Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: IA/05699/2015

THE IMMIGRATION ACTS

Heard at Field House	**Decision and Reasons Promulgated**
On 11 December 2015	**On 23 February 2016**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

NILAY DASHARATHBHAI PATEL
(Anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr R Pennington-Benton instructed by Farani Javid Taylor Solicitors
For the Respondent: Mr I Jarvis – Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against a determination of First-tier Tribunal Judge Miles promulgated on the 24 June 2015, following a hearing a Richmond on the 17 June 2015, in which the Judge dismissed the appellants appeal against the refusal of the respondent to issue a Residence Card as confirmation of a right to reside in the United Kingdom on the basis of a derived right of residence.

2. The appellant who was born on the 11 September 1986 is a citizen of India. The appellant entered the United Kingdom lawfully on 27 February 2010 with leave as a Tier 4 (General) Student Migrant valid to 13 June 2012. On 8 June 2012 the appellant sought indefinite leave to remain outside the Rules which was refused on the 30 January 2013. An appeal against this decision was dismissed on the 1 October 2013 and permission to appeal to the Upper Tribunal eventually refused by that tribunal on the 29 November 2013. On 27 June 2014 the appellant sought leave to remain on the basis of his family and private life in the UK which was refused on the 28 August 2014. On 5 December 2014 the appellant applied for a Derived Residence Card claiming to be the primary carer of a British Citizen. This was refused on the 28 January 2015 as it is stated the appellant had not shown in the application that he met the relevant provisions of Regulation 15A and 18A of the Immigration (European Economic Area) Regulation 2006 (as amended) hereinafter referred to as 'the Regulations'.

3. Regulations 15A and 18A provide:

> 'Derivative right of residence 15A.
>
> (1) A person ("P") who is not an exempt person and who satisfies the criteria in paragraph (2), (3), (4), (4A) or (5) of this regulation is entitled to a derivative right to reside in the United Kingdom for as long as P satisfies the relevant criteria.
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> (2) P satisfies the criteria in this paragraph if— (a) P is the primary carer of an EEA national ("the relevant EEA national"); and (b) the relevant EEA national— (i) is under the age of 18; (ii) is residing in the United Kingdom as a self-sufficient person; and (iii) would be unable to remain in the United Kingdom if P were required to leave.
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> (3) P satisfies the criteria in this paragraph if— (a) P is the child of an EEA national ("the EEA national parent"); (b) P resided in the United Kingdom at a time when the EEA national parent was residing in the United Kingdom as a worker; and (c) P is in education in the United Kingdom and was in education there at a time when the EEA national parent was in the United Kingdom.
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> (4) P satisfies the criteria in this paragraph if— (a) P is the primary carer of a person meeting the criteria in paragraph (3) ("the relevant person"); and (b) the relevant person would be unable to continue to be educated in the United Kingdom if P were required to leave.
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> (4A) P satisfies the criteria in this paragraph if— (a) P is the primary carer of a British citizen ("the relevant British citizen"); (b) the relevant British citizen is residing in the United Kingdom; and (c) the relevant British citizen would be unable to reside in the UK or in another EEA State if P were required to leave.
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> (5) P satisfies the criteria in this paragraph if— (a) P is under the age of 18; (b) P's primary carer is entitled to a derivative right to

reside in the United Kingdom by virtue of paragraph (2) or (4); (c) P does not have leave to enter, or remain in, the United Kingdom; and (d) requiring P to leave the United Kingdom would prevent P's primary carer from residing in the United Kingdom.

(6) For the purpose of this regulation— (a) "education" excludes nursery education; (b) "worker" does not include a jobseeker or a person who falls to be regarded as a worker by virtue of regulation 6(2); and (c) "an exempt person" is a person— (i) who has a right to reside in the United Kingdom as a result of any other provision of these Regulations; (ii) who has a right of abode in the United Kingdom by virtue of section 2 of the 1971 Act; (iii) to whom section 8 of the 1971 Act, or any order made under subsection (2) of that provision, applies; or (iv) who has indefinite leave to enter or remain in the United Kingdom.

(7) P is to be regarded as a "primary carer" of another person if (a) P is a direct relative or a legal guardian of that person; and (b) P — (i) is the person who has primary responsibility for that person's care; or (ii) shares equally the responsibility for that person's care with one other person who is not an exempt person.

