he has been working through most of his time in the UK and has established a family life here with his British citizen partner and child as well as with his step-daughter. The appellant and his partner are both working and supporting themselves. The appellant has a relationship with his father and his brother both of whom reside in Northern Ireland. The appellant has some wider family members in Romania, but I accept that these are not strong connections.
39. I have also considered the public interest in accordance with the factors set out in section 117B of the Nationality, Immigration and Asylum Act 2002. These factors weigh in the public interest. The appellant can speak English (section 117B(2)); he is working and is therefore financially independent (section 117B(3)); any private or family life was not developed when the appellant's status was precarious or unlawful (section 117B (4) and (5)); and he has a genuine and subsisting parental relationship with a qualifying child (section 117B (6)).
40. Weighing all of these factors I am satisfied that the deportation decision is not proportionate to the respondent's legitimate aim of the maintenance of an effective system of immigration control.

NOTICE OF DECISION

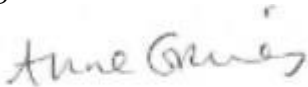
The appeal is **allowed** under the 2016 Regulations.

The appeal is **allowed** on human rights grounds.

No anonymity direction was applied for or made.

Signed

Date: 31 March 2021



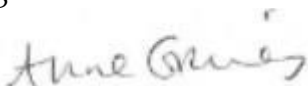
Judge of the First-tier Tribunal

TO THE RESPONDENT
FEE AWARD

As no fee was paid, I make no fee award.

Signed

Date: 31 March 2021



Judge of the First-tier Tribunal