

## **PART 2**

### **QUESTION 6**

Answer: During the assessment process, the UKVI mainly concentrates on the compliance of candidates with Clauses 353 strictly stipulated in the Immigration Rules. This section indicates that it will be treated as a new and fresh submission if a supplementary request is made and the information is new, and therefore, credible and it was not taken into consideration during the initial decision making process. Subsequent submissions can enjoy both asylum and human rights grounds, and generally, an applicant is not required to make two separate applications. This is done in line with GOV visa's general guidelines regarding the treatment of subsequent applications.

Now, when we turn to the charge for an application filed under Article 8 of the European Convention on Human Rights (ECHR), the amount is set out in paragraph 3 of the Immigration and Nationality (Fees) Regulations 2018. Show Schedule 1 sets forth the fee levels for various applications like those under Article 8 ECHR. Nevertheless, families and persons eligible for having legal aid are exempted from paying the fee as the legal aid might cover this request. This act underlines the Legal Aid, Sentencing and Punishment of Offenders Act of 2012 and the Legal Aid Agency's guidelines for immigration cases.

So, Haidar Hamad must manage his new submission in such a way that the UKVI will consider that it contains both the information credible for asylum and human rights reasons. In addition to that, if he is qualified for legal aid he would find this possibility attractive because he would not have to handle the fees himself for this application to the European Court of Human Rights under Article 8 ECHR.

### **QUESTION 7**

Answer: After receipt of further submissions, UKVI undertakes assessment to determine compatibility of these submissions with the requirements specified at Paragraph 353 of the Immigration Rules. By this paragraph, "only fresh evidence will be further considered unless it contains information that is conclusive and has not been examined before". Such applications may also include protection claims based on human and refugee rights status which do not necessarily require separate filing. It is in the UKVI instructions on dealing with resubmissions.

With regards to the application fee for an Article 8 ECHR application, it is governed by the provisions of the Immigration and Nationality (Fees) Regulations 2018. Fees imposed under legislation Schedule 1 are for different applications such as those made under Article 8 ECHR. The fee is waived for those who have legal aid, as legal aid may cover the application expense. This is covered by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and the LAA's guidance on immigration cases.

Consequently, Haidar Hamad's following submissions should be laden with substantial and verifiable additional information, which is pertinent to both asylum and human rights, which will bolster the probability of them being considered as a fresh claim by the UKVI. In addition to this, he must examine whether or not he is eligible for legal aid. Then he has a chance of not paying fees for his Article 8 ECHR application.

## QUESTION 8

Answer: The grounds or reasons that can be raised in further representations to persuade the SSHD that Haidar Hamad should not be deported to Iraq include

Risk of persecution or serious harm in Iraq: Haidar can state that he has grounded reasons to fear persecution or excruciating harm in Iraq, because of the peculiarities of his case and individual characteristics, such as his previous refugee status, his ethnic origin or any concrete threats he has been warned of.

Strength: While evidence of the human rights situation in Iraq will be presented, including testimonies of violence, persecution, and discrimination against certain groups.

Weakness: The Home Office can object to the level of risk accepted or claim that events in Iraq have changed for better since Haidar's first asylum application.

Family and private life in the UK: Haidar could highlight his settled family life in the UK for example, marriage to a settled person, any children who are British citizens and any important connections or ties he may have developed throughout the years.

Strength: According to Article 8 of the European Convention on Human Rights, a deportation of Haidar would violate his right to respect for his private and family life.

Weakness: The Home Office could contend that the violation of Haidar's rights to family and private life is balanced by the legitimate aim of immigration control provided that he has committed grave offenses.

Country guidance on Iraq: Haidar may refer to up-to-date country guidance and information notes on Iraq to establish the credibility of his claim, particularly if they contain details of safety risks or features for someone like him.

Strength: Gives detailed information on the happening situation of Iraq and possibly assist Haidar's idea that he should not be deported.

Weakness: The Home Office may dispute the relevance or suitability of the country guidance and might also challenge its applicability especially if it is old or if there have been significant changes in Iraq.

In summary, Haidar should prepare a solid and compelling case supported by the use of authentic evidence, appropriate jurisprudence and country guidance to prove that he should not be returned to Iraq.

### **QUESTION 9**

Answer: Yes, Haider Hamad must make sure to send the family court papers regarding Matthew's visitation schedule with his biological father to the UKVI as soon as possible. These evidences are cardinal as human rights standards in relation to family life under Article 8 of the European Convention on Human Rights (ECHR) which has been given force of law into UK law through the Human Rights Act 1998. The depositions of these documents do not only reinforce Mr. Hamad's claim that his deportation is contrary to Article 8, the right to family life, but it also makes his position stronger. Besides, the UKVI will not evade the issue of examination and balancing of the rights in Article 8, during the decision making process for deportation cases, and information on the existence and status of family relationships is indispensable with regard to this consideration.

### **QUESTION 10**

Answer: As for the matter of Mr. Hamad's case, attention should be paid to the issue of legal aid funding and Exceptional Case Funding (ECF) provisions. Legal aid is a state-run scheme regulated by the Legal Aid, Sentencing and Punishment of Offenders Act, 2012 (LASPO), which provides funds to people who are within the thresholds of financial eligibility and whose cases fall under the scope of legal aid provision. Mr. Hamad will be required to make use of the forms CW1 and CW2, which were predetermined, so that he can demonstrate his financial eligibility and the merits of his case.

Moreover, where Mr. Hamad's circumstances does not conform to the legal aid funds requirements but raises exceptional cases deserving legal representation, he may consider the possibility of the exceptional case funding. ECF, as set forth in part 1 of the LASPO, enables people to seek for funding when, in effect, denial deprives them of rights under the ECHR or EU law. Consequently, Mr. Hamad should decide about both legal aid and ECF mechanisms in order to secure the requisite representation based on the complexity and the merits of the case.