**IN THE UPPER TRIBUNAL**
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2022-004207
First-tier Tribunal No: EA/16441/2021
Case No: UI-2022-004208
First-tier Tribunal No: EA/16439/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**
**On 17 August 2023**

**Before**

**UPPER TRIBUNAL JUDGE JACKSON**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**MICHAEL AMPRATWUM GYAMFI**
**SAMUEL AFRIFA**

**(NO ANONYMITY ORDERS MADE)**

Respondents

**Representation:**
For the Appellant: Mr D Clarke, Senior Home Office Presenting Officer
For the Respondent: Ms R Patel of Counsel, instructed by Ison Harrison Solicitors

**Heard at Field House by remote video means on 31 July 2023**

**DECISION AND REASONS**

1. This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was by video, using Teams. There were technical difficulties with the video feed for the hearing but no difficulties with the audio feed and everyone could hear everyone else throughout the hearing. The papers were all available electronically.

2. The Secretary of State appeals with permission against the decision of First-tier Tribunal Judge Hillis promulgated on 25 May 2022, in which Mr Gyamfi and Mr Afrifa's appeals against the decisions to refuse their applications for EEA Family Permits dated 10 November 2021 were allowed. For ease I continue to refer to the parties as they were before the First-tier Tribunal, with Mr Gyamfi as the First

Appellant, Mr Afrifa as the Second Appellant and the Secretary of State as the Respondent.

3. The Appellants are nationals of Ghana, born on 17 September 1995 and 19 December 1988 respsectively, who made applications for EEA Family Permits on 24 June 2021 to join the Sponsor, their adopted father who is an EEA national. Their cases are materially identical in terms of applications, refusals and appeals.

4. The Respondent refused the applications the basis that there was insufficient evidence that the Appellants were family members of an EEA national. Specifically, that there was no contemporaneous documentary evidence of their claimed adoptions on 18 December 2007 and only recently dated statutory declarations to evidence this. The requirements set out for an adoption in Annex 1 of Appendix EU to the Immigration Rules were not met as there was no evidence of an adoption in accordance with the competent authority in the United Kingdom and an adoption in Ghana was not recognised in the United Kingdom pursuant to the Adoption (Recognition of Overeas Adoptions) Order 2013.

5. Judge Hillis allowed the appeals in a decision promulgated on 25 May 2022 on the basis that the Appellants had shown that their customary adoptions in Ghana were legally recognised and binding at Ghanaian law and therefore recognised by UK law such that the refusals were not in accordance with the EUSS scheme and the Brexit Withdrawal Agreement, Article 18(o) in particular. I return below to the reasoning for these findings.

## The appeal

6. The Respondent appeals on three grounds as follows. First, that the First-tier Tribunal materially erred in law in finding that the customary adoption of the Appellants was recognised in the United Kingdom, contrary to Article 3(3) of the Adoption (Designation of Overseas Adoptions) Order 1973 (the "1973 Order") which excluded customary or common law adoptions. Further, that there was no evidence that the adoptions were recognsied as legally valid in Ghana in 2007 or officially recognised at that time. Secondly, that the First-tier Tribunal failed to make any findings as to the domicile of the Sponsor at the time of the adoptions in 2007 or whether the adoptions had the same charasteristics as those in the United Kingdom in accordance with TY (Overseas adoptions – certificates of eligibility) Jamaica [2018] UKUT 00197 (IAC). Finally, that the First-tier Tribunal failed to make any findings on whether the Appellants were dependent on the Sponsor, which they were required to be given both were over the age of 21.

7. In a rule 24 notice, the Appellants opposed the appeal, first on the basis that First-tier Tribunal had given clear and cogent reasons as to why they had demonstrated they had been legally adopted by the Sponsor and secondly, on the basis that any error is not material given the finding that the decisions were also in breach of Article 18(o) of the Withdrawal Agreement. The Appellants asserted that they were the direct family members of the Sponsor who had at all material times been financially dependent on him to meet their essential needs. The adoptions took place at a time when the Sponsor was domiciled in Ghana, in accordance with Ghanaian law and in conformity with the English concept of adoption; with no public policy reasons why they should dnot be recognised.