(7A) Where P is to be regarded as a primary carer of another person by virtue of paragraph (7)(b)(ii) the criteria in paragraphs (2)(b)(iii), (4)(b) and (4A)(c) shall be considered on the basis that both P and the person with whom care responsibility is shared would be required to leave the United Kingdom.

(7B) Paragraph (7A) does not apply if the person with whom care responsibility is shared acquired a derivative right to reside in the United Kingdom as a result of this regulation prior to P assuming equal care responsibility.

(8) P will not be regarded as having responsibility for a person's care for the purpose of paragraph (7) on the sole basis of a financial contribution towards that person's care.

(9) A person who otherwise satisfies the criteria in paragraph (2), (3), (4), (4A) or (5) will not be entitled to a derivative right to reside in the United Kingdom where the Secretary of State or an immigration officer has made a decision under regulation 19(3)(b), 20(1), 20A(1) or 23A.'

...

Issue of a derivative residence card 18A.

(1) The Secretary of State must issue a person with a derivative residence card on application and on production of— (a) a valid identity card issued by an EEA State or a valid passport; and (b) proof that the applicant has a derivative right of residence under regulation 15A.

(2) On receipt of an application under paragraph (1) the Secretary of State must issue the applicant with a certificate of application as soon as possible.

(3) A derivative residence card issued under paragraph (1) may take the form of a stamp in the applicant's passport and will be valid until— (a) a date five years from the date of issue; or (b) any other date specified by the Secretary of State when issuing the derivative residence card. (4) A derivative residence card issued under paragraph (1) must be issued and as soon as practicable. (5) But this regulation is subject to regulations 20(1) and 20(1A).'

4. A person cannot claim a breach of Regulation 18A unless they are able to prove they have a derivative right of residence under Regulation 15A.

5. It is conceded by the respondent in the refusal that the appellant provides care for his father Dashrathkumar Mohanbhai Patel ('Mr Patel') but it was not accepted that there are no alternative care provisions available in the United Kingdom.

6. Having considered the evidence and submissions Judge Miles made the following finding at paragraph 19 of the determination under challenge:

> "19. The appellant's submission is that if he had to return to India his father would feel compelled to join him and therefore leave the United Kingdom. To establish that submission therefore the evidence must show that his father would choose to return to the country where he and his son would be homeless and without family support. Furthermore, there is no evidence of what level of medical care, if any would be made available to the father in India, and the timescale of that provision. If the appellant's father remains in the United Kingdom there is no question, in my judgment, but that he would be provided with a social services package together with medical treatment appropriate for a person in his situation who does not have a full-time primary carer. Those circumstances might well result in the appellant's father having to be admitted to hospital for his dialysis treatment which would clearly not be as good as the current arrangement where his treatment is provided essentially by his son at home, but that treatment would continue to be provided given his father's status as a British citizen. His father would also be eligible for any additional welfare benefits appropriate to his condition and taking into account the severe mobility difficulties of his wife, which I also accept. In those circumstances the comparison between the situation of the appellant's father if he went to live in India with the appellant, as opposed to remaining in the United Kingdom with his wife but without the appellant can only be resolved in my judgment by concluding that the notion of the appellant's father choosing or feeling obliged to leave the United Kingdom is simply untenable, despite the detrimental impact on both his parents, which I accept if he were required to leave. The fact of the matter is that the medical needs of the appellant's father can only be secured with any confidence by remaining in the United Kingdom rather than going to India and I am simply unable to accept his father (and mother) would not see that as the reality of his situation. In all those circumstances therefore I am not satisfied the appellant had proved that his father would be unable to reside in the

> United Kingdom for the purposes of regulation 15A(4A)(c) of the 2006 regulation if the appellant was required to leave. Accordingly this appeal fails."

7. The appellant was granted permission to appeal to the Upper Tribunal by First-tier tribunal Judge Shimmin on 21 September 2015. Paragraphs 2-4 of that grant are in the following terms:

> "2. The grounds requesting permission to appeal to the Upper Tribunal argue that the judge erred in failing to properly assess the issue of the appellant's parents being compelled to leave the UK. It is arguable that the judge failed to consider and give appropriate weight to the expert's unchallenged evidence in relation to the appellant's father's condition. This grounds is arguable.
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> 3. It is further arguable that the Regulations (in Reg.16A) set the threshold too high in requiring a finding to be made that the parents would be 'unable' to remain in the UK.
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> 4. I grant permission to appeal."

