



IAC-AH-DN-V1

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

Appeal Numbers: VA/03698/2014
VA/03699/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 4 January 2016**

**Decision & Reasons Promulgated
On 13 January 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE J M LEWIS

Between

**MRS MARIE IVELINE MANDJONGUI DIHANG EPS NGOLLE
MR ISAAC RICHARD NGOLLE
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms J Onalo, solicitor of R. Spio & Company Solicitors

For the Respondent: Mr K Norton, Home Office Presenting Officer

DECISION AND REASONS

The History of the Appeal

1. The Appellants, who are citizens of Cameroon, appealed against the decision of the Respondent to refuse their applications for entry clearance to the UK as visitors. Their ensuing appeals were heard on 19 May 2015 at Hatton Cross by Judge Onoufriou. Both parties were represented, the Appellants by Ms Onalo. In a decision of the First-tier Tribunal

promulgated on 4 June 2015, the judge allowed the appeals under the Immigration Rules, writing that there was therefore no need for him to consider it under Article 8.

2. Permission to appeal was granted to the Respondent on 13th August 2015 by Judge Hollingworth on the basis that the failure of the judge to consider the appeal under Article 8 was an arguable error of law.
3. At the start of the error of law hearing both parties said that, subject to the consent of the Tribunal, they were agreeable to the decision being set aside on the basis that the judge had not had the power to allow it under the Immigration Rules whilst being remitted to the same judge to decide it under Article 8.

Determination

4. The judge purported to decide the appeal under the Immigration Rules. However, by the time of the hearing, the right of appeal for family visitors had been abrogated, save on human rights grounds. He therefore had no jurisdiction to do so.
5. I accordingly set the decision aside. At the request of both parties, I remit the appeals to Judge Onoufriou to decide them under Article 8 of the 1950 Convention.

Decision

6. The original decision contains a material error of law and is set aside.
7. The appeals are remitted to Judge Onoufriou at Hatton Cross to determine them under Article 8 of the 1950 Convention.
8. No anonymity direction is made.

Signed

Dated: 11 January 2016

Deputy Upper Tribunal Judge J M Lewis