



**Upper Tribunal  
(Immigration and Asylum Chamber)  
EA/07191/2017**

**Appeal Number:**

**HU/121**

**93/2017**

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
on 5 July 2019**

**Decision & Reasons  
Promulgated  
on 10 September 2019**

**Before**

**Mr C M G OCKELTON, VICE PRESIDENT  
& UT JUDGE MACLEMAN**

**Between**

**A U CEYLAN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**And**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr V Sharma, The Chamber Practice, Aberdeen  
For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant appeals against the decision of FtT Judge Buchanan, promulgated on 26 April 2018.
2. The appellant, a citizen of Turkey, applied for a residence card under the Immigration (EEA) Regulations 2016 as the family member of his wife, a UK citizen, on the basis that she had been residing in an EEA state (the Republic of Ireland) as a self-employed person immediately before returning to the UK; that he and she had resided there together; and that their residence there was genuine - regulation 9 (2) (a) (i), (b) and (c).

3. In a decision dated 9 August 2017, the SSHD accepted that the appellant's wife resided in the Republic of Ireland as a self-employed person immediately before returning to the UK, and that they resided there together from 23 April to 13 September 2016. However, the SSHD did not accept that her centre of life "had transferred to Ireland, because she did not relinquish her life in the UK. It would therefore appear that it was always [her] intention to return to the UK". The decision goes on to hold that her residence in Ireland was not "genuine" and was "a means for circumventing the UK's domestic immigration rules or other immigration law".
4. We think that the decision of the SSHD discloses misconceptions which in turn have infected the decision of the FtT.
5. The transfer of the centre of the British citizen's life to the other EEA state is not a free-standing requirement, but only one of the factors relevant in terms of regulation 9(3) to whether residence in the EEA state was genuine. The regulations do not clarify whether a person may have more than one centre of life. Mr Govan did not submit that they should be read as imposing such a restriction.
6. The concept of free movement of migrant workers does not signify that an EEA citizen must at any one time have only one centre. Rather, it appears to envisage that EEA citizens may work in other EEA countries, retaining a home base in their country of origin. That might remain their principal centre, particularly if their work takes them to multiple destinations for varying periods. There is nothing contrary to the spirit or the letter of EEA law in the appellant's wife having a house and two adult children in Aberdeen after she moved to Dublin. It would be strange to expect her not to see Aberdeen as one of the centres of her life.
7. The decision goes far beyond the terms of the regulations in looking for the appellant's wife to have "relinquished" her life in the UK. That drastic test is devoid of any legal basis.
8. We see no reason to think that in moving to and working in Ireland the appellant's wife was engaging in anything other than the exercise of her free movement rights. The point might be tested from the point of view of the authorities in Ireland. Nothing could have given them reason to suspect that her residence there was anything but genuine.
9. The decision of the First-tier Tribunal on the appeal under the regulations is **set aside**. That appeal, as brought to the FtT, is **allowed**. (The appellant did not press the grounds in respect of the human rights appeal.)
10. The FtT made an anonymity direction, but for no apparent reason, so we discharge it, and this determination is not anonymised.

A handwritten signature in black ink that reads "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

9 September 2019  
UT Judge Macleman