8. In a letter received by the Upper Tribunal on 30 November 2015 the appellants representatives, both his barrister Mr Pennington-Benton and solicitors Farani Javid Taylor, make the following observation/request:

> "Whilst in the case of unaccompanied children it might make sense to talk in terms of the EU child being unable to remain in the EU member state, it makes less sense when dealing with the wider effect of Zambrano and its application to other adult dependants.
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> The appeal raises an important issue as to the proper scope and ambit of the case law from the CJEU and whether the domestic Regulations properly interpret and apply that case law. It may be that a reference is required to the CJEU which is matter that can be canvassed at the appeal. As the case involves construction and application of domestic Regulations; their compatibility with EU law and possible future reference if the conclusion is not readily apparent from the materials, it is requested that the matter be reported and/or put before a reporting panel as appropriate."

9. The composition of the Upper Tribunal is a matter for that Tribunal. Panels are the norm for country guidance or other cases if merited but the default position is for a single judge of the Tribunal to hear an appeal. Whether a case is reported is a matter than can only be considered if it is shown there is good reason to do so such as to provide guidance to others in this area of law.

Discussion

10. It is important to understand the history behind the 'derived right of residence' provision. The core issue in this case is the Zambrano principle. In Zambrano v Office of National de l'emploi C-34/09 the Court of Justice of the European Union issued its judgement in the case of Ruiz Zambrano. At the heart of that judgment was the principle that:

> "45 ... Article 20 TFEU [Treaty on the Functioning of the European Union] is to be interpreted as meaning that it precludes a Member State from refusing a third country national upon whom his minor children, who are European Union citizens, are dependent, a right of residence in the Member State..."

11. In response the United Kingdom laid before parliament the Immigration (EEA) Amendment (No 2) Regulations 2012 which came into force 8 November 2012. The purpose of the amendments, according to their Explanatory Note is, among other things, to give effect to the Zambrano judgment:

> "... by amending regulations 11 and 15A of the 2006 Regulations in order to confer rights of entry and residence on the primary carer of a British citizen who is residing in the United Kingdom and where the denial of such a right of residence would prevent the British citizen from being able to reside in the United Kingdom or in an EEA State."

12. Regulation 15A is the central Regulation. It was inserted into the Regulations to create the category of a 'derivative right of residence. The Explanatory Note of the Amendment Regulations 2012 (No 1) tells us that this derivative right of residence was created in order to give effect to the judgments of the CJEU in the cases of Chen [2004], Ibrahim [2010] and Teixera [2010].

13. In order to give effect to Zambrano, the derivative right of residence is acquired by a person defined in Regulation 15A(4A) as 'the primary carer of a British citizen' where 'the relevant British citizen is residing in the United Kingdom' and 'would be unable to reside in the UK or in another EEA State if [the person] were required to leave.' Regulation 15A(7) defines a 'primary carer' as 'a direct relative or a legal guardian' of the British Citizen, where the carer 'has primary responsibility' for the British Citizen's care or 'shares equally the responsibility' for the British Citizen's care with another person who does not have any right to reside under the Regulations nor any leave to enter or remain.

14. Mr Pennington-Benton submits that the proper test that should be applied when considering these issues is one of objectivity with the judge having to find that the person would leave. This is contrary to domestic case law and the understating and application of the Zambrano principles to date. In Ahmed (Amos; Zambrano; reg 15A(3)(c) 2006 EEA Regs) [2013] UKUT 89 (IAC) the Tribunal held that the principles established by the Court of Justice in Zambrano Case C-34-/09 [2011] ECR 1-0000 and subsequent cases dealing with Article 20 of the Treaty on the Functioning of the European Union (TFEU) have potential application even where the EEA national/Union citizen child of a third-country national is not a national of the host Member State: the test in all cases is whether the adverse decision would require the child to leave the territory of the Union. (My emphasis).