8. At the oral hearing, Mr Clarke relied on the written grounds of appeal. Mr Clarke acknowledged that the Respondent erroneously referred to the Adoptions

(Recognition of Overseas Adoption) Order 2013 whereas the correct order was the 1973 Order, but that the Appellants could not satisfy the requirements of the 1973 Order because it expressly excluded customary or common law adoptions. The First-tier Tribunal Judge failed to turn his mind to those provisions and although there was no Home Office Presenting Officer at the hearing, it was incumbent on the Judge to consider rather than simply state in paragraph 45 of the decision that the Respondent did not contend that there was any preclusion of customary adoptions and there was no dispute before the First-tier Tribunal that this was a customary adoption. The First-tier Tribunal set out the various submissions made on behalf of the Appellants but did not in face engage with all of them when reaching the conclusions on the appeal.

9. In relation to the second and third grounds of appeal, Mr Clarke appropriately accepted that these were not matters put directly in issue in the reasons for refusal letter (having not been expressly considered at all at that point as the Appellants fell for refusal at the first hurdle), but that to allow the appeal under Appendix EU of the Immigration Rules, these were matters which should have been considered or would need to be if the appeals needed to be remade.

10. Mr Clarke accepted that the issue of the Withdrawal Agreement had not been directly raised in the Respondent's grounds of appeal, but noted that there was no argument on this before the First-tier Tribunal, no reasons given for the finding and the conclusion would in any event be undermined if there is an error of law as to whether the adoptions were lawfully recognised. Further, if there is no valid adoption lawfully recognised in the United Kingdom, it is not possible to see how the Appellants could fall within the personal scope of the Withdrawal Agreement set out in Article 10 as they are not family members and in accordance with the Upper Tribunal decision in Celik (EU exit; marriage; human rights) [2022] UKUT 00220 (IAC), the requirement of proportionality does not extend to re-writing the express terms of the Withdrawal Agreement.

11. On behalf of the Appellants, Ms Patel relied on the rule 24 response and the Appellants' skeleton argument before the First-tier Tribunal which set out the submissions on the validity of the adoptions. It was noted that there was no representative for the Respondent at the First-tier Tribunal hearing and issues raised in the second and third grounds of appeal were not raised either in the reasons for refusal or at the hearing. It was submitted that there can be no criticism of the Appellants or the First-tier Tribunal in not dealing with issues that were not raised.

12. The First-tier Tribunal set out comprehensively the parties' respective cases in the decision and thoroughly dealt with all of the submissions, including as to the customary adoptions which were recognised under Ghanaian law and as such recogniseable under UK law as a valid adoption under the third category in TY. Ms Patel placed specific reliance on the documents before the First-tier Tribunal, including the letter from lawyers in Ghana, Guidance on Adoptions in Ghana to the Migrant Review Tribunal in Australia and the Ghanaian legal documents from the Republic of Ghana Ministry of Foreign Affairs and Regional Integration and the confirmation from the Republic of Ghana Judicial Service and Declarations from the Superior Court of Judicature in the High Court of Justice, Kumasi, Ghana.

13. With reference to those documents, I asked Ms Patel where I could find the recognition of customary adoption in Ghanaian law and/or the legal recognition of the specific customary adoptions of these Appellants, as the documents did not appear to say what the First-tier Tribunal recorded. Ms Patel could only rely on

the documents before the First-tier Tribunal (although she had not seen all of them) and section 79 of the Children Act 1988 in Ghana which gave lawful recognition to a customary adoption.

14. In relation to the Withdrawal Agreement, Ms Patel noted that this was part of the grounds of appeal from the Appellants and referred to as an issue for determination in the early part of the First-tier Tribunal decision. Whilst there were no written arguments on this point contained in the Appellants' skeleton argument, it was suggested that there may have been oral submissions. Ms Patel was unable to explain how, if the First-tier Tribunal erred as to the validity of the customary adoptions, the error would not be material because of the unreasoned finding in relation to the Withdrawal Agreement.

