



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: VA/05143/2013

**THE IMMIGRATION ACTS**

Heard at Field House  
On 13<sup>th</sup> August 2014

Determination Promulgated  
On 1<sup>st</sup> September 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE GARRATT

Between

SOUMEYA KAIS IDIR  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr A Miah of Counsel instructed by M A Consultants (London)  
For the Respondent: Mr S Kandola, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. Before the Upper Tribunal the Secretary of State becomes the appellant. However, for the sake of consistency and avoidance of confusion I shall continue to refer to the parties as they were before the First-tier Tribunal.

2. On 18<sup>th</sup> June 2014 Judge of the First-tier Tribunal Foudy gave permission to the respondent to appeal against the determination of Judge of the First-tier Tribunal Petherbridge who allowed the appeal against the decision of the respondent to refuse entry clearance as a visitor in accordance with the provisions of paragraph 41 of the Immigration Rules. The determination also covers the interests of the appellant's three children who were referred to as appellants because their visitor applications had been refused by the respondent under paragraph 46A of the Immigration Rules in line with their mother. However, as the judge indicates in paragraph 18 of the determination, all three children had been granted British citizenship and so any appeal by them would be redundant as they could come and go to the United Kingdom from their home in Algeria as they pleased.
3. In granting permission Judge Foudy noted that the respondent's grounds argued that the judge had given insufficient reasons for finding that the appellant intended to leave the United Kingdom after a short visit. Judge Foudy noted that the judge had referred to the British citizenship of the appellant's children and their ability to enter the United Kingdom as they wished but had not explained why he found that the appellant met the Immigration Rules.
4. At the hearing before me I heard brief submissions from both representatives. A copy of the appellant's statement, submitted to the judge at the First-tier hearing, was provided to Mr Kandola as it appeared that this had not been seen by the respondent who was unrepresented at the hearing before the First-tier Tribunal. In this statement (paragraphs 4 and 5) the appellant explains in some detail why she had no interest in remaining permanently in the United Kingdom. That is because her husband, the sponsor, also lived with her in Algeria where he has business interests which provided money for the appellant and her children as needed. The statement also emphasises that the children, although British citizens, are settled in Algeria where they attend school and the appellant and sponsor have no intention of uprooting them from Algeria.
5. After reading the statement Mr Kandola conceded that the respondent's grounds of application were wrong to suggest that the judge's findings were based on speculation when there had been the appellant's statement before him. Nevertheless, he indicated that it could be argued that the appellant had no incentive to return because she had no other family members in Algeria.
6. Mr Miah submitted that the judge had given adequate reasons for his conclusion that the appellant would return to Algeria after her visit because the judge's conclusion was clearly not based on speculation but the statement evidence of the appellant, herself.
7. After considering the matter for a few moments I indicated that I was not satisfied that the determination showed an error on a point of law and could stand. My reasons for that conclusion follow.
8. Whilst the determination is relatively brief it is clear that the judge heard submissions from the appellant's representative who attended the hearing and also read the witness statements which had been provided including that of the appellant (paragraph 17). The judge was therefore entitled to reach the conclusion set out in paragraph 19 that the appellant had brought up her children in Algeria where they

attended school and she did not wish to disturb them from their education taking into account that they would be entitled to visit the United Kingdom whenever they needed because of their British nationality. It should also be noted that the judge took into consideration that the sponsor spent as much time in Algeria as he did in the United Kingdom because of his business interests in Algeria (paragraph 17). The determination does not, therefore, show an error as the conclusions about incentive to return are adequately reasoned.

**DECISION**

The determination of the First-tier Tribunal does not show an error on a point of law and shall stand.

**Anonymity**

The First-tier Tribunal did not make an anonymity order nor do I consider one to be appropriate in this appeal.

Signed

Date

Deputy Upper Tribunal Judge Garratt