15. There are more than Mr Pennington-Benton who take issue with the approach of the UK government to the principles arising from the case law. The problem with the UK's approach to implementing the Chen, Ibrahim and Teixeira judgments in its national Regulations has been commented upon by Adam Weiss, Legal Director of the AIRE Centre. In relation to the delay in giving effect to the CJEU judgments and:

> "The second problem is how the Regulations reflect the case law. The Court of Justice – broadly applying provisions of EU law designed to encourage the free movement of persons and to protect the rights of EU citizens – has found in these judgments that EEA nationals and their family members have rights to reside in the UK in circumstances the UK authorities did not anticipate."

16. It is said the UK authorities' response was to grant rights only to people whose lives track the facts of these cases as closely as possible, and not to anyone else:

> “This conservative approach undermines the spirit of what EU law requires: a flexible approach to recognising the residence rights of EU migrants in unexpected situations where EU-law citizenship and free-movement rights are engaged. Giving the authorities broader discretion would have been better. The UK's case-by-case approach will inevitably lead to people who have rights under EU law being refused recognition of those rights”.

17. A challenge based upon an argument that too restrictive an approach has been taken by the First-tier Judge in applying the Regulations or in claiming they are incompatible with the decision of the CJEU in Zambrano needs also to consider the later decisions of the Court in Shirley McCarthy v Secretary of State for the Home Department Case C-434/09 [2011] and Dereci and others v Bundesministerium fur Inneres (Case C-256/11) CJEU (Grand Chamber) in which the CJEU held:

> "European Union law and, in particular, its provisions on citizenship of the Union, must be interpreted as meaning that it does not preclude a Member State from refusing to allow a third country national to reside on its territory, where that third country national wishes to reside with a member of his family who is a citizen of the Union residing in the Member State of which he has nationality, who has never exercised his right to freedom of movement, provided that such refusal does not lead, for the Union citizen concerned, to the denial of the genuine enjoyment of the substance of the rights conferred by virtue of his status as a citizen of the Union, which is a matter for the referring court to verify".

18. This approach is reflected in the Upper Tribunal decision in Sanade and others (British children - Zambrano – Dereci) [2012] UKUT 00048 (IAC). Mr Justice Blake when President of the Upper Tribunal dealing with deportation cases under s32 of the UK Borders Act 2007 and in the context of Article 8 of the European Convention on Human Rights found the CJEU judgments are interpreted as follows:

> "Where in the context of Article 8 one parent ("the remaining parent") of a British citizen child is also a British citizen (or cannot be removed as a

family member or in their own right), the removal of the other parent does not mean that either the child or the remaining parent will be required to leave, thereby infringing the Zambrano principle, see C-256/11 Murat Dereci, BAILII: [2011] EUECJ C-256/11. The critical question is whether the child is dependent on the parent being removed for the exercise of his Union right of residence and whether removal of that parent will deprive the child of the effective exercise of residence in the United Kingdom or elsewhere in the Union. [Headnote 6]"

19. Further recent domestic decision include DH (Jamaica) and others v SSHD [2012] EWCA Civ 1736 in which the Court of Appeal said that the application of the Zambrano test required a focus on whether, as a matter of reality, the EU citizen would be obliged to give up residence in the EU if the non-EU national was removed. If the EU citizen, be it wife or child, would not in practice be compelled to leave the country if the non-EU family member were to be refused the right of residence, there was nothing in the jurisprudence to suggest that EU law would be engaged simply because their continuing residence was in some sense affected, for example, in relation to the quality of life. The right of residence was a right to reside in the territory not a right to any particular quality of life or particular standard of living and only if that was affected to such an extent that it was likely to compel the EU citizen to leave would the principle apply.

20. In FZ (China) [2015] EWCA Civ 550 the Chinese appellant sought to rely on Zambrano by asserting that his wife had decided to accompany him to China if he was deported and this would compel his British daughter to leave with her parents. The Court of Appeal held that the application of the Zambrano principle was limited to exceptional cases. A desire to preserve the family unit would not be enough for the principle to apply. In the instant case, there was no compulsion for the appellant's wife or child to leave. The Tribunal had noted that after the Claimant’s arrest the wife was the sole breadwinner of the family.

