Upper Tribunal
(Immigration and Asylum Chamber) Appeal Numbers: HU/18456/2016

HU/18458/2016

HU/18462/2016
HU/18466/2016

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 14 March 2018	**On 12 April 2018**

Before

UPPER TRIBUNAL JUDGE GRUBB
UPPER TRIBUNAL JUDGE BLUM

Between

CHATHURIKA [L]
RUWAN [A]
[S A]
[R A]
(ANONYMITY DIRECTION NOT MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellants: Ms E Harris instructed by Nag Law Solicitors
For the Respondent: Mr I Jarvis, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The appellants are citizens of Sri Lanka. The first and second appellants are married. The third and fourth appellants are their daughter and son respectively. The third appellant was born on [ ] 2009 and was, therefore, 8 years old at the time of the First-tier Tribunal hearing. She is now 9 years old. The fourth appellant was born on [ ] 2013 and is, therefore, 4 years old. Both were born in the United Kingdom.

2. The first appellant entered the United Kingdom as a student on 28 September 2008. Her husband, the second appellant entered as her dependant on 21 November 2008. Thereafter, the first and second appellants (together with the third and fourth appellants following their births), were granted leave to remain until 26 September 2016.

3. That leave was curtailed on 8 February 2016 to end on 11 April 2016 as a result of the suspension of the licence for the first appellant's college as a Tier 4 Sponsor.

4. On 8 April 2016, the first appellant applied for leave to remain relying upon Art 8 of the ECHR with each of the other appellants as her dependants.

5. On 22 July 2016, the Secretary of State refused each of the appellants' applications.

The Appeal to the First-Tier Tribunal

6. The appellants appealed to the First-Tier Tribunal. The appellants relied upon Art 8 and, given that the third appellant had lived in the UK for at least seven years, reliance was placed upon para 276ADE(1)(iv) (in respect of the third appellant) and s.117B(6) of the Nationality, Immigration and Asylum Act 2002 (the "NIA Act 2002") in respect of each of the appellants.

7. Judge Hopkins accepted that it was in the best interests of the third appellant to remain in the UK. Nevertheless, having regard to the public interest, he found that it would be reasonable to expect the third appellant to leave the UK and live in Sri Lanka with her family and that, therefore, para 276ADE(1)(iv) of the Immigration Rules and s.117B(6) were not met. The Secretary of State's decision, in respect of each appellant, was proportionate.

The Appeal to the Upper Tribunal

8. The appellants sought permission to appeal to the Upper Tribunal on the basis that the judge had erred in law in his assessment of "reasonableness" under para 276ADE(1) (iv) and s.117B(6) of the NIA Act 2002 and had failed to give sufficient weight to the third appellant's length of residence in the UK and her best interests in accordance with the approach set out in the Court of Appeal's decision in (R) MA (Pakistan) and Others v UTIAC [2016] EWCA Civ 705.

9. On 22 January 2018, the First-Tier Tribunal (Judge Bird) granted the appellants permission to appeal.

The Submissions

10. On behalf of the appellants, Ms Harris made essentially two submissions. First, she submitted that, following MA (Pakistan), in assessing whether it would be reasonable to expect the third appellant to leave the UK, given the judge's finding that it was in her best interests to remain in the UK, there had to be "strong" or "powerful" reasons to overcome the "starting point that leave should be granted" in such a case (see [49] of MA (Pakistan) *per* Elias LJ). She submitted that, on the judge's findings, there was nothing to counterbalance the "best interests" of the third appellant. All the appellants had been in the UK at all times with leave. The only issue of "immigration control" that arose was that they had no basis to remain under the Rule in the future.

11. Secondly, Ms Harris criticised the judge for taking into account that the best interests of the third appellant were to remain in the UK but were "not overwhelmingly so". That, she submitted, was a reference to what had been said in the earlier Court of Appeal decision in EV (Philippines) v SSHD [2014] EWCA Civ 874 at [36]. But, that case had not concerned a "qualifying child" to which para 276ADE(1)(iv) and s.117B(6) of the NIA Act 2002 applied - none of the children in that case had been in the UK for at least seven years, unlike the third appellant.