**Findings and reasons**

15. The first issue in this appeal is whether the First-tier Tribunal erred in law in finding that the customary adoptions of the Appellants in 2007 were recognised in law here so as to meet the required definition in Annex 1 to Appendix EU of the Immigration Rules. An adopted child is defined therein as a child adoptied in accordance with a 'relevant adoption decision', which itself is defined as:

> *"an adoption decision taken:*
>
> *(a) by the competent administrative authority or the court in the UK or the Islands; or*
> *(b) by the competent administrative authority or court in a country whose adoption orders are recognised by the UK or the Islands; or*
> *(c) in a particular case in which that decision in another country has been recognised in the UK or the Islands as an adoption."*

16. The Appellants sought to rely on (b) in respect of their adoptions, there being no decision by the competent administrative authority or the Court in the UK or Islans, nor any decision recognisin the adoptions in the UK or the Islands. The references to TY and the third category therein of an adoption recognised by the law of England and Wales and effected under the law of any other country would fall within (c) but does not assist the Appellants in the present case given that the requirement within the definition is that an adoption 'has been recognised' as such in the UK or the Islands. There has been no such recognition and there is no suggestion that the First-tier Tribunal would have inherent jurisdiction to recognise a foreign adoption in the course of an appeal so as to satisfy the requirements of Appendix EU, this is something which falls within the jurisdiction of the Family Courts in separate proceedings.

17. The Respondent accepts that the reference to the Adoption (Recognition of Overseas Adoptions) Order 2013 in the reasons for refusal letters was erroneous given that the adoptions relied on in 2007 significantly predated that Order. However, the 1973 Order was before the First-tier Tribunal, having been submitted by the Appellants. Whilst the First-tier Tribunal was correct in concluding that the 2013 Order had no bearing on the validity of the Appellant's customary adoptions in Ghana in 2007, it was not sufficient to simply say in paragraph 45 that the Respondent had not expressly contended that the situation prior to 3 January 2014 was otherwise than if the law of the country in which the customary adoption recognised it as legal then it would be correspondingly recognised by UK law. It was an error of law for the First-tier Tribunal to fail to have regard to the terms of the 1973 Order and expressly consider whether it

was satisfied in these appeals. In any event, for the reasons set out further below, I find that the First-tier Tribunal erred in law in concluding that customary adoptions in Ghana were legally recognised there and therefore recognised as valid in the United Kingdom.

18. The 1973 Order includes the following:

> *3. (1) An adoption of an infant is hereby specified as an overseas adoption if it is an adoption effected in a place in relation to which this Article applies and under the law in force in that place.*
>
> *(2) …*
>
> *(3) In this Arrticle the expression –*
>
> *"infant" means a person who at the time when the application for adoption was made had not attained the age of 18 years and had not been married;*
>
> *"law" does not include customary or common law.*
>
> *4. (1) Evidence that an overseas adoption has been effected may be given by the production of a document purporting to be –*
>
> *(a) a certified copy of an entry made, in accordance with the law of the country or territory concerned, in a public register relating to the recording of adoptions and showing that the adoption has been effected; or*
>
> *(b) a certificate that the adoption has been effected, signed or purporting to be signed by a person authorised by the law of the country or territory concerned to sign such a certificate, or a certified copy of such certificate.*

19. It is not in dispute that the 1973 Order excludes customary law adoptions, even though Ghana is listed as a country from with an adoption would be recognised. The issue in this case is whether the customary law adoption was in any event a lawful adoption under Ghanaian law.

20. I deal in turn with the First-tier Tribunal's assessment of the different pieces of evidence relied upon to conclude that these were lawfully recognised adoptions. First, in paragraph 39, the First-tier Tribunal deals with the letter from Ghanaian lawyers as follows:

> *"The letter from Dadson Associates, Barristers, Solicitors and Notaries Public dated 21st June 2021 at page AB36/38 was submitted as expert evidence of Ghanaian law in respect of the customary adoptions of the Appellants by their Sponsor on 18th December, 2007. The contents of this letter were not the subject to challenge before me or in the Refusal Letters of 19th November, 2021. This letter confirms in the second paragraphs that the Appellants' customary adoption in 2007 was recognsied at Ghanaian law provided the "essential elements" were complied with. It further states that it is not unusual for customary adoptions not to be supported by documentation as it was not a requirement at Ghanaian law."*

21. The First-tier Tribunal decision goes on to quote part of the letter in paragraph 40 which concludes that the adoptions met all of the necessary customary requirements. The document itself also includes the following statements:

