



Upper Tribunal
(Immigration and Asylum Chamber)

Appeals: HU/03305/2019
HU/03298/2019, HU/03302/2019
HU/03303/2019 & HU/03304/2019

THE IMMIGRATION ACTS

Heard by *Microsoft Teams*
On 28 July 2021

Decision & Reasons Promulgated
On 14 September 2021

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

ENTRY CLEARANCE OFFICER, Amman

and

A1 - Z and 4 children

Appellant

Respondents

For the Appellant: Ms H Aboni, Senior Home Office Presenting Officer
For the Respondents: Mr A Caskie, Advocate, instructed by D Duheric & Co, Solicitors

DETERMINATION AND REASONS

1. Parties are as above, but the rest of this decision refers to them as they were in the FtT.
2. The appellants are a mother and 4 children, all citizens of Syria, living in Jordan.

3. This decision should be read with:
 - (i) The ECO's decisions dated 15 January 2019.
 - (ii) My decision on error of law, and accompanying directions, dated 6 August and issued 3 September 2020.
 - (iii) Updating statement by the sponsor, dated 23 July 2021.
 - (iv) The skeleton argument for the appellants, filed in response to directions.
4. The respondent did not file a skeleton argument in response to directions. No criticism attaches to Ms Aboni, who was only recently allocated the case.
5. The primary facts of the case are in no significant dispute. Ms Aboni did not propose to cross-examine the sponsor, so his latest statement was taken as adopted in evidence, with no further questions.
6. The appellants are a mother, two adult children, and two minor children. They are all recognised as refugees in Jordan. At the time of the FtT hearing they were living apart from the husband and father of the family, but he has since re-joined them.
7. The sponsor is the brother of the first appellant. He is recognised as a refugee in the UK, and lives here their mother, along with his wife and their son. Before leaving Syria, the appellants lived next door, in a family compound.
8. The first appellant and the sponsor have large further extended families, including sisters in Kuwait and in Abu Dhabi, and two brothers in the Netherlands.
9. (I note that the appellants' skeleton argument refers to them having "five nephews / cousins and the extended families of those nephews and cousins" in the UK. That appears to go beyond what is recorded elsewhere; but the case does not turn on the exact number and whereabouts of relatives.)
10. The points of reference in the immigration rules are those providing for refugee family reunion, for extended family reunion, and for adult dependent relatives. The appellants accept that they cannot meet any of those requirements.
11. The appellants contend that they have family life with the sponsor and his family for article 8 purposes. Their skeleton argument then relies upon the respondent's Asylum Policy Instruction, Family Reunion, version 4.0, published on 9 January 2020, under the heading, "Exceptional circumstances or compassionate factors". The policy has been amended in course of these proceedings, but Ms Aboni advised that there is no material difference. The policy identifies a breach of article 8 where there would be "unjustifiably harsh consequences for the applicant or their family". The appellants' skeleton argument says that many of the examples given apply in this

case, and that adverse factors in terms of section 117B of the 2002 Act are outweighed.

12. Mrs Aboni made the first submission. She said that family life within the meaning of article 8 was not established, as nothing went beyond “normal emotional ties”, and that in any event the circumstances of the appellants in Jordan did not meet the tests above. Employment was allowed to the adult family members. Medical care and education, even if not to the same standard as in the UK, were provided. It was in the best interests of the minor children to remain in family with their parents. Now that the family had reunited in Jordan, it would be an interference with family life for the appellants to remove with the husband and father remaining behind.
13. Mr Caskie said that it was extraordinary to suggest that the appeals should be refused for breaching family life with the husband and father; and as the submission accepted that family life existed among them, he was bound to follow, and the SSHD would be barred from contending that family life did not exist. The terms of the Home Office policy were a misleading starting point, as the question is simply whether the ECO’s decisions are a disproportionate interference with family life. The position of the youngest child, who is autistic, was key. The starting point was that family life existed before the civil war among all members of the family in 3 houses in a shared compound. The idea that the children did not have family life with their cousins, or the first appellant with her mother, was simply wrong. Two spouses and their children could not fall within the policy, but they did fall within section 6 of the Human Rights Act. Jordan was not a rich country and had 1.3 million refugees, 14% of the population, so it was incorrect to say that an autistic child could access what was required. As to employment of the adults, apart from the number of refugees, it was likely that opportunities were limited by networks of nepotism and patronage. Points weighing heavily in favour of the appellants were the best interests of the children, and the reunion of an elderly mother and grandmother with her family. Although the Refugee Convention does not make detailed provision for family reunion, article 8 does, so an end should now be put to the separation of this family, brought about by their flight from persecution.
14. Mrs Aboni had nothing to add in reply.
15. I reserved my decision.
16. I do not take it as adverse to the appellants’ case that their entry to the UK would interfere with family life with the husband and father who has re-joined them in Jordan. Beyond that, I generally prefer the submissions for the SSHD.
17. Parties were not at odds on the meaning of “family life” in article 8. The matter is helpfully set out in *MacDonald’s Immigration Law and Practice*, 10th ed, June 2021, at [7.37]:

