



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Numbers: IA/25291/2014  
IA/35132/2014

**THE IMMIGRATION ACTS**

Heard at Field House  
On 26 March 2015  
Prepared 26 March 2015

Decision & Reasons Promulgated  
On 27 March 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MR ACHA TEBE AKUM EMMANUEL  
MRS LINDA FENUI NTANGKU  
(No anonymity order)

Respondents

**Representation:**

For the Appellant: Mr P Nath, Senior Presenting Officer  
For the Respondents: Mr M Ruparelia, Legal Representative, Just Legal Group

**DECISION AND REASONS**

1. In this decision the Appellant is referred to as the Secretary of State and the Respondents are referred to as the Claimants.

2. The Claimants respectively born on 3 November 1976 and 29 June 1980 are similarly citizens of Germany and the Cameroon and are husband and wife.
3. The Claimants applied for permanent residence under the Immigration (European Economic Area) Regulations 2006 as amended (the EEA Regulations) which were refused on 3 June 2014. Their appeals against the Secretary of State's decisions came before First-tier Tribunal Judge Hawden-Beal on 3 November 2014 and, having considered the matter on the papers, the judge allowed their appeals. The judge found that the Claimants had met all the requirements of Regulation 15(1)(a) and (b) of the 2006 Regulations.
4. Permission to appeal was granted by First-tier Tribunal Judge Wellesley-Cole on 14 January 2015.
5. Before me it became apparent through the schedule of material that had been provided to the judge that the first Claimant's earnings significantly outstripped in all but the year 2014 the threshold for income support, housing benefit and any other state benefit to which the first Claimant would have been entitled. It is clear that in the year 2013 to 2014 (April to April) that the first Claimant was closer to the threshold but nevertheless, for the purposes of state benefits, was self-sufficient.
6. Thus, his actual outgoings are not material to the requirement of adequate funding to exceed, as I established with Mr Nath at the outset, the statutory thresholds for income support or other statutory benefits.
7. Be that as it may, the fact was that the second Claimant had provided a contract of employment which showed her level of earnings being in excess of £18,000 per annum and although that was not the earnings of the first Claimant, plainly they formed part of their common pool and family pot of money to meet the family outgoings. In the circumstances, it is unfortunate that the judge did not recite that aspect of the evidence because, had he or she done so, the position is it is unlikely permission would have been granted. Having heard the arguments, particularly from Mr Nath, who reiterated the point that in order to assess sufficiency there needed to be a setting out of income and outgoings to establish the Claimant had the sufficient resources. It is correct that the first Claimant did not do so but, as Mr Nath accepted, had the person settling the grounds seen the relevant papers that had been submitted it would have been apparent that there was no purpose in labouring through an appeal in order to establish the self-evident fact that there were earnings to show self sufficiency to which the judge made some reference in the decision.
8. I am satisfied therefore on the evidence before the judge, even if it was not as efficiently set out as it could have been by him, that the first Claimant produced evidence sufficient to show that he and his wife, the second Claimant, both of whom were seeking permanent residence, had the necessary funds to meet the requirements of the Rules.
9. In the circumstances therefore, whilst it may have been an error of law for the judge to fail to set out that consideration, the fact is the failure to do so made no difference

to or would make no difference to the outcome on a re-making of the appeals. In the circumstances, I do not find it is necessary to carry out that exercise and ultimately Mr Nath left it for me; emphasising the general point that a schedule of income and outgoings would be the usual way the Secretary of State would expect to see evidence produced in such cases.

10. I note the commonsense of that requirement but I also note that there is no requirement within the Regulations to produce evidence in that fashion nor is any case law cited to me to show that that should be construed into an understanding of Regulation 15(1)(a) or (b).
11. The Original Tribunal made no error of law.

**NOTICE OF DECISION**

12. The Secretary of State's appeal is dismissed.
13. No anonymity direction is made.

Signed

Date 26 March 2015

Deputy Upper Tribunal Judge Davey