> *"We write to give an exposition on the position of Ghanaian law with regards to customary adoption and also to confirm that the customary adoption of Michael Ampratwum Gyamfi and Samula Afrifa by Seree Yeboa-Mensa on 18th December 2007 is valid under Ghanaian law.*
>
> *To begin with, Article 11 of the 1992 Constitution of the Republic of Ghana lists customary law as one of the sources of laws in Ghana. Therefore customary law and practices have long been recognized and applied by the Ghanaian Courts on several occasions.*
>
> *[There follows a description of the requirements of customary adoption for it to be valid]*
>
> *All the abovementioned decided cases determined by the Courts of Ghana affirm the essential requirements of customary adoption listed above. The Courts confirm the validity of customary adoption in Ghana.*
>
> *…*
>
> *It is not unsual for customary adoption not to be supported by documents … customary law knows not of any writing, a documented activity which comes after a valid customary activity cannot override the prior customary activity. Therefore in this particular context, the fact that there exists no document to prove that there has been a customary adoption of Michael Ampratwum Gyamfi and Samual Afrifa does not change the fact there exist such a valid customary adoption. …"*

22. The letter concludes by saying that all of the necessary customary law requirements were met in this case such that the Appellants are both the children of the Sponsor and entitled to every right and privilege that a biological child of the Sponsor is entitled to under law.

23. On my reading of this document, the author goes no further than confirming that customary law forms part of the laws of Ghana and that on the facts of this case, there is a valid customary adoption about which no documentary evidence would be expected or required. There is nothing in this letter which identifies a statutory basis other than customary law on which the Appellants' adoptions are considered to be legally valid and nothing to suggest any specific recognition of these customary adoptions by the Courts in Ghana. The mere fact that customary law is recognised as part of the legal landscape in Ghana does not mean that any acts, such as an adoption pursuant to customary law, are effected under the law in force in Ghana for the purposes of the 1973 Order given the express exclusion of customary and common law. Ms Patel was unable to identify any part of this document supporting the assertion that a customary adoption was anything other than a customary law adoption.

24. The second set of documents relied upon by the First-tier Tribunal are referred to in paragraph 41 as follows:

> *"I have carefully read the Ghanaian legal documents at HOB 180 to HOB 208 which includes Declarations from the Republic of Ghana Ministry of*

> *Foreign Affaris and Regional Integratoin, confirmations of the Appellants' customary adoption from the Republic of Ghana Judicial Service, Declarations from the Superior Court of Judicature in the High Court of Justice, Kumasi, Ghana confirming the legal status of the Appellants' adoptions on 18th December, 2007 at Ghanaian law."*

25. I do not however find that the documents referred to in fact confirm the legal status of the Appellants' adoptions in 2007 at all. The first document from the Republic of Ghana Ministry of Foreign Affairs and Regional Integration dated 18 June 2021 only certifies a signature on the 'Statutory Declaration by Opanin Albert Kofi Karikari' dated 2 June 2021, stating:

> *"I Solomon Korbieh, Deputy Director, Legal and Treaties Bureau, Ministry of Foreign Affaris and Regional Integration of the Republic of Ghana, DO HEREBY CERTIFY that the signature of SAMUEL BOAKYE-YIADOM, Deputy Judicial Secretary, covering the signature of PAUL ADU-GYAMFI, Esquire, appreaing on the 'Statutory Declaration by Opanin Albert Kofi Karikari' dated 2 June 2021 is the true and certified signature of the said SAMUEL BOAKYE-YIADOM, Deputy Judicial Secretary of the Judicial Service of Ghana."*

26. The document itself says nothing about the contents of the document or the legal validity or otherwise of either of the adoptions. The second document, from the Republic of Ghana Judicial Service dated 17 June 2021 similarly attests the stamp, signature and seal of the notary public appearing on the same statutory declaration referred to above and expressly not the contents of the document itself. Again, this says nothing about the accurancy of the contents of the document or the legal validity or otherwise of either of the adoptions.

27. The statutory declaration itself dated 2 June 2021, made by Opanin Albert Kofi Karkari, stated to be the principal member of the Dumankwaahene family of Mampong-Ashanti to which the Appellants belong, attests to the customary adoptions of the Appellants and confirms his presence and the satisfaction of the required elements for a customary adoption. The document refers only to a customary adoption and nothing more.

28. The Sponsor makes a similar statutory declaration on 14 June 2021 to confirm the customary adoption of the Appellants, also witnessed by a notary public.