21. In Ayinde and Thinjom (carers- Reg 15A - Zambrano) [2015] UKUT 00560 it was held that (i) The deprivation of the genuine enjoyment of the substance of the rights attaching to the status of European Union citizens identified in the decision in Zambrano [2011] EUECJ C-34/09 is limited to safeguarding a British citizen’s EU rights as defined in Article 20; (ii) The provisions of reg. 15A of the Immigration (European Economic Area) Regulations 2006 as amended apply when the effect of removal of the carer of a British citizen renders the British citizen no longer able to reside in the United Kingdom or in another EEA state. This requires the carer to establish as a fact that the British citizen will be forced to leave the territory of the Union; (iii) The requirement is not met by an assumption that the citizen will leave and does not involve a consideration of whether it would be reasonable for the carer to leave the United Kingdom. A comparison of the British citizen’s standard of living or care if the appellant remains or departs is material only in the context of whether the British citizen will leave the United Kingdom'

(iv)The Tribunal is required to examine critically a claim that a British citizen will leave the Union if the benefits he currently receives by remaining in the United Kingdom are unlikely to be matched in the country in which he claims he will be forced to settle.

22. It is accepted that the Zambrano principle is not restricted to children and there is no suggestion in the Regulations that this is so. Regulation 15A(1) defines those entitled to benefit from a derived right of residence as a person who is not an exempt person and who satisfies the criteria in paragraph (2), (3), (4), (4A) or (5) for as long as they satisfy the relevant criteria.

23. In this appeal the respondent refused to issue a Residence Card by reference to regulation (4A) which states that P (a person) satisfies the criteria in this paragraph if— (a) P is the primary carer of a British citizen ("the relevant British citizen"); (b) the relevant British citizen is residing in the United Kingdom; and (c) the relevant British citizen would be unable to reside in the UK or in another EEA State if P were required to leave.

24. The test set out in the Regulations and applied by the Judge has not been shown to be the incorrect test as per DH (Jamaica): 'whether, as a matter of reality, the EU citizen would be obliged to give up residence in the EU if the non-EU national was removed. If the EU citizen, be it wife or child, would not in practice be compelled to leave the country if the non-EU family member were to be refused the right of residence, there was nothing in the jurisprudence to suggest that EU law would be engaged simply because their continuing residence was in some sense affected, for example, in relation to the quality of life. The right of residence was a right to reside in the territory not a right to any particular quality of life or particular standard of living and only if that was affected to such an extent that it was likely to compel the EU citizen to leave would the principle apply'.

25. It has not been made out that the First-tier Judge failed to appreciate the wider applicability of the provisions or misdirected himself in law in limiting the relevant provisions to minor children. The grounds fail to establish any arguable merit in the claim that the law should be interpreted or applied differently when dealing with an adult rather than a child. The issue is the protection of the right of free movement in European law for which the provisions are equally applicable to both groups.

26. It is also argued the First-tier Judge failed to engage with the medical evidence. A report from Veronica Downing Associates, who describe themselves as Rehabilitation Costs Consultants, dated 1 June 2015 was available to the First-tier Judge [A's bundle 16-41]. Veronica Dowling is said to be an Occupational Therapist. The care needs of the appellants father are set out at paragraph 2.2 in the following terms:

> ‘Social Services undertook an assessment of Mr and Mrs Patel’s current care and support needs the day before my visit. Medications are supplied by the pharmacist in Dossette boxes and Mr Patel attends hospital for fortnightly injections which have to be done by the hospital or by a District Nurse from the GP surgery.
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> As stated earlier, Mr and Mrs Patel have been assessed by Social Services for a care package in October 2014. They then had a financial assessment in November 2014 and since then, had not heard from Social Services. Nilay Patel therefore began chasing them and contacted Social Services 4 times in the past 6 weeks. The explanation was that the original assessor had gone off on long terms sick leave. Mr Patel was re-assessed on 29 May 2015.
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> Nilay Patel explained that if he was not available to take his father to the hospital, an alternative arrangement would have to be made. However, the GP has advised that a District Nurse from the surgery cannot be made available to do Mr Patel’s injections. When Mr Patel has his next appointment on 10 June at the Royal London Hospital, they hope to determine whether or not a District Nurse can attend as an alternative to Mr Patel travelling to the hospital.
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> Also, on a daily basis, Mr Patel would need someone who is trained, to set up the dialysis machine. Social Services have said they cannot assure Mr Patel that this would happen on a regular basis at the same time each day and similarly in the morning, he would have to stay connected to the dialysis machine until someone came to disconnect him, but timing could not be guaranteed. Mr Patel requires someone to attend to his peritoneal dialysis every night and morning and also to be available on-call during this time to attend to the alarm which goes off whenever there is a blockage problem.’

