



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: HU/21127/2016
HU/21140/2016
HU/21146/2016

THE IMMIGRATION ACTS

Heard at Field House
On 11 June 2018

Decision sent to parties on
On 18 June 2018

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

MLMC
EACZ
RJCM (A MINOR)

(ANONYMITY ORDER MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr J Markus, instructed by Turpin & Miller Solicitors (Oxford)
For the Respondent: Ms Alex Everett, a Senior Home Office Presenting Officer

Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellants have been granted anonymity throughout these proceedings. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall identify the original

appellant, whether directly or indirectly. This order applies to, amongst others, all parties. Any failure to comply with this order could give rise to contempt of court proceedings.

DECISION AND REASONS

1. The appellants are a husband and wife and their minor son, who will be 10 years old in October 2018. They appeal with permission against the decision of the First-tier Tribunal dismissing their appeals against the Secretary of State's refusal to grant them leave to remain in the United Kingdom on family and private life grounds, pursuant to paragraph 276ADE and EX.1 (b) of the Immigration Rules HC 395 (as amended).
2. The third appellant has lived in the United Kingdom all his life and is at primary school here. In addition, he has health problems: he has eczema and asthma and serious allergies to a number of substances, including eggs. He carries an EpiPen at all times and he has had some episodes of anaphylaxis and hospitalisation for reactions to the various substances to which he is allergic.
3. The third appellant's egg allergy presents an additional difficulty. Yellow fever vaccination is a requirement for all travellers to Bolivia, and has a very high mortality rate (about 60% of those infected die). There is no treatment for yellow fever yet except avoiding mosquito bites, and vaccination. The only available vaccine is egg-based (it uses albumen): the third appellant's medical advisors consider that it is contra-indicated for him and that he should not receive this vaccine.
4. The third appellant is a child and therefore, pursuant to section 55 of the Borders Citizenship and Immigration Act 2009, the Tribunal must consider as a primary consideration the respondent's duty to safeguard and protect the third appellant's best interests. The First-tier Tribunal Judge found, and the respondent accepts, that it is in the third appellant's section 55 best interests to remain with his parents in the United Kingdom.
5. The question for the Upper Tribunal is the reasonableness of requiring the third appellant to leave the United Kingdom, and the operation of paragraphs 276ADE and EX.1 of the Immigration Rules HC 395 (as amended).

Anonymity order

6. No anonymity order was made in the First-tier Tribunal and there has been no application by the appellants for anonymity. I have considered whether anonymity is appropriate having regard to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended). I bear in mind that the third appellant is a minor, and I have made an anonymity order in relation to all three appellants for that reason.

Background

7. The first and second appellants entered the United Kingdom in August 2002 as visitors and were subsequently granted a series of student visas, and in the case of the second

appellant, work permits. They, and their child the third appellant, are all Bolivian citizens. They have no other citizenship.

8. On 30 April 2012, the appellants made a human rights application which was refused by the respondent on 4 July 2013 with no right of appeal. Thereafter, they were not lawfully in the United Kingdom.
9. The appellants did not embark for Bolivia: on 1 April 2016, some four years later, they made an application for leave to remain on private and family life grounds, which was again refused. It is that decision by the respondent which is the subject of the present appeal.

First-tier Tribunal decision

10. The First-tier Tribunal Judge accepted the appellants' account of the third appellant's health problems, but did not consider that the appellant's allergies presented difficulties which would be untreatable in Bolivia, nor that it was difficult to manage or stabilise the appellant's various conditions, though she did note that control of the asthma from which the third appellant suffered was 'sub-optimal and not yet at a steady state'.
11. The First-tier Tribunal Judge was satisfied that the third appellant would suffer no serious detriment to his well being in Bolivia, were he to be returned there with his parents. She dismissed the appeal.
12. The appellants appealed to the Upper Tribunal.