29. There are separate documents from the Republic of Ghana Ministry of Foreign Affaris and Regional Integation and the Republic of Ghana Judicial Service attesting to the stamp, signature and seal fo the notral public in the same manner as those quoted above but in respect of a statutory declaration by Madam Akua Adomako (the Appellants' biological mother) confirming the customary adoption of the Appellants; and attesting to a statutory declaration from the same person affirming her consent for the Appellants to join the Sponsor in the United Kingdom.

30. There are the same materially identical suite of documents in respect of a statutory declaration by Abusuapanin Kwadwo Sarpong dated 2 June 2021 and a statutory declaration by Opanin Amoako Yaw dated 2 June 2021; both of which attest to completion of a customary adoption in respect of both Appellants.

31. Within the page numbers of documents referred to by the First-tier Tribunal, there are also a number of identity documents which I have not referred to specifically as they add nothing to the matter in issue. What is self-evident from

the documents is that contrary to the findings in paragraph 41 of the First-tier Tribunal, none of the documents from official sources confirm the legal status of the Appellants' adoptions, only confirming the signatures and stamps, but not the contents of statutory declarations made. As to the statutory declarations, save for one giving consent for the Appellants to come to the United Kingdom (which is itself rather odd given that the Appellants are adults and if legally adopted by the Sponsor, would not require consent from a biological parent whose rights would have ceased on adoption), the others only confirm the customary adoptions of the Appellants and no more. None of the documents referred to confirm the legal status of adoptions at all, beyond that the customary requirements for a customary adoption were completed.

32. The First-tier Tribunal recorded the Appellants' submissions in paragraphs 20 and 21 with respect to customary adoption being incorporated into Ghanaian law by the Children Act 1988 in Ghana as supported by a paper from the Australian Migration Tribunal. The Judge does not expressly deal with this as part of the reasoning, nor is any reference made to the Children Act 1988, a copy of which does not appear to have been submitted to the First-tier Tribunal.

33. The MRT research response to the Migration Review Tribunal in Australia dated 27 March 2009 responds to five specific questions, the first three of which are as to the availability and requirements of formal adoption in Ghana, under the Children Act 1998 and the final two are 'Is there any practice in Ghana of customary adoption and if so, what form does it take?' and 'In relation to customary adoption – is it usual that it only takes place if the child's biological parents are deceased? Is it usual that customary adoption would only take place among relatives? Please advise whether the child's biological father would have to consent to the adoption?'.

34. In respect of formal adoptions under the Children Act 1988, reference is made only to the procedures set out within the act and no reference is made to any provision recognising customary adoptions or any procedures for such recognition. In respect of the last two questions on customary adoptions, the document sets out that customary adoptions and adoptions through the courts are the two main avenues for adoption in Ghana, with customary forms being part of traditional society. The requirements for customary law, including consent are set out and the final paragraph of the document refers to references to customary law in the Children's Act 1998 as follows:

> *"Sections of 'The Children's Act, 1998' which refer to customary law include Section 69(1) of the Act, which states that "[t]he court may require the consent of any person for an adoption order if it considers that the person has any rights or obgliations in respect of the child such as under an agreement, court order or under customary law." Section 75(1)(a) of the Act indicates that upon the making of an adoption order, "the rights, duties, obligations and liabilities including those under customary law of the parents of the child or of any other person connected with the child of any nature whatsoever shall cease." Also, pursuant to Section 79(1) of the Act, "[a]n adopted child shall be subject to customary law as if he were the natural child of the adopter only if the adopter is subject to customary law" (Parliament of the Republic of Ghana 1998, 'The Children's Act, 1998', Act 560, Ministry of Women and Children's Affairs Ghana website, 30 December …"*

35. There is nothing within the document as a whole, or within that final section noting the references to customary law in the Children Act 1998 in Ghana which provides for any formal legal recognition of a customary adoption, nor any process by which this would be done. At its highest, the Act sets out the interplay between customary law and formal adoption, both in terms of consideration before an adoption order is made and effect afterwards. At the oral hearing, Ms Patel only identified section 79 of the Children Act 1998 as the source of formal recognition of customary adoptions under the Act, but as above, that relates only to the consequences of an adoption for the child if the adopter is subject to customary law.

