



IAC-AH-SC-V1

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

Appeal Number: VA/06453/2014

THE IMMIGRATION ACTS

Heard at Bradford

**Decision &
Promulgated**

Reasons

On 12 January 2016

On 8 March 2016

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

ENTRY CLEARANCE OFFICER - ISTANBUL

Appellant

and

**DENIZ MELLOR
(ANONYMITY DIRECTION NOT MADE)**

Respondent

DECISION AND REASONS

1. I shall refer to the appellant as the respondent and to the respondent as the appellant (as they appeared respectively before the First-tier Tribunal). The appellant was born on 9 June 1980 and is female citizen of Turkey. She appealed against a decision of the Entry Clearance Officer, Istanbul, to refuse her application for entry clearance to the United Kingdom as a visitor, a decision which is dated 1 October 2014. The First-tier Tribunal (Judge Hindson) in a decision promulgated on 11 May 2015 allowed the appeal on human rights grounds. The ECO now appeals, with permission, to the Upper Tribunal.
2. Judge Hindson clearly had some sympathy for this appellant who is the daughter-in-law of the United Kingdom sponsor (Mrs Mellor) who appeared before Judge Hindson. The appellant is married to the sponsor's son, a

British national living in Turkey. I note that Mr Mellor comes to the United Kingdom during the summer of each year in order to work here. It appears that Mr Mellor's mother and sister are prevented from travelling to Turkey for visits because of the latter's ill-health [18]. Mr Mellor's sister enjoys seeing the appellant (her sister-in-law) and "is distressed when this does not happen" [18].

3. Judge Hindson found that this was one of those "rare cases" in which Article 8 is engaged. With respect, I disagree. As the grounds of appeal point out, there is no actual finding in the decision that family life capable of attracting the protection of Article 8 ECHR exists between the various parties involved. In particular, it is difficult to see how family life would exist between the two sister-in-laws who are not blood relatives and between whom there would not appear from the evidence to be any particularly strong ties. Judge Hindson's decision recites no evidence at all that might establish that the United Kingdom sponsor (the mother) is unable to leave the country because of his sister's ill-health.
4. Judge Hindson has done nothing to answer the questions which I have outlined above and has, instead, sought to fall back on Article 8 ECHR and to use it (as the grounds accurately describe) as a "general dispensing power." It is difficult to see how the fundamental human right which Article 8 is intended to protect may be infringed by the Entry Clearance Officer's decision. In the circumstances, I set aside the judge's decision and remade the decision. The appellant's appeal against the ECO's refusal dated 1 October 2014 is dismissed.

Notice of Decision

5. The decision of the First-tier Tribunal which was promulgated on 11 May 2015 is set aside. I have remade the decision. The appellant's appeal against the Entry Clearance Officer's refusal of 1 October 2014 is dismissed.

No anonymity direction is made.

Signed

Date 20 February 2016

Upper Tribunal Judge Clive Lane

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 20 February 2016

Upper Tribunal Judge Clive Lane