The existence or non-existence of 'family life' within the meaning of Article 8(1) is 'essentially a question of fact depending on the real existence in practice of close personal ties'. The nuclear family relationships of spouses, and of parents and minor children, are the paradigm cases of family life. Article 8(1) may protect the family life arising from a lawful and genuine marriage, the family life between a natural father and his child, or the family life arising from a lawful adoption, even though family life has not yet been fully established. 'Family life' is not confined solely to marriage-based relationships and may encompass other de facto 'family ties' where parties are living together outside marriage. Although, as a rule, cohabitation may be a requirement for the existence of family life between an unmarried couple, exceptionally other factors may also serve to demonstrate that a relationship has sufficient constancy to create de facto 'family ties'. When deciding whether a relationship of an unmarried couple can be said to amount to 'family life', a number of factors may be relevant, including whether the couple live together, the length of their relationship and whether they have demonstrated their commitment to each other by having children together or by any other means. Family life embraces the tie between a parent and their minor child, even if there is no cohabitation. From the moment of a child's birth there exists between the child and their parents a bond amounting to family life, which subsequent events cannot break except in exceptional circumstances. An adoption may give rise to family life even where it does not meet the requirements of relevant international instruments. The significance of the failure to satisfy the requirements of relevant international instruments will vary from case to case. Family life is not limited to the relationships between members of the nuclear family. Relations between siblings, between grandparents and grandchildren, and uncle and nephew are, for example, potentially within the scope of 'family life', depending on the strength of the emotional ties. Relationships between adult siblings or adult children and their parents or other adult relatives do not ordinarily amount to family life unless there are additional elements of dependency going beyond normal family ties. However, it has been recognised by the courts that family life does not necessarily end once a child attains their majority, and that some young adults continue living with their parents into their twenties, and the case law is replete with examples of family life being found to exist between adults and their parents, siblings, children and/or other adult relatives. Ultimately, the existence or non-existence of family life is a question of fact. Family life can also exist outside the confines of blood, adoption and marriage. For example, the relationship of foster carer and foster child may give rise to family life, and this may continue even after the child attains their majority. The tie between a disabled adult and his friend, who was living with him and caring for him full-time, has also been held to amount to family life. Article 8 protects not only currently existing family life but also the development of a real family life in the future.

18. Close personal ties are essential to engage article 8; but not all close ties create a relationship of family life. Outside first-degree relationships, something beyond the norm is required.
19. Although there may be instances of several connected nuclear families qualifying to be treated as one unit, extended family life of that type usually lies beyond the paradigm and outside the scope of article 8.
20. There is no doubt that close ties existed among all the numerous extended family members in this case while they lived in the several houses in their compound, and that they continue to feel those bonds.
21. The grounds, skeleton argument and submissions for the appellants identify sympathetic features, but nothing to take the case beyond the extended family norm. Each adult sibling lives within his or her own paradigm family unit.

22. The family unit of the appellants comprises husband, wife, their two minor children and (tenably, at least) their two adult children. It does not incorporate their second-degree relatives.
23. In the absence of family life for article 8 purposes, the decisions appealed against are proportionate.
24. The appeals, as originally brought to the FtT, are dismissed.
25. The FtT made an anonymity direction. There does not appear to be any need for one, but as the matter was not addressed in the UT, the direction is left in place.



3 August 2021
UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email.