Error of law hearing

13. The grounds of appeal challenged the taking into account of a number of pieces of country evidence and medical information which the Judge accessed after the hearing, and on which the parties were not given an opportunity to comment. In particular:
 - (i) The appellants relied on a 2006 World Health Organisation (WHO) report on the situation in Bolivia. After the hearing, it appears that the Judge obtained from the internet an August 2017 announcement by the WHO, praising major advances in healthcare in Bolivia, on which he relied in preference to the 2006 report, to the appellants' detriment; and
 - (ii) The Judge accessed and relied upon information about yellow fever from the NHS Choices website and the WHO, with relation to the risk to the third applicant of receiving an albumen-based yellow fever vaccination, and also the mortality risk for those infected with yellow fever.
14. At the error of law hearing, I was satisfied that the First-tier Tribunal Judge's failure to put this evidence to the appellants for argument was procedurally unfair: see *AM* (fair hearing) [2015] UKUT 656 (IAC) and *RR* (challenging evidence) Sri Lanka) [2010] UKUT 274 (IAC).

15. In addition, at [32] the First-tier Tribunal Judge is said to have misdirected herself in fact as well as in law by asserting that there was 'no evidence' before her that the third appellant was at risk of anaphylaxis if given a yellow fever injection. The appellants' bundle contained a letter from the third appellant's general medical practitioner, Dr Catherine McDonnell, based at Banbury Road Medical Centre in Oxford which stated:

"[The third appellant] suffers from severe egg allergy with anaphylaxis. Yellow Fever vaccination is contraindicated in this patient and I advise that he be exempted from this requirement on medical grounds."

It appears that the judge overlooked that letter.

16. More generally, it was argued that the judge failed properly to assess the Section 55 best interests of the third appellant, because she failed to give significant weight in the proportionality exercise to the length of time the boy had been in the United Kingdom (now almost 10 years), as discussed in *MA (Pakistan) & Ors, R (on the application of) v Upper Tribunal (Immigration and Asylum Chamber) & Anor* [2016] EWCA Civ 705 at [49] in the judgment of Lord Justice Elias, with whom Lady Justice King and Sir Stephen Richards agreed:

"49. ... However, the fact that the child has 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 second, because it establishes as a starting point that leave should be granted unless there are powerful reasons to the contrary."

17. At the error of law hearing, I set aside the decision of the First-tier Tribunal in relation to the third appellant and directed that the decision in these appeals be remade in the Upper Tribunal. If the third appellant is successful in his appeal, the respondent accepts that his parents must also be allowed to remain in the United Kingdom with him, as he is a minor.
18. That is the basis on which this appeal came before the Upper Tribunal for substantive remaking.

Remaking the decision

19. At the hearing today, neither party had prepared a skeleton argument. I did however have the benefit of the bundle of documents before the First-tier Tribunal, a bundle of authorities, and a supplementary bundle of documents which were admitted for the substantive Upper Tribunal hearing pursuant to rule 15(2A) of The Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended), with no objection from Ms Everett, who represents the respondent. The evidence relied upon by the appellants exceeds 500 A4 pages and comprises
20. The witness statement of the principal appellant (the third appellant's mother) says that she came originally from La Paz, which is Bolivia's de facto capital city. The third appellant is her only child. The principal appellant studied English language and

accountancy in the United Kingdom, always seeking extensions within time and complying with the conditions of her leave. Her husband 'got into a mess with his ongoing leave to remain' in 2006 and was refused further leave because he had not made his Sectors-based Scheme application from outside the United Kingdom. In 2008, without having planned to do so, the principal appellant became pregnant and the third appellant was born in October 2008. The parties married in June 2009. The principal appellant's last leave expired on 31 May 2010.

21. In the second and third month of his life (the end of 2008), the third appellant developed very serious eczema: by four months (early 2009), his skin was peeling off and his hair was falling out, his skin was constantly getting infected and he was in extreme pain and discomfort. The first and second appellants tried everything: conventional medicine, Chinese medicine, herbs, African remedies, washing the baby in bottled water, cleaning the house, removing carpets and replacing with laminate flooring. Nothing helped. In April 2009, the third appellant was admitted to hospital for allergy tests and a large number of allergies were discovered.
22. In July 2009, when the third appellant was 9 months old, his mother took him back to Bolivia to meet her family and for her to have some support in caring for him. Her mother lived in Santa Cruz, but on arrival there the heat and humidity had 'a really appalling and immediate effect' on the third appellant's skin. They moved quickly to La Paz, where the principal appellant's father lived, but that city was at a high altitude and had very thin air. The baby began struggling to breathe and was coughing a lot. The principal appellant got up at 3 am to get a ticket to see a doctor at midday the next day. The doctors were unable to help and suggested private medicine. The principal appellant and her mother in Santa Cruz tried herbal and even spiritual remedies for the baby's eczema and asthma, but nothing worked.
23. The principal appellant brought the baby back to the United Kingdom and resumed her studies, but his asthma continued to worsen and he is now at Step 5 level of the asthma scale, the highest level for both management and risk. The couple tried to have more children, but four pregnancies between 2012 and 2015 all ended in miscarriage. They were referred to a specialist, who said that there were chromosomal problems with the foetuses of the miscarried pregnancies. The couple have accepted that they will have no more children.
24. In 2016, the principal appellant's father in La Paz died from an asthma attack.
25. The third appellant continues to have severe eczema which is embarrassing for him, as his face is affected. He uses strong steroid creams to try to manage it but the skin still often becomes infected. Despite his difficulties, he attends primary school, working hard at all subjects, and undertakes a number of out of school activities (swimming, chess, science, piano, football and karate). He speaks no Spanish, though the principal appellant has tried to teach him. He is unaware of the immigration difficulties which affect him and his parents.

