



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

**Appeal Number: IA/35752/2013
& IA/40685/2013**

THE IMMIGRATION ACTS

**Determined at Field House
On: 11 May 2015**

**Notice sent
On: 13 May 2015**

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**ANNA TOKAROVA
JOZEF TOKAR**

Claimants

NOTICE OF WITHDRAWAL AND

REASONS FOR THE TRIBUNAL GIVING CONSENT

1. The Secretary of State was on 23 June 2014 granted permission to appeal against the decision of the First-tier Tribunal promulgated on 4 June 2014, allowing the claimants appeals against the decision made on 17 July 2013 to refused them residence cards as confirmation of their derived right of residence under EU law. The appeals had been allowed under the Immigration (European Economic Area) Regulations 2006, and on the basis that the refusal to issue documentation was in breach of article 8 of the Human Rights convention.
2. The Upper Tribunal found that the decision of the First-tier Tribunal involved the making of an error of law and set it aside. It then transpired that there was within the unchallenged facts found by the First-tier

Tribunal an unanswerable case that Jozef Tokar had acquired a derived right to reside right in the United Kingdom on a different basis, that is, that having entered education at a point when his father (previously an EEA worker) was present in the United Kingdom. His mother, as his primary carer, also derived such a right. The Secretary of State has now issued documentation to that effect.

3. The Secretary of State has by a letter dated 8 May 2015 accepted that her challenge to the First-tier Tribunal's determination is now academic and seeks to withdraw her case.
4. Consent of the Upper Tribunal is required for a party to withdraw its case. Having carefully considered the facts of these appeals as a whole, and observing that the claimants were successful before the First-tier Tribunal, I give such consent to the respondent to withdraw her case.
5. Accordingly with my consent, and pursuant to rule 17(5) of the Tribunal Procedure (Upper Tribunal) Rules 2008, this appeal is recorded as "Withdrawn with the consent of the Upper Tribunal". This is a Notice pursuant to rule 17(5) to inform the parties that the Secretary of State's case is withdrawn.
6. The effect of the appellant's case being withdrawn from the Upper Tribunal is that the proceedings before the Upper Tribunal are at an end. There is no appeal before the Upper Tribunal and the First-tier Tribunal's decision shall stand.

Signed

Date: 11 May 2015

A handwritten signature in black ink, appearing to read 'Jozef Rintoul', written in a cursive style.

Upper Tribunal Judge Rintoul