



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

Appeal Numbers: IA/35388/2014  
IA/37064/2014  
IA/37065/2014

**THE IMMIGRATION ACTS**

**Heard at Birmingham Employment  
Centre  
On 18 August 2015**

**Decision and Reasons  
Promulgated  
On 20 August 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE McCARTHY**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**AT  
KTM  
JTM**

**(ANONYMITY ORDER CONTINUED)**

Respondents

**Representation:**

For the Appellant: Mr D Mills, Senior Home Office Presenting Officer  
For the Respondent: None

**DECISION AND REASONS**

Preliminary

I note that the First-tier Tribunal made an anonymity direction in relation to the appellants because of the nature of the case. I consider it

appropriate to make a similar order in the Upper Tribunal under Procedural Rule 14(1) to prohibit the disclosure or publication of any matter likely to lead members of the public to identify the appellants. To give effect to this order the appellants are to be referred to by the initials above

1. There was no attendance by or for the respondents. The Upper Tribunal had been notified that Khan & Co Solicitors were no longer instructed which explains their absence. There was no explanation why the appellants were not present and, being satisfied that notice of the hearing had been properly given, I decided it was in the interest of justice to proceed.
2. Mr Mills conceded the appeals. He said that the grounds advanced lacked merit and he had nothing to argue. The best he could say was that even if Judge Graham had erred in law with regard to her direct application of Article 8 any such errors were not material because she had found that it would be unreasonable to expect the first respondent's eldest child, who had resided in the UK for over seven years at the date of application, to leave the UK. The grounds did not challenge Judge Graham's finding or reasoning on this point.
3. As such, the First-tier Tribunal appeals of the first and second respondents had to succeed whether by application of paragraph EX.1 of appendix FM or directly by application of Article 8. Since appendix FM was introduced to give effect to family life rights it was unsurprising that the same conclusion was reached by both avenues. Given that the sponsor was settled in the UK and the first and second respondents succeeded in their appeals to the First-tier Tribunal, it would be disproportionate to expect the remaining family member, the five year old third respondent, to leave the UK.
4. I accepted the concession made by Mr Mills and as I indicated had reached a similar preliminary view when reading the papers. The fact the respondents failed to attend it irrelevant. I find there is no material legal error in Judge Graham's decision and reasons statement that was promulgated on 6 January 2015 and it is upheld.

## **Decision**

There is no material legal error in the decision and reasons statement of First-tier Tribunal Judge Graham and her decision stands.

Signed

Date

John McCarthy  
Deputy Judge of the Upper Tribunal