Medical evidence

26. On 29 July 2013, the third appellant was tested for allergies (the RAST test), which marks risk out of 6: 6/6 is a strongly positive allergic response, and 1/6 is a borderline positive response. Out of a maximum of 6/6 (the highest risk), the third appellant scored 5/6 for egg and 4/6 for peanuts, hazelnuts, and almonds. His allergies to cod, milk, coconut, shrimp, mussels, tuna and salmon were lower. He was allergic to the house dust mite at 5/6, to grass pollen 4/6, tree pollen 3/6 and cat and dog dander at a lower level.
27. A medical report on 30 January 2017 from Dr Morium Akhthar, MBBS, MRCPCH, MSc Advanced Paediatrics, Paediatric Registrar at the Variety Children's Hospital, part of the King's College Hospital NHS Foundation Trust, recorded that in August 2015 the third appellant had experienced a severe anaphylactic reaction to mustard and that he continued to have quite a significant sensitisation to nuts and egg. He was allergic to egg white, egg yolk, peanuts, cashew nuts, coconut, soya, citrus fruit, celery and strawberry, but could tolerate cow's milk, wheat, and small amounts of soya and fish. He was unlikely to outgrow his food allergies and was likely to need future input from an allergy specialist.
28. The third appellant's eczema was well controlled for the time being with various creams, but had suboptimal control of his asthma and had not yet reached a steady controlled state for that. His asthma was triggered by exercise, viral infections, and the change to colder weather in the winter. He used both preventative and reactive inhalers.
29. On 20 July 2017, the third appellant's general medical practitioner, Dr Catherine McDonnell confirmed that the third appellant should be exempted from yellow fever vaccination on medical grounds as he 'suffers from severe egg allergy with anaphylaxis' (see [15] above).

Background evidence before the First-tier Tribunal

30. Yellow fever is a notifiable illness for which there is no specific treatment: eradication of the *Aedes* mosquitos, protection from mosquito bites, and immunisation reduce the risk. The respondent's guidance on travel to Bolivia says that yellow fever vaccination is required for travel to parts of Bolivia, including La Paz and Santa Cruz. The NHS Scotland Website indicated that yellow fever was frequently fatal for those who had not been vaccinated.
31. However, public health guidance from the United Kingdom's National Travel Health Network and Centre (NaTHNaC) indicates that yellow fever vaccination should not be given to persons with a confirmed anaphylactic reaction to egg. NHS choices stated that people with an egg allergy 'can't have the yellow fever vaccine'.

32. On 24 February 2015, on the blog page 'A Gringo in Bolivia', there is a description of the universal affordable medical care which is available in Bolivia, heavily subsidised and often free:

"...The downside is that the public system is under a lot of strain, with too many patients and very limited funding. Patients are typically required to travel to a clinic to take a *ficha* (ticket) at 6 am if they want to see a doctor that day, a painful task for those who are ill. Arrive at 6:30 am and there's a good chance all the doctors will be fully booked and you will have to come back tomorrow. Public hospitals tend to be overcrowded, dirty and chaotic, while endless queues are the norm. ...A popular complaint among expats across the entire medical system is the lack of good hygienic practice. Horror stories abound of nurses not using gloves (patients should BYO), using needles that have been dropped on the floor, staff not washing hands, insufficient cleaning of beds and linen between operations and open waste containers causing cross-contamination. ..."

