



IAC-FH-AR-V1

**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Numbers: IA/35611/2013  
IA/35623/2013  
IA/35629/2013  
IA/35640/2013

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 10 November 2014**

**Decision and Reasons  
Promulgated  
On 18 November 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE J M LEWIS**

**Between**

**DR OTONYE JUOJUONEGIM-HART  
JASMINE SMITH JUOJUONEGIM-HART  
JEREMY JUOJUONEGIM-HART  
JAMIE TAMUNOBELEMA JUOJUONEGIM-HART**

Appellants

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellants: Miss B Asanovic, Counsel, instructed by Fisher Meredith Solicitors

For the Respondent: Mr T Wilding, Home Office Presenting Officer

**DECISION AND REASONS**

## **The History of the Appeal**

1. The Appellants, Dr Juojuonegim-Hart and her three children, who are citizens of Nigeria, appealed against the refusal of the Respondent to issue registration certificates as confirmation of a right residence in the United Kingdom under the Immigration (European Economic Area) Regulations 2006. Their appeals were heard by Judge Abebrese sitting at Hatton Cross on 31 July 2014 and dismissed in a determination promulgated on 18 August 2014 under those Regulations, the Immigration Rules and Article 8 of the ECHR.
2. Permission to appeal, subsequently supplemented by procedural directions, was granted on 7 October 2014 by Judge Nicholson in the following terms:
  - “1. First-tier Tribunal Abebrese dismissed these appeals against refusal of a registration certificate /residence card under the EEA Regulations in a determination promulgated on 18 August 2014.
  2. The judge found that the fourth Appellant, an Irish national, lacked the necessary comprehensive sickness insurance cover because the family’s BUPA policy did not cover GP or emergency treatment.
  3. Ground 1 contends that the respondent had not challenged the adequacy of the BUPA policy in the refusal letters, that the issue was not raised with the parties at the hearing and that the judge should in any event have accepted that BUPA policy provided was comprehensive, because it accorded with the terms of the Home Office’s published policy on the issue which was referred to in the Appellant's skeleton argument.
  4. According to the Home Office published policy referred to in the grounds, a comprehensive sickness insurance policy is a valid document confirming that a person has provided medical insurance covering medical treatment in the majority of circumstances in the UK but such a document will not normally cover visiting a GP or emergency treatment. It appears from the judge’s findings that the terms of the BUPA policy met those essential conditions.
  5. Although I note that back in October 2010 Immigration Judge Kekic (now an Upper Tribunal Judge) refused permission to appeal an earlier decision and stated that the First-tier Tribunal on that occasion had been entitled to find that a policy excluding cover on general practitioner fees and emergency treatment was not comprehensive, given the wording of the Home policy referred to in on this occasion, it is arguable that the judge

should have accepted that the medical insurance available met the requirements of the Regulations.

6. Permission to appeal is accordingly granted on this ground. I do not refuse permission on the remaining grounds.”
3. On 16 October the respondent submitted a response under Rule 24 accepting that under the Regulations the sickness insurance should be considered to be “comprehensive” and so suggesting that the matter be resolved without the need for a hearing. Correspondence from the Appellant's solicitors of 24 October suggested that this letter had not been received. In readiness for the hearing Miss Asanovic submitted a full skeleton argument.
4. At the hearing Mr Wilding accepted that the determination contained a material error of law and invited me to allow the appeal, without needing to consider the treatment of Article 8, which was also in issue. Without needing to call on Miss Asanovic I said that I would do so. Miss Asanovic made brief submissions going to the issue of costs.

### **Determination**

5. The point is single and discrete. For various reasons set out in the skeleton argument of Miss Asanovic, the sickness insurance policy, whilst excluding general practitioner fees and emergency treatment, should be regarded as comprehensive. The judge erred in not so doing. He would otherwise inevitably have allowed the appeal. Preserving the remainder of his findings, other than those going to Article 8 of the ECHR, I remake the decision and allowed the appeal.
6. It is not necessary therefore for me to consider Article 8 of the ECHR. Nor do I consider it appropriate to make any award of costs.

### **Decision**

7. The original determination contained a material error of law relating to the treatment of sickness insurance. To that extent I set its findings aside.
8. The appeal is allowed under the Immigration (European Economic Area) Regulations 2006.

Signed

Date **18 November 2014**

Deputy Upper Tribunal Judge J M Lewis