27. Section 3 of the report headed “Identification of Needs for Care & Support” draws together the various threads of the assessment. It sets out the practical arrangements for providing the care required. It is said that according to the appellant Newham Council do not provide domestic services and that persons requiring the same have to source them privately. In order to replace the care the appellant provides 3 or 4 specially trained cares would be required to work on a rota.

28. The repost also contains the following observation:

> ‘Psychologically and emotionally Mr and Mrs Patel would not be able to cope with strangers caring for them Culturally, this is very difficult and in any case to date, their son as provided for their care. Mrs Patel becomes distressed and tearful with the prospect of not having their son living with them and Nilay says that if he is unable to stay in this country, he will take his parents back to India and care for them, even though his father would be unable to continue with his present treatment of Peritoneal Dialysis as the equipment and consumables are not available in India.’

29. The report concluded with the observation that 'the appellant is relieving the obligation of Social Services to provide for his parents and reducing the likelihood of further demands on Statutory Services'.

30. The assertion the First-tier Judge failed to consider the medical evidence or misunderstood the same is not made out. It was accepted that the standard of care the appellant's father may experience in his absence may not be the same [17] but that is not the correct test. The submission by Mr Pennington-Benton that the Judge should have applied a subjective test to the appellant's father is not in accordance with the case law set out above and is arguably an unlawful expansion of the Zambrano principle as it is currently understood.

31. It is noted that the source of the statements recorded in the report about future care arrangements, the lack of the same, and facilities in India, is the appellant himself. There is inadequate evidence from the Social Services, who have a statuary obligation to provide care for those assessed as requiring the same in their area, as recognised by the expert, that they are unwilling or unable to fulfil their statutory obligations. The fact a number of services have been 'put out' to private companies is in accordance with the norm of many public services but it was not shown those private care agencies cannot provide the required degree of care or that funding would not be available for the same. The notes from Lewisham refer to the need to make a contribution which, one assumes, was the purposes of the financial assessment undertaken and mentioned in the care report. There is also an overlap between the medical requirements and community care. It was not shown that the organisations as a whole cannot arrange a suitable care package as, arguably, they are require to do by law. This is the finding of the Judge that has not been shown to be infected by arguable legal error.

32. There is no removal decision against the appellant's parents and the issue is that of a constructive expulsion argument. To hold the fact that the parents want their son to remain and continue with the current family and care regime is determinative would be to base the decision on subjective elements only. The Judge was required to "examine critically a claim that a British citizen will leave the Union if the benefits he currently receives by remaining in the United Kingdom are unlikely to be matched in the country in which he claims he will be forced to settle". The Judge did so and found the claim the appellants parents would leave the UK not to be credible/plausible. That is a finding open to the Judge on the evidence.

33. The Judge considered the evidence with the required degree of anxious scrutiny and has given adequate reasons for the findings made. The weight to be given to that evidence is a matter for the Judge.

34. Mr Jarvis made the point the Zambrano issue was not raised before the First-tier Tribunal and is not a 'Robinson obvious' point. It cannot be legal error for the First-tier not to consider something of which they are

unaware or not been asked to consider but the claim has no arguable merit as the case law set out above contains the correct position in relation to the test applied in any event. An application for a declaration that the Regulations are not compatible with European law is ordinarily a matter for the High Court on application.

35. The finding of the First-tier Tribunal that this is not an exceptional case and that there is no compulsion for the appellant's father and mother to leave the UK has not been shown to be infected by arguable legal error on the basis of the evidence made available. The fact the appellant states he will take his father with him is not the issue. That is a matter of his or family choice not of compulsion.

Decision

36. **There is no material error of law in the First-tier Tribunal Judge's decision. The determination shall stand.**

Anonymity.

37. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

    I make no such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed……
Upper Tribunal Judge Hanson

Dated the 16 February 2016