33. On 18 March 2016, the US State Department health fact sheet for Bolivia stated that:

"**High Altitude health risks:** the altitude of La Paz ranges from 10,600 feet to over 13,000 feet...above sea level. Much of western Bolivia is at the same altitude or higher, including Lake Titicaca, the Salar de Uyuni, and the cities of Oruro and Potosi. The altitude alone poses a serious risk of illness, hospitalisation and even death, even for those in excellent health. ...

Anyone with asthma should consult their doctor: *mild asthma may be manageable at high altitude, but it is important to remember that emergency care and intensive respiratory care are very limited even in the city of La Paz and are absent outside the city. US Citizens with respiratory ailments had previously been medically evacuated from La Paz to other countries to receive medical treatment.* " [Emphasis added]

34. A document from the Asthma UK website described the difficulties of Step 5 level asthma: symptoms are usually severe; care is provided by a paediatric consultant who specialises in asthma care; treatment is higher doses of a daily preventer inhaler and also a long-acting reliever, and a short-acting reliever inhaler, plus add-on therapies and long-term steroid tablets as needed. Nearly half of those who have a serious attack (45%) die before emergency medical care can be provided: speedy treatment is urgently necessary.

New country evidence before the Upper Tribunal

35. In addition, a supplementary bundle showed that in 2017, Bolivia's health system ranked 126th of 190 countries in the world (the United Kingdom is 18th). The appellants had not been able to trace the WHO announcement on which the First-tier Tribunal Judge relied, but had found a report based thereon in The Santiago Times on 9 August 2017 which stated that millions of Bolivians now received medical care since the establishment in 2013 of 'Mi Salud' (My Health), a program to bring quality healthcare to every home, free of charge. Extreme poverty had decreased from close to 40% to 16.8% of the population, and chronic malnutrition in children under 5 had also declined by 14%.

36. Other documents in the bundle reinforced the information already summarised.

Submissions

37. In submissions for the appellants, Mr Markus reminded me that *MA (Pakistan) & Ors, R (on the application of) v Upper Tribunal (Immigration and Asylum Chamber) & Anor* [2016] EWCA Civ 705 held that in a 7-year child case the respondent must identify 'powerful reasons' to justify refusing leave to remain. The parents' overstaying was not sufficient for this: see *MT and ET (child's best interests; ex tempore pilot) Nigeria* [2018] UKUT 88(IAC). The first and second appellants were hard workers, respected in their community and had reacted to events as they occurred: their overstaying was related to the health of their child and should carry less weight for that reason.
38. The appellants are all Bolivian nationals, and there was no evidence that they would be refused admission if the third appellant had not received the yellow fever vaccination. However, there was a 60% fatality risk if the third appellant were to catch yellow fever and Mr Markus suggested that it was unreasonable to expect a 9-year-old child to avoid mosquitoes, if unvaccinated.
39. In addition, his eczema might be under control, but the third appellant's asthma was not, and was at the highest level of both risk and severity. Asthma was potentially life-limiting. There was limited emergency care in Bolivia, as set out in the World Health Organisation evidence: ambulances could take 30-40 minutes to arrive, and doctors' appointments were not available without an early journey to queue for a ticket, and then delay until later in the day, all of which might be too long for an asthmatic child's survival.
40. The third appellant was well-integrated, attending school and enjoying martial arts, church, music, mathematics, football, swimming and chess. He had not learned Spanish, despite his mother's efforts to teach him her language. He would shortly be in a position to register as a British Citizen. Mr Markus asked me to allow the appeals of all three appellants.
41. For the respondent, Ms Everett considered that the coming 10-year long residence right for the third appellant to register as a British citizen in October 2018 was the appellants' strongest argument. She accepted that there was undisputed medical evidence of the third appellant having health conditions which required scrupulous preventative care by the first and second appellants, and that would unarguably be in his best interests to remain with his parents in the United Kingdom. She noted that, due to his parents' care, the third appellant was doing well in the United Kingdom and argued that they would continue to do so in Bolivia.
42. Ms Everett accepted that the evidence was that emergency care in Bolivia was not the same as that in the United Kingdom but argued that the evidence before the Tribunal was not enough to suggest that the third appellant's return to Bolivia would compromise his best interests. As regards yellow fever, she accepted that the third appellant would not be able to be vaccinated for that and she compared it to malaria,

also a worldwide infection which killed many people, and for which there were only prophylactic prevention mechanisms. The third appellant would have to use insect repellent, but Ms Everett suggested that the yellow fever risk was not sufficient to make it unreasonable to return him to Bolivia now.

