



Judiciary of England and Wales

26 November 2025

IA and others v. Secretary of State for the Home Department

Appeal No: CA-2025-000713

Neutral Citation Number: [2025] EWCA Civ 1516

JUDGMENT SUMMARY

Important note for media and public: this summary forms no part of the court's decision. It is provided so as to assist the media and the public to understand what the court decided. The full judgment of the Court of Appeal is the only authoritative document. Judgments are public documents and are available at:
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Introduction

1. This appeal concerned the proper meaning of article 8 of the European Convention on Human Rights (the ECHR) (article 8).
2. A family of 6 persons resident in Gaza (father, mother and four children aged 18, 17, 8 and 7 in September 2024) (together the family) applied for entry clearance to come to the UK to join their sponsor, who was the younger brother of the father (the sponsor). The sponsor had lived and worked in the UK since 2007 and was now a British citizen.
3. The family's applications for entry clearance were refused in May 2024. Their appeals to the First-tier Tribunal (Immigration and Asylum Chamber) (the FTT) were dismissed.

The FTT decided that family life, within the meaning of article 8(1), had existed between the sponsor and the family since the start of the Gaza conflict in late 2023, but that the refusal of entry clearance was **not** a disproportionate interference with that family life under article 8(2) (see [21] to [27]).

4. The Upper Tribunal (Immigration and Asylum Chamber) (the UT) allowed the family's appeal from the FTT. The UT upheld the FTT's decision as to the existence of family life, but held that the decision to refuse the family entry to the UK infringed their article 8 rights (see [28] to [37]).
5. The Court of Appeal (Sir Geoffrey Vos, Master of the Rolls, Lord Justice Dingemans, Senior President of Tribunals, and Lady Justice Elisabeth Laing) upheld the SSHD's appeal. It held that: (i) that there was no family life established between the sponsor in the UK and the brother or the family in Gaza, (ii) even if such family life had been established, the family in Gaza would have had no free-standing article 8 rights of their own. The tribunals would, however, have had to consider the article 8 rights of the sponsor (his family life with the family) in considering under article 8(2) whether to admit the family to the UK, and (iii) had there been such family life, the proportionality balance would have weighed heavily in favour of refusing the family entry to the UK.
6. The terms of article 8 were very important. Article 8 provides that: "[e]veryone has the right to respect for his ... family life", and "[t]here shall be no interference by a public authority with the exercise of [the right to family life] except such as is in accordance with the law and is necessary in a democratic society in the interests of ... the economic well-being of the country ... or for the protection of the rights and freedoms of others". (see [7] to [8], [143], [158] to [161] and [166] to [168]).

The facts

7. The family is Palestinian and has lived in Gaza since 1994. The sponsor left Gaza in 2007 to live and work in the UK. During the conflict between Israel and Hamas, following the 7 October 2023 attacks, the family was displaced when their home was destroyed by an airstrike.
8. On 25 January 2024, the family applied for entry clearance to the UK. They filled in a Ukraine Family Scheme form, acknowledging that they could not qualify either under that scheme or under the Immigration Rules. They used the Ukraine Family Scheme Form because the SSHD's guidance told applicants to use the application form "for the route which most closely matches [your] circumstances".
9. At the time of the FTT hearing in September 2024, the family were living in the al-Mawasi humanitarian zone in Gaza. Later, they moved to the Nuseirat refugee camp, living in an unsuitable summer tent, which has been damaged by gunfire. Their position remains extremely dangerous. Law and order have broken down in Gaza, and there is a dire humanitarian situation. The family had an anti-Hamas profile, caused by the sponsor and the father having historically either been members of Fatah or worked for the Palestinian Authority. The sponsor suffers from PTSD, triggered by the risks to the family. The sponsor sent money to the family and intended to move home to accommodate the family in the UK, which he could afford to do.

The Court of Appeal's decision on the existence of family life between the sponsor and the family in Gaza

10. The Court of Appeal reaffirmed that permission to enter the UK outside the Rules was only to be granted in very exceptional or compelling circumstances (see [169]).
11. The Court of Appeal explained, at [38] to [85] and [113] to [136], that many cases in the European Court of Human Rights (the ECtHR) and the domestic courts established that: (i) family life for the purpose of article 8 was normally limited to the nuclear family, (ii) there was no family life between adult siblings unless they could demonstrate “additional elements of dependence, involving more than the normal emotional ties”, (iii) the FTT and the UT had been wrong to ask themselves only whether the sponsor had provided “real, effective or committed support” to his brother and the family, and (iv) applying the proper test, neither the brother nor his family had demonstrated that they had sufficient family life with the sponsor to engage article 8(1).

The Court of Appeal’s decision on the article 8 rights of persons outside the territory of the ECHR, seeking to enter the UK on the grounds of family life with UK citizens

12. This point was academic in the light of the first decision that there was no family life between the sponsor and the family. The Court of Appeal nonetheless held, at [137] to [144], that persons outside the territory of the ECHR did not have free-standing article 8 rights even if they enjoyed family life with a UK citizen. In undertaking the necessary proportionality balance under article 8(2) (i.e. to decide whether it was lawful to infringe any right to family life established), the tribunals ought to look primarily at the article 8 rights of those persons within the territory of the ECHR (in this case, the sponsor). The tribunals ought