36. Having considered all of these documents in the round, I find that there was no rational or lawful basis upon which the First-tier Tribunal could conclude that the Appellants' adoptions were anything other than valid customary adoptions. The mere fact that customary law forms part of the recognised legal landscape in Ghana does not take these adoptions outside of the exclusion for customary law so as to meet the requirements of the 1973 Order. It was an error of law for the First-tier Tribunal to conclude that these customary law adoptions were recognised within the United Kingdom, they could not be under the 1973 Order and as such could not meet the definition of an adoption decision in Annex 1 to Appendix EU. The First-tier Tribunal decision must be set aside for this reason.

37. The second and third grounds of appeal add nothing of substance that would be material to the outcome of the appeal given the findings in relation to the adoptions. In any event, the First-tier Tribunal can not be criticised for not determining matters which were not raised as issues in the appeals before it, particularly when the reasons for refusal letter did not expressly consider these matters and there was no Presenting Officer present at the hearing. The natural course of action would be that these would be matters for the Respondent to consider prior to issuing an EEA Family Permit if the appeals were successful on the point in issue. I therefore make no further findings on these grounds.

38. The final point to consider is that contained within the rule 24 response on behalf of the Appellants that in any event the appeals were allowed under the Withdrawal Agreement as the decisions were in breach of Article 18(o) therein, such that the error above is not material to the outcome. I do not find that this makes the error immaterial. First, the error of law found as to the validity of the adoptions necessarily infects any finding under the Withdrawal Agreement, as this could only assist Appellants who are within the personal scope of the Withdrawal Agreement itself. If there is no legal recognition of the customary law adoptions of the Appellants within the United Kingdom or another Member State (and nothing to suggest the Finnish authorities have recognised the adoptions, the Sponsor being a Finnish national) then they can not fall within Article 10(1)(e)(iii) of the Withdrawal Agreement as a direct family member, nor is any other provision as to personal scope relevant. As confirmed by the Court of Appeal in Celik v Secretary of State for the Home Department [2023] EWCA Civ 921, a person who is not within the personal scope of the Withdrawal Agreement in Article 10 does not have any substantive rights and nothing in Article 18(1)(r), or by analogy Article 18(1)(o), creates any rights not do not otherwise exist.

39. Secondly, it is of concern that the First-tier Tribunal allowed the appeal under the Withdrawal Agreement without any substantive arguments on this basis from the Appellant and without any discussion or relevant findings before making a simple conclusion of breach. The Appellants referred to the Withdrawal

Agreement in the notice of appeal, but no specific provisions were relied upon at that stage and there was no mention of this as a ground of appeal at all in the Appellants' skeleton argument. There is no assessment by the First-tier Tribunal of whether the Appellants are within scope of the Withdrawal Agreement nor any reasons why the refusals would be a breach of the particular provision cited.

40. Thirdly, when considering the terms of Article 18(1)(o) of the Withdrawal Agreement, it is entirely unclear how it could have assisted the Appellants at all even if their customary adoptions were legally recognised in the United Kingdom. The provision states, *"the competent authorities of the host State shall help the applicants prove their eligibility to avoid any errors or omissions in their applications; they shall give the applicants the opportunity to furnish supplementary evidence and to correct any deficiencies, errors or omissions."* On its face, even if the Appellants were within the personal scope of the Withdrawal Agreement, this provision bears no relation to the nature of the Appellants' application, which was not refused for an error or omission in the application or lack of evidence which could be submitted to correct such an error or omission; nor the matters raised in their appeals. The refusal was a matter of substance that it was not established that there was a recognised adoption. It can not on any rational view assist the Appellants or be a lawful basis for allowing the appeals, particularly in the absence of a legally recognised adoption.

41. On the basis of the findings above that the First-tier Tribunal erred in law in finding that the customary adoptions of the Appellants were legally valid and recognised in the United Kingdom, when they could not be as customary law adoptions pursuant to the 1973 Order, there is no need for any further hearing or submissions on the remaking of these appeals. The Appellants can not on any view meet the requirements of Appendix EU for the issue of an EEA Family Permit as neither is an adopted child as defined. The appeals are therefore remade to dismiss them under Appendix EU.

**Notice of Decision**

The making of the decision of the First-tier Tribunal did involve the making of a material error of law. As such it is necessary to set aside the decision.

I set aside the decision of the First-tier Tribunal.

The appeals are remade as follows:

The appeals are dismissed on all grounds

G Jackson

Judge of the Upper Tribunal
Immigration and Asylum Chamber

**2nd August 2023**