



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

**Appeal number: IA/03856/2015  
IA/03858/2015**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On February 19, 2016**

**Decisions & Reasons Promulgated  
On February 24, 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ALIS**

**Between**

**[W M]**

**[K M]**

Appellants

**and**

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

Respondent

Representation:

Appellant

Not present

Respondent

Mr Staunton (Home Office Presenting Officer)

**DECISION AND REASONS**

1. The appellants are nationals of Poland. On December 5, 2014 they applied for documents certifying permanent residence as confirmation of their rights of permanent residence in the United Kingdom as dependants of an EEA national. The respondent refused their applications on January 10, 2015 (along with their father's application).
2. The appellants, along with their father, appealed against those decisions under Regulation 26 of the Immigration (European Economic Area) Regulations 2006 and section 82(1) of the Nationality, Immigration and Asylum Act 2002 on January 26, 2015.

3. The matter was dealt with on the papers by Judge of the First-tier Tribunal Taylor on July 2, 2015 and in a decision promulgated on July 23, 2015 the Tribunal allowed their appeals and that of their father.
4. The respondent applied for permission to appeal on July 31, 2015 in respect of these two appellants. No appeal was lodged in respect of the father's appeal that was dealt with at the same time and has case number IA/03853/2015. The respondent submitted the Tribunal had erred in respect of these two appellants because there was no evidence that the children had lived here for five years as required by the Regulations.
5. Permission to appeal was granted by Judge of the First-tier Tribunal White on October 28, 2015 and the matter first came before me on January 18, 2016. On that occasion I found there had been an error in law because there had been no evidence before Judge of the First-tier Tribunal Taylor that the children had been present for a continuous period of five years as was required by the Regulations.
6. The appellants' father produced at the hearing a letter from his children's' doctor that provided some support for them being here for five years but the document was not conclusive.
7. I adjourned the case for the father to produce evidence that showed the children had been here for five years continuously.
8. The appellants' father sent letters to the respondent that confirmed both children had attended firstly [ - ] Primary School and then [ - ] Academy and had done so from September 6, 2006 to the present day. Mr Staunton agreed that this evidence satisfied him and he did not oppose the granting to them of permanent residence.
9. The First-tier Tribunal did not make made an anonymity direction and pursuant to Rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008 I see no reason to make any order now.

**DECISION**

10. There had been a material error. I set aside the decision to allow the appeal under the Regulations.
11. I remade the decision and allowed both appeals for permanent residence under the 2006 Regulations.

Signed:

Dated:



Deputy Upper Tribunal Judge Alis

**FEE AWARD**

I make no fee award as the appeal was allowed only after the evidence was submitted

Signed:

Dated:

A handwritten signature in black ink, appearing to read "SPALIS". The signature is written in a cursive style with a horizontal line underneath the letters.

Deputy Upper Tribunal Judge Alis