43. I asked Ms Everett whether, if their appeal were unsuccessful, these appellants were likely to be removed before the third appellant's 10th birthday in October 2018. Ms Everett was unable to say whether that was the case. The appellants would have the right to seek permission to appeal to the Court of Appeal and, given the third appellant's health problems, removal would have to be very carefully managed. The possibility that he might still be here at 10 years old could not be excluded.
44. The immigration status of the first and second appellants could not be taken into account when assessing the reasonableness of removing the third appellant; however, their overstaying, however sympathetically viewed, was a countervailing factor and a criminal offence.
45. Ms Everett asked me to dismiss the appeals. I reserved my decision, which I now give.

The law

46. Section 55 best interests having been conceded, this appeal turns on the provisions of paragraph 276ADE and EX.1(a) of the Rules. Paragraph 276ADE so far as relevant is as follows:

"276ADE (1). 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 7 years (discounting any period of imprisonment) and it would not be reasonable to expect the applicant to leave the UK; or"

47. Para EX.1, so far as relevant here, is as follows:

"EX.1. This paragraph applies if -

(a) (i) the applicant has a genuine and subsisting parental relationship with a child who-

(aa) is under the age of 18 years, or was under the age of 18 years when the applicant was first granted leave on the basis that this paragraph applied;

(bb) is in the UK;

(cc) is a British Citizen or has lived in the UK continuously for at least the 7 years immediately preceding the date of application; and

(ii) taking into account their best interests as a primary consideration, it would not be reasonable to expect the child to leave the UK; ..."

48. In *MA (Pakistan)*, Lord Justice Elias (with whom Lady Justice King and Sir Stephen Richards agreed) considered the reasonableness test at [46]-[49]:

"Applying the reasonableness test

46. Even on the approach of the Secretary of State, the fact that a child has been here for seven years must be given significant weight when carrying out the proportionality exercise. Indeed, the Secretary of State published guidance in August 2015 in the form of Immigration Directorate Instructions entitled "Family Life (as a partner or parent) and Private Life: 10 Year Routes" in which it is expressly stated that once the seven years' residence requirement is satisfied, there need to be "strong reasons" for refusing leave (para. 11.2.4). These instructions were not in force when the cases now subject to appeal were determined, but in my view they merely confirm what is implicit in adopting a policy of this nature. After such a period of time the child will have put down roots and developed social, cultural and educational links in the UK such that 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 will be 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.

47. ... 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. What could not be considered, however, would be the conduct and immigration history of the parents.

49. ...However, the fact that the child has 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 second, because it establishes as a starting point that leave should be granted unless there are powerful reasons to the contrary."

49. In *MT and ET (Nigeria)* [the Upper Tribunal applied the *MA (Pakistan)* guidance at [30]-[34], in particular from [33]:

"33. On the present state of the law, as set out in *MA*, we need to look for "powerful reasons" why a child who has been in the United Kingdom for over ten years should be removed, notwithstanding that her best interests lie in remaining.

34. In the present case, there are no such powerful reasons. Of course, the public interest lies in removing a person, such as MT, who has abused the immigration laws of the United Kingdom. Although Mr Deller did not seek to rely on it, we take account of the fact that, as recorded in Judge Baird's decision, MT had, at some stage, received a community order for using a false document to obtain employment. But, given the strength of ET's case, MT's conduct in our view comes nowhere close to requiring the respondent to succeed and Mr Deller did not strongly urge us to so find. Mr Nicholson submitted that, even on the findings of Judge Martin, MT was what might be described as a somewhat run of the mill immigration offender who came to the United Kingdom on a visit visa, overstayed, made a claim for asylum that was found to be false and who has pursued various legal means of remaining in the United Kingdom. None of this is to be taken in any way as excusing or downplaying MT's unlawful behaviour. The point is

that her immigration history is not so bad as to constitute the kind of "powerful" reason that would render reasonable the removal of ET to Nigeria."

