



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

Appeal Number: IA/05810/2015  
IA/05811/2015  
IA/05812/2015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 21<sup>st</sup> February 2018**

**Decision and Reasons Promulgated  
On 23 February 2018**

**Before**

**UPPER TRIBUNAL JUDGE COKER**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**And**

**ALVINA [N]**

**[N N]**

**[A N]**

**(anonymity direction not made)**

Respondent

**Representation:**

For the Appellant: Mr E Tufan, senior Home Office Presenting Officer

For the Respondent: Mr J Metzger instructed by Huneewoth solicitors

**DETERMINATION AND REASONS**

1. The SSHD was granted permission to appeal the decision of First-tier Tribunal judge Hanley who, for reasons in his decision promulgated on 8 December 2016, allowed the respondents' appeal under the Immigration Rules and on human rights grounds.

2. Deputy Upper Tribunal Judge Harris adjourned the hearing before him on 14<sup>th</sup> August 2014. The appeal came before me on 3<sup>rd</sup> January 2018 for case management and I directed it be set down for hearing both in relation to whether there was an error of law and, if there was an error of law, to proceed with substantive remaking of the decision.
3. Before me on 21<sup>st</sup> February 2018 both parties agreed there was an error of law in the decision of First-tier Tribunal Judge Hanley – EX.1. does not apply. I set aside the decision to be remade.
4. Mr Tufan provided the Tribunal and Mr Metzger with a copy of a letter dated 19<sup>th</sup> February 2018 sending [NN]'s certificate of registration as a British Citizen.
5. Mr Tufan also brought to my attention Home Office Guidance on Appendix FM and *SF and others (Guidance, post 2014 Act) Albania* [2017] UKUT 120 (IAC).
6. Taking these matters into consideration I remake the decision regarding Alvina [N] and [AN] and allow their appeals against the decision of the SSHD to refuse their human rights claim. There is no longer jurisdiction to hear the appeal of [NN] because, as a British Citizen, she cannot be removed from the UK but if and in so far as her appeal remains outstanding, her appeal is also allowed.
7. Mr Metzger initially sought an order for costs and then amended this to state he would seek instructions on whether to make an application for costs.
8. I directed that if Ms [N] and her two children wish to make an application for costs, such application is to be made in writing, copied to Senior Presenting Officer Peter Deller, by 4pm on Wednesday 28<sup>th</sup> February 2018. I shall thereafter review the file and decide what further directions, if any, are required.

#### Conclusions:

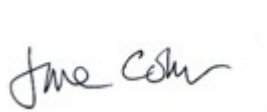
The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision and remake the decision by allowing the appeals of Ms Alvina Naidoo and her two children against the SSHD.

#### Consequential Directions

If Ms [N] and her two children wish to make an application for costs, such application is to be made in writing, copied to Senior Presenting Officer Peter Deller, by 4pm on Wednesday 28<sup>th</sup> February 2018. I shall thereafter review the file and decide what further directions, if any, are required.

Date 21<sup>st</sup> February 2018



Upper Tribunal Judge Coker