



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

**Appeal number: OA/20583/2013
OA/20584/2013
OA/20585/2013**

THE IMMIGRATION ACTS

**Heard at Birmingham
On February 23, 2016**

**Decision & Reasons Promulgated
On February 24, 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

[NEVRIYE E]

[SE]

[ME]

(NO ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

Appellant

Miss Kullar (Legal Representative)

Respondent

Mr Richards (Home Office Presenting Officer)

DECISION AND REASONS

1. The appellants are Turkish nationals. The second and third named appellants are children of the first-named appellant and the sponsor, [Halil E]. On October 1, 2013 they applied for leave to enter as family members of a Turkish national established in business. The respondent refused their applications on October 30, 2013 on the basis they did not meet the requirements of HC 509.

2. The appellants appealed against those decisions under section 82(1) of the Nationality, Immigration and Asylum Act 2002 on November 18, 2013
3. The matter was heard by Judge of the First-tier Tribunal Mather on September 23, 2014 and in a decision promulgated on October 7, 2014 the Tribunal refused their applications. The Judge found that as the sponsor has been naturalised as a British citizen on August 22, 2013 the appellants could not longer seek entry clearance under HC 509. She dismissed their appeals on that basis.
4. The appellants applied for permission to appeal on October 30, 2014 submitting the Tribunal had erred by her approach. Judge of the First-tier Tribunal Grant-Hutchinson refused permission and permission was renewed to the Upper Tribunal on January 7, 2015. Upper Tribunal Judge McGeachy found there was an arguable error in law on the basis the sponsor was a dual British/Turkish national.
5. The matter came before me on the above date and I discussed with the representatives why permission had been given. Miss Kullar referred me to the decision of ZN (Afghanistan) FC and others (Appellants) c Entry Clearance Officer (Karachi) (Respondent) and one other action [2010] UKSC 21 but I referred both representatives to the European case of Staatssecretaris van Justitie v Kahveci and Inan Cases C-7/10 and C-9/10 CJEU First Chamber.
6. I stood the matter down for the representatives to review the case law and on their return Mr Richards accepted that the European case appeared to address the issue and I was referred to paragraphs 52-55 and 82 of that decision. The Court made clear that Article 7 of Decision No 1/80 must be interpreted as meaning that a family member of a Turkish worker duly registered as belonging to the labour force of a member state could still invoke that provision once the worker had acquired the nationality of the member state while retaining his Turkish nationality.
7. It follows that Judge of the First-tier Tribunal Mather's approach was erroneous. She accepted that the sponsor and first-named appellant were in a genuine relationship and there was clear evidence on the file that the sponsor was working as required and able to support and accommodate the appellants.
8. I therefore find there was an error in law and I allow the appellants' appeals and set aside Judge of the First-tier Tribunal Mather's decision.
9. The First-tier Tribunal did not make an anonymity direction and I see no reason to make an order at this stage.

DECISION

10. There was an error in law and I set aside the decision. I have remade the decision and allow the appeal under HC 509.

Signed:

Dated:



Deputy Upper Tribunal Judge Alis

TO THE RESPONDENT
FEE AWARD

I have allowed the appeals but do not make a fee award because the relevant financial evidence was produced after the refusal letter.

Signed:

Dated:



Deputy Upper Tribunal Judge Alis