



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

Appeal Number: IA/21543/2014

**THE IMMIGRATION ACTS**

**Heard at Stoke on Trent**

**On 30 July 2015**

**Decision and Reasons  
Promulgated  
On 3 August 2015**

**Before**

**Deputy Upper Tribunal Judge Pickup**

**Between**

**Sedat Cinviz**

[No anonymity direction made]

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the appellant: No attendance or representation

For the respondent: Mr A McVeety, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant, Sedat Cinviz, date of birth 12.8.89, is a citizen of Turkey.
2. This is his appeal against the decision of First-tier Tribunal Judge Tully promulgated 17.2.15, dismissing his appeal against the decision of the Secretary of State to refuse his application for an EEA Residence Card as confirmation of a right to reside in the UK, pursuant to regulation 9 of the Immigration (EEA) Regulations 2006, as the family member of a British

citizen. The Judge heard the appeal on 3.2.15.

3. First-tier Tribunal Judge De Haney granted permission to appeal on 24.4.15.
4. Thus the matter came before me on 30.7.15 as an appeal in the Upper Tribunal.
5. There was no attendance by or on behalf of the appellant. I am satisfied that the appropriate notice of today's hearing was sent to the appellant at the only address held on file for him. The file contains no relevant correspondence from the appellant or anything to explain his absence. In the circumstances, I considered it to be in the public interest to proceed to hear the representations of Mr McVeety and decide the appeal, despite the appellant's absence.
6. Mr McVeety explained that the appellant has now been granted leave to remain in the UK. Although it is not entirely clear, this is probably on the basis of being the spouse of a British citizen, pursuant to Appendix FM of the Immigration Rules.

### **Error of Law**

7. For the reasons set out herein, I find no error of law in the making of the decision of the First-tier Tribunal such as to require the decision of Judge Tully to be set aside.
8. On 22.1.01 the appellant married Laura Cimiviz in Turkey. She is a British citizen. The grounds and the grant of permission appeal raise concern about an alleged error on the part of the First-tier Tribunal Judge as to when she returned to the UK from Turkey. However, that is not strictly material to the issues in the appeal, as the appellant and his wife subsequently went to live in Ireland, for a total of 72 days, before returning to the UK. It is the period of residence in Ireland and the issue under regulation 9 as to whether she had transferred the centre of her life to Ireland which is relevant to the appellant's application and subsequent appeal. Therefore, whether there was a mistake of fact as to how long after the birth of their child she returned to the UK is not material to the outcome of the appeal. The grant of permission focuses on this sole issue.
9. Judge Tully set out in considerable detail the reasons why the conclusion was reached that the sponsoring spouse had not transferred the centre of her life to Ireland. Those were conclusions open to the judge and for which the reasons are cogent. It cannot be said that the decision was perverse or irrational, but it was one that was open to the judge on the evidence before the Tribunal.
10. In the circumstances, no material error of law is disclosed.

### **Conclusions:**

11. The making of the decision of the First-tier Tribunal did not involve the

making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed.



**Signed**

**Deputy Upper Tribunal Judge Pickup**

### **Anonymity**

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

Given the circumstances, I make no anonymity order.

### **Fee Award**

**Note: this is not part of the determination.**

In the light of my decision, I have considered whether to make a fee award (rule 23A (costs) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and section 12(4)(a) of the Tribunals, Courts and Enforcement Act 2007).

I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make no fee award.

Reasons: The appeal has been dismissed and thus there can be no fee award.



**Signed**

**Deputy Upper Tribunal Judge Pickup**