Discussion

50. It is not disputed that the third appellant's section 55 best interests lie in remaining in the United Kingdom with his parents. The respondent accepts also that the first and second appellants both have a genuine and subsisting parental relationship with the third appellant, such that section EX.1(a)(i) is met. The issue for the Upper Tribunal in these proceedings is whether, pursuant both to paragraph 276ADE(iv) and EX.1(a)(ii), it is reasonable to expect the third appellant to leave the United Kingdom. The respondent accepts that if it is not reasonable for him to do so, the first and second appellants will be entitled to leave to remain under paragraph EX.1(a).
51. The respondent accepts that the third appellant is a qualifying child, who had lived in the United Kingdom all his life, and for over 7 years at the date of application. There must therefore be 'powerful reasons' shown for disrupting his schooling and his life in the United Kingdom. I am not satisfied that such reasons have been shown in this case.
52. If he is still in the United Kingdom in October 2018, the third appellant will have the right to be registered as a British citizen. He speaks no Spanish and has only visited Bolivia once, when he was a very young baby. His health while in Bolivia was very poor indeed: it was there that his asthma was diagnosed.
53. The third appellant is almost at the end of his primary school years here and is fully integrated into school life, with many recreations which he enjoys, and some friendships. He has eczema and asthma and serious allergies to a number of substances, including eggs. He carries an EpiPen at all times and he has had some episodes of anaphylaxis and hospitalisation for reactions to the various substances to which he is allergic.
54. His eczema is under control at present, but his asthma is not. While there is free medical treatment in Bolivia, on the evidence before me, treatment is slow to access and in particular, emergency assistance does not arrive speedily. I remind myself that the appellant's grandfather, who lived in La Paz, died of an asthma attack there just two years ago, and that it was in La Paz and Santa Cruz that the appellant's eczema and asthma conditions deteriorated when he visited Bolivia as a baby.
55. Bolivia is a country of extremes of cold, heat and humidity, all of which are difficult for those with severe eczema, and high altitude, which is bad for severe asthma. The Asthma UK evidence is that an asthmatic can die within 45 minutes if he has a severe asthma attack. The US State Department Report records medical evacuations from La Paz for United States citizens who experience respiratory difficulties there, and the third appellant did experience such difficulties as a baby when he went to La Paz.

56. The evidence before me is that although medical care at the basic level is free for all Bolivians, the only emergency medical facilities in Bolivia are in La Paz, and that even there, ambulances can take 30-40 minutes to arrive, and medical appointments, all day to achieve. That could very well be fatal: even in the United Kingdom, 45% of those who have a serious asthma attack die before emergency medical care arrives. The third appellant's asthma is not 'mild': his asthma is at the Step 5 level, with the highest risk of an attack and the most severe outcomes. His maternal grandfather died in La Paz in 2016 during an asthma attack.
57. In addition, food labelling in Bolivia is not as advanced or regulated as in the United Kingdom, putting the third appellant at much higher risk of ingesting prepared food containing a trigger substance which could cause him to go into anaphylactic shock.
58. Furthermore, Bolivia is a country for which a yellow fever vaccination is considered necessary: there is no treatment for yellow fever once contracted, and 60% of those infected die. There is both generic and specific evidence in the bundle before me, which is not disputed, to the effect that if the third appellant returned to Bolivia, he would have to do so without the protection of a yellow fever vaccination. The third appellant's generally vulnerable physical health, in particular the eczema-infected skin from which he often suffers, seems likely to increase the risks of becoming infected by, for instance, yellow fever in Bolivia. Without the vaccination, the only protection available is for him to avoid being bitten by mosquitoes of the *Aedes* type by wearing insect repellent and being extremely careful. I remind myself that he is not yet 10 years old and that seems to me to be impractical.
59. I am satisfied, on the particular facts relating to the third appellant, that it is in the third appellant's best interests to remain in the United Kingdom with his parents, and that it would not be reasonable to expect him to leave the United Kingdom and go with them to Bolivia, the only place where they have citizenship and can expect to be admitted. The third appellant's appeal therefore succeeds under paragraph 276ADE and that of his parents under EX.1.

Conclusions

For all of the above reasons, the appeals of all three appellants are allowed.

Signed: *Judith A J C Gleeson*
Upper Tribunal Judge Gleeson

Date: 14 June 2018