



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

Appeal Numbers: HU/09242/2018
HU/09248/2018
HU/09250/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 18 February 2019**

**Decision & Reasons Promulgated
On 6 March 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE MCGEACHY

Between

**ERGUL [D] (FIRST APPELLANT)
SALIH [D] (SECOND APPELLANT)
ADEM [D] (THIRD APPELLANT)
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr J Trussler, Counsel instructed by Kinast Solicitors
For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellants appeal, with permission, against a decision of Judge of the First-tier Tribunal Beg who in a determination promulgated on 15 November 2018 dismissed their appeals against a decision of the Secretary of State to refuse to grant them leave to remain on human rights grounds.

2. The appellants are the wife and children of the sponsor, Sinan [D], who was born in 1973 and having left Turkey became settled in Britain and is now a British citizen. They entered Britain in March 2015 as his dependants. The first appellant is his wife and the other appellants are Adem, who was born on 12 December 2000 and Salih, born on 18 November 2011. They have a third child [A] who was born on 12 June 2018. That child is British as he was born here when his father was British.
3. The judge noted that the reason for the refusal was that the appellants could not meet the financial requirements of the Rules. The judge considered documentary evidence that had been submitted regarding the sponsor's finances and concluded that that evidence did not show that the requirements of the Rules could be met either at the date of application or at the date of hearing.
4. At the hearing before me there was some confusion as to what documentation was exactly before the judge and whether or not the judge had considered additional documentary evidence and based her conclusions thereon without having given the appellants the opportunity to answer her concerns. Although Mr Trussler had represented the appellants at the hearing he was unable to recall exactly what had been said at the hearing regarding the financial evidence and Mr Kotas, who had taken over the file from a colleague but did not have a full set of papers, was unable to deal with this issue satisfactorily.
5. In these circumstances, although I cannot criticise the judge in any way whatsoever, I consider that the fairest course of action is for the matter to be remitted to the First-tier Tribunal so that the financial evidence in this case can be properly assessed in line with the directions which I set out below as I consider that that evidence would have a direct relevance to the issue of the rights of these appellants under Article 8 of the ECHR. For these reasons I set aside the decision of the First-tier Judge and issue these directions.

Notice of Decision

This decision is set aside.

No anonymity direction is made.

Directions

1. The appellants' representatives will prepare a bundle of documents setting out all relevant financial documents showing the income of the sponsor and indeed any income of the appellant together with a skeleton argument showing how the requirements of the Rules are now met.
2. There shall also be served a statement from the sponsor detailing his gloss on the accounts which have been lodged.

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Signed:
Deputy Upper Tribunal Judge McGeachy

Date: 1 March 2019