12. Ms Harris resiled from the point made in para 9 of the grounds where, relying upon [40] of the judgment of Elias LJ, it is contended that the judge had been wrong to take into account the public interest in maintaining effective immigration control in assessing whether it was reasonable for the third appellant to leave the UK. Ms Harris acknowledged that at [40], Elias LJ was setting out an approach to "reasonableness" in para 276ADE(1)(iv) and s.117B(6) which he would have preferred to adopt but for the absence of binding precedent. Ms Harris accepted that in MA (Pakistan), the Court of Appeal determined that the public interest must be weighed against the circumstance of the third appellant, including the maintenance of effective immigration control as it applied to the first and second appellants as well as the children.

13. Nevertheless, Ms Harris maintained that the judge's decision was legally flawed.

14. Mr Jarvis, on behalf of the Secretary of State submitted that the judge had looked at all the relevant factors following EV (Philippines) and had reached a sustainable decision. He submitted that the judge had looked at the position of the children, including the third appellant who had been in the UK for seven to eight years since birth. He had considered the level of disruption and had reached the view that it was not unreasonable to expect the third appellant to leave the UK to live in Sri Lanka with the

family. He accepted that the Secretary of State's IDI, which was referenced by the Court of Appeal in MA (Pakistan), referred to the need to find "strong reasons" to outweigh the best interests of a child such as the third appellant who had been in the UK for at least seven years. But that was not, he submitted, a legal rule. He submitted that there was nothing in the law that required that the appellants be granted leave just because they had not previously breached immigration control by, for example, illegally entering or overstaying. He submitted that the judge's finding that it was reasonable to expect the third appellant to leave the UK was a permissible one even though it was not necessarily one which every judge might have reached. It was not, he submitted, irrational.

Discussion

The Law

15. The judge was concerned with claims under Art 8 of the ECHR made by each of the appellants. In substance, however, that issue resolved itself to a consideration of whether the third appellant fell within para 276ADE(1)(iv), in which case she would be entitled to leave on the basis of her private life in the UK. Further, in respect of the first and second appellants, who had a genuine and subsisting parental relationship with the third appellant, reliance was placed on s.117B(6) which reflects the wording of para 276ADE(1)(iv).

16. Para 276ADE(1) so far as relevant provides as follows:

> "The requirements to be met by an applicant for leave to remain on the grounds of private life in the UK are that at the date of application, the applicant:
>
> …
>
> (iv) is under the age of 18 years and has lived continuously in the UK for at least seven years (discounting any period of imprisonment) and it would not be reasonable to expect the applicant to leave the UK; …"

17. Section 117B of the NIA Act 2002 sets out the "public interest considerations" relevant to Art 8. Section 117B(1) provides that:

> "The maintenance of effective immigration controls is in the public interest."

18. Section 117B(2) then states, in effect, that it is in the public interest that persons who seek to enter or remain in the UK speak English. Section 117B(3) provides it is in the public interest, namely the economic wellbeing of the UK, that individuals who seek to enter or remain in the UK are financially independent.

19. Section 117B(4) provides that "little weight" should be given to private life or to family life formed with a qualifying partner where the individual is in the UK unlawfully.

20. Section 117B(5) provides that "little weight" should be given to private life established by a person when that person's immigration status is precarious.

21. Then, we come to s.117B(6) which provides that:

> "In the case of a person who is not liable to deportation, the public interest does not require the person's removal where –
>
> (a) the person has a genuine and subsisting parental relationship with a qualifying child, and
>
> (b) it would not be reasonable to expect the child to leave the United Kingdom."

22. For the purposes of s.117B(6) a "qualifying child" means a person who is under the age of 18 and who is either (1) a British citizen, or (2) has lived in the UK for a continuous period of seven years or more (s.117D(1)).

23. We will focus on the statutory provision in s.117B(6). It was common ground before us that if either the third appellant met the requirement in para 276ADE(1)(iv) or the first and second appellants met the requirements in s.117B(6) – which are in substance identical – then the removal of all of the appellants would not be proportionate.

24. It is clear that s.117B(6) is, when it applies, determinative of the "public interest" issue in that the public interest "does not require the person's removal" (see MA (Pakistan) at [17] – [20] and Rhuppiah v SSHD [2016] EWCA Civ 803 at [51]).

25. The three requirements to satisfy s.117B(6) are that:

> (1) the person is not liable to deportation;
>
> (2) the person has a genuine and subsisting parental relationship with a qualifying child;
>
> (3) it would not be reasonable to expect the child to leave the UK.

26. There is no dispute in this case as to the first and second of those requirements. None of the appellants are "liable to deportation" and the first and second appellants have a "genuine and subsisting parental relationship" with the third appellant who is a "qualifying child". The sole issue is whether it would be "reasonable to expect" the third appellant to leave the UK.

27. The leading authority of the meaning of the statutory phrase "reasonable to expect the child to leave the United Kingdom" is MA (Pakistan) which is

binding upon both the Court of Appeal and the Upper Tribunal (see AM (Pakistan) and Others v SSHD [2017] EWCA Civ 180).

28. In MA (Pakistan), the Court of Appeal accepted that whether or not it was reasonable to expect a qualifying child to leave the UK was not conclusively resolved by a finding that it was in the child's best interests to stay in the UK. At [47], Elias LJ said:

> "Even where the child's best interests are to stay, it may still be not unreasonable to require the child to leave. That will depend upon a careful analysis of the nature and extent of the links in the UK and in the country where it is proposed he should return."

29. The Court of Appeal, nevertheless, recognised that when a child was a "qualifying child" because he or she had been in the UK for seven years that was a matter which must be given "significant weight" (at [49]).

30. The Court of Appeal concluded that whether it would be "reasonable to expect" such a child to leave the UK, not only required that their circumstances must be taken into account, but also the public interest must be factored in. The Court of Appeal approved the approach in its earlier decision of MM (Uganda) v SSHD [2016] EWCA Civ 450 when considering, in the context of a deportation case, s.117C(5) and the requirement that the effect of deportation on a partner or a child must be "unduly harsh" in order for public interest not to require deportation of a person sentenced to a period of imprisonment of less than four years. At [45] in MA (Pakistan), Elias LJ stated:

> "In my judgment, if the court should have regard to the conduct of the applicant and any other matters relevant to the public interest when applying the 'unduly harsh' concept under Section 117C(5), so should it when in considering the question of reasonableness under Section 117B(6)".

31. The Court of Appeal, nevertheless, pointed out that in order to outweigh a child's best interests, in determining whether it would be reasonable to expect the child to leave the UK, the child's best interests were such that there must be a "powerful" or "strong" reasons why leave should not be granted.

32. At [46], Elias LJ explained as follows:

> "After such a period of time the child would have put down roots and developed social, cultural and educational links in the UK such it is likely to be highly disruptive if the child is required to leave the UK. That may be less so when the children are very young because the focus of their lives would be more on their families, but the disruption becomes more serious as they get older. Moreover, in these cases there must be a very strong expectation that the child's best interests will be to remain in the UK with his parents as part of a family unit, and that must rank as a primary consideration in the proportionality assessment."

33. That latter comment, of course, reflects the accepted jurisprudence in the Supreme Court in ZH (Tanzania) v SSHD [2011] UKSC 4 and Zoumbas v SSHD [2013] UKSC 74.

34. However, as Elias LJ stated at [49], the effect of s.117B(6) – when considering a child who is a "qualifying child" – is that

> "as a starting point … leave should be granted unless there are powerful reasons to the contrary."

The Judge's Decision

35. Turning now to consider Judge Hopkins' decision, he accepted that the best interests of the third appellant (who is a qualifying child who was 8 year old and had lived her whole life in the UK) were to remain in the UK. At paras 30 – 31, he said this about both the third appellant and her younger brother, the fourth appellant:

> 30. "The Third Appellant is now 8. She has lived in the UK for the whole of her life. It is in her best interests that she should remain in this country, as she would otherwise have to adjust to a different country. Although she has been to Sri Lanka, these were only for short visits. So I accept she has had little opportunity to absorb the culture. I accept she is doing well at school. She has a good record of attendance and she is meeting the expected standard in her subjects. If she has to leave the UK, there would inevitably be some disruption to her education. It is less easy to say that the best interests of the Fourth Appellant lie in his remaining in the UK, since he is not yet 4. At that age, it is unlikely that there would be any significant difficulty in him adjusting to life in Sri Lanka, as his emotional needs are likely to be almost entirely met within the family unit.
>
> 31. However, the fact that the Third Appellant's best interests lie in her remaining in the UK does not necessarily mean that it would not be reasonable to expect her to leave. Much depends upon the degree to which it is in her best interests to stay. The need for effective immigration control is an important factor that also has to be taken into account. The fact that none of the other Appellants can meet the Immigration Rules is a matter that carries weight."

36. At para 32, the judge considered s.117B(2) and noted that the first appellant spoke English and, although the second appellant lacked his wife's ability in English, nevertheless, he would not impose any undue burden on taxpayers and be able to integrate into society.

37. At para 30, the judge accepted, applying s.117B(3) that the appellants were financially independent.

38. Nevertheless, at para 34, correctly, the judge noted that the fact that the appellants met the requirements of s.117B(2) and (3) did not give them a positive right to remain in the UK.

39. At para 35, the judge noted that the first and second appellants' private life had been formed whilst their immigration status in the UK was precarious, although they had never been in the UK unlawfully. It was, as a result, entitled to "little weight". Again, correctly, the judge went on to note that it was not likely that the third and fourth appellants were aware of their precarious status and, taken with their young ages, the "little weight" provision in s.117B(5) had limited impact in affecting the weight to be given to their private lives.

40. Then at para 36, the judge acknowledged that the first and second appellants were "hardworking and responsible people".

41. At paras 37 – 42, the judge again turned to the private life and the impact of removal upon the third appellant as follows:

> "37. In considering the strength of the Third Appellant's private life in the UK, I note she had only just amassed seven years of residence in the UK at the time of the application. I appreciate, however, that, in considering whether removal would be proportionate, I have to look at the situation at the time of hearing. She has now spent about 8 year and 3 months in the UK. In **Azimi-Moayed and others (decision affecting children; onward appeals)** [2013] UKUT 197 (IAC) it is stated that, in the case of children, lengthy residence in a country other than the state of origin can lead to development of social, cultural and educational ties that it would be inappropriate to disrupt, in the absence of compelling reason to the contrary, and that past and present policies have identified seven years as such lengthy residence. However, seven years from the age of four is likely to be more significant to a child than the first seven years of life, as very young children are focussed on their parents rather than their peers and are adaptable. The Third Appellant has not spent seven years in the UK from the age of four. Since starting full time education she has moved schools due to the family relocating from Wembley to Ruislip. Consequently, there has been a limited opportunity for her to develop longstanding friendships.
>
> 38. It is claimed on her behalf that her educational and social development would be significantly hampered by her inability to speak Sinhala. I am not satisfied that it is a language that would be completely alien to her, since she would have heard it spoken in the home. Nevertheless, I accept she is much more confident in English and she would at the present time struggle to understand Sinhala. The First Appellant states she has tried to teach her daughter her mother tongue but she has got more used to speaking English due to having spent a lot of time with child minders and latterly at school. Although the Second Appellant has not demonstrated at the hearing that his English language skills are very good, I am prepared to accept that he can communicate with the Third Appellant in English to a sufficient degree.
>
> 39. I accept it is unlikely that her parents could afford to put her into a fee paying English medium school in Sri Lanka at the present

time, since, although they are both hard working and the First Appellant is a graduate from a British university, their employment record to date does not demonstrate that they have been able to embark upon prestigious careers in the UK which might impress a potential employer to the extent of offering either of them a position that is highly paid. I accept that, due to her limited knowledge of the Sinhala language, the Third Appellant would find it difficult at first to adapt to Sri Lanka as regards education and developing friendships. Even if she is able to understand some conversational Sinhala, this would not be sufficient to enable her to participate fully in the school system.

40. However, I am not satisfied that these difficulties would have significant consequences in the long term. Her parents speak Sinhala, as do her wider family in Sri Lanka. There is no reason to think she would not pick up the language relatively quickly when she is in an environment where it is used all of the time. I do not find that she is currently at such a crucial stage in her education that a short term disruption would make a significant difference to her future. It may be that her knowledge of English would in due course turn out to be an advantage in comparison with Sri Lankan children who have not had the exposure to it that she has had.

41. As regards the claim that the Third Appellant is sensitive to mosquito bites, no medical evidence of this has been presented, other than the very brief letter from a doctor in Sri Lanka saying she has been treated for skin sepsis. That letter does not indicate whether she has any underlying condition which would render her especially vulnerable to similar problems in the future. Although it is claimed by the First Appellant that she is allergic to mosquitoes, no medical evidence has been presented to indicate that this is the case. The medical notes from the Third Appellant's doctors in the UK do not contain anything that suggests that she suffers from any particular allergies.

42. I accept that she had an experience in Sri Lanka which may have made her anxious that an insect bite in the future might cause a similar reaction. But there is no proof that such fears are well founded. There is no evidence that any anxiety she may have amounts to a psychological condition which could not be readily overcome following a removal to Sri Lanka and there is no evidence before me that conditions in that country would be particularly difficult for persons like her."

42. At para 43, the judge then reached his adverse conclusion in respect of s.117B(6) and para 276ADE (1) (iv) as follows:

"I find that, although it is in the best interests of the Third Appellant that she should remain in the UK, it is not overwhelmingly so. I find that she could adapt to living in Sri Lanka without suffering significant long term consequences. When balanced against the public interest in maintaining effective immigration controls and the fact that the Appellants' immigration status in the UK is precarious, I find it has not been shown that it would not be reasonable to expect her to leave the UK. Consequently, she does not come within para 276ADE of the

> Immigration Rules and section 117B(6) of the 2002 Act does not apply. I find the decisions of the Secretary of State in relation to each of the four Appellants is proportionate to a legitimate aim. Therefore there is no breach of Art 8 of ECHR."

Our Conclusions

43. As we have already indicated, Ms Harris did not seek to rely upon para 9 of the grounds to the extent that it sought to pray in aid [40] of Elias LJ's judgment in MA (Pakistan) to the effect that the judge had been wrong to take into account the public interest in reaching his finding as to whether it would be reasonable to expect the third appellant to leave the UK. Clearly, at para 40 Elias LJ was not setting out his final conclusion in respect of the proper approach to s.117B(6). Rather, Elias LJ was considering s.177B(6), as he put it in [36], "free from authority" and testing against that the Secretary of State's submissions in MA (Pakistan) that the public interest had to be taken into account in assessing the "reasonableness" of expecting a qualifying child to leave the UK. As Elias LJ made plain at [43] – [45], the matter was not "free from authority" and, as we have already set out, he applied the approach of the Court of Appeal in the earlier deportation case of MM (Uganda). He accepted the Secretary of State's submission that the "public interest" had to be taken into account in assessing whether it was reasonable to expect a qualifying child to leave the UK.

44. Judge Hopkins was, therefore, correct to take into account the public interest in determining whether s.117B(6) applied.

45. Where, however, we have concluded that Judge Hopkins fell into error is that he failed to apply the approach mandated in MA (Pakistan) that the third appellant's best interests (as a qualifying child) should be given "significant weight" such that only "strong" or "powerful" reasons would outweigh those best interests.

46. Plainly, Judge Hopkins found that it was in the third appellant's best interests to remain in the UK. His findings in paras 30 – 31 and 37 – 42, could not be clearer.

47. The weight to be given to those best interests was, of course, ultimately a matter for the judge's judgment. However, at para 43, having noted that the third appellant's best interests to remain in the UK, he went on to conclude that they were "not overwhelmingly so". That, in our judgment, reflects a misunderstanding of the weight properly to be given to the best interests of a qualifying child. It appears, in effect, to downgrade the weight to be given to them.

48. In EV (Philippines) the Court of Appeal did contrast the situation of where a child's best interest were "overwhelmingly" to be in the UK with one whose interest were only "on balance" to remain – the former more likely 'tipping the balance' against the public interest (see [36]). But, the Court

was not concerned with a the proportionality exercise required by s.117B(6) where a 'qualifying child' is involved and the importance there of the 'child's best interests' when determining the "reasonableness" of that child leaving the UK.

49. The judge's self-direction is inconsistent with the approach in MA (Pakistan) and, in our judgment, amounts to an error of law.

50. What were the "strong" or "powerful" reasons which could outweigh the third appellant's best interests? None of the appellants had ever been in the UK unlawfully. Their immigration history was such that they had always had leave to enter or remain since the first appellant came to the UK in September 2008 and the second appellant in November 2008. Their immigration history was not "poor"; rather it was wholly proper and exemplary. Of course, none of the appellants could now meet the requirements of the Immigration Rules for the future (with the possible exception of the third appellant under para 276ADE(1)(iv)) and so the public interest of "effective immigration control" set out in s.117B(1) was engaged. It is difficult to envisage an immigration history of this kind as capable of amounting to "strong" or "powerful" countervailing reasons to outweigh the best interests of the third appellant. If it did, it would appear potentially to do so in many, if not most, cases and thereby deprive s.117B(6) of any meaningful application.

51. Whilst we accept Mr Jarvis's submission that the judge did look at all the relevant factors, in accordance with EV (Philippines), especially at [34] – [37], as we have already pointed out, that case did not concern a child who had been in the UK for at least seven years. In MA (Pakistan), Elias LJ at [49], noted that the "same principles" would apply under s.117B(6) but importantly went on to state:

> "However, the fact that the child had been in the UK for seven years would need to be given significant weight in the proportionality exercise for two related reasons: first, because of its relevance to determining the nature and strength of the child's best interests; and secondly, because it establishes a starting point that leave should be granted unless there are powerful reasons to the contrary."

52. It was, in our judgment, the judge's failure to acknowledge the proper weighting to be given to the third appellant's best interests that led him into error. That error was, in our judgment, also material to his decision.

53. Mr Jarvis acknowledged that the judge's decision was not necessarily a decision which every judge on the evidence would have reached. Nevertheless, at least for the purposes of the error of law issue, he submitted that the decision was not irrational.

54. We do not agree. In our judgment, the judge's finding concerning the immediate impact upon the third appellant's education if she returned to Sri Lanka is highly significant. She does not speak Sinhalese and, as the judge found in para 39, her parents would not be able to afford to send her

to a fee-paying English medium school. The judge accepted that due to her "limited knowledge" of the Sinhalese language the appellant would "find it difficult at first to adapt to Sri Lanka as regards education and developing friendships". He accepted that even if she were able to understand some conversational Sinhalese: "This would not be sufficient to enable her to participate fully in the school system".

55. The third appellant was 8 years old (she is now 9 years old) and has lived in the UK since she was born. She has been attending a school in the UK and, as the judge found in para 30, she is doing well, with a good attendance record and meeting the expected standards in her subjects. He accepted that there would "inevitably be some disruption to her education" if she went to Sri Lanka. The judge's findings in paras 38 and 39 go, in our judgment, beyond "some disruption" to identify a significant detrimental effect to her, albeit that she is only 8 years of age.

56. Bearing in mind that the only aspect of the public interest engaged in these appeals is that of "effective immigration control" on the basis that none of the appellants have any basis in the future for remaining under the Immigration Rules, despite the careful consideration of the evidence by the judge, in our judgment his conclusion was not one open to him given the significant detriment to the third appellant's education if she returned to Sri Lanka. We recognise that she is relatively young but, nevertheless, there is nothing in any of the appellants' immigration or other history which could rationally, in our judgment, be sufficiently "powerful" or "strong" to outweigh the best interests of the third appellant such that it would be reasonable to expect her to leave the UK.

57. Consequently, for these reasons we are satisfied that the judge materially erred in law in dismissing each of the appellants' appeals. The judge's decision cannot stand and we set it aside.

58. Neither representative, when we invited them to do so, wished to make any further submissions as regards remaking the decision if we found an error of law.

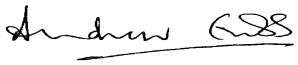
59. As before the judge, the crucial issue is the application of s.117B(6) and whether it is reasonable to expect the third appellant to leave the UK. She is now 9 years old. We apply the approach we have set out above derived from the Court of Appeal's decision in MA (Pakistan). We note the judge's primary findings of fact that we set out above in relation to her (and the fourth appellant's) best interests. We have regard to the public interest which we have set out above that is limited to the effective maintenance of immigration control, namely that the appellants cannot now meet the requirements of the Rules. We note that their presence in the UK has always been lawful – there is no question of any of them having a 'poor' immigration history. There are no 'strong' or 'powerful' countervailing factors to outweigh the best interests of the third appellant and the "starting pint" that leave should be granted.

60. For the reasons we have given above, we are satisfied that it would not be reasonable to expect the third appellant to leave the UK. She meets the requirements in para 276ADE(1)(iv). The first and second appellants also meet the requirements of s.117B(6) and, as a consequence, the public interest does not require their removal.

61. It follows, in our judgment, that the removal of each of the appellants would amount to a disproportionate interference with their private and family life in the UK and amount to a breach of Art 8 of the ECHR.

62. We remake the decision allowing each of the appellants' appeals under Art 8 of the ECHR.

Signed



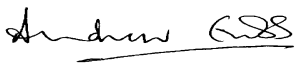
A Grubb
Judge of the Upper Tribunal

10 April 2018

TO THE RESPONDENT
FEE AWARD

As we have allowed the appeals, we make a fee award in respect of any fee paid or payable.

Signed



A Grubb
Judge of the Upper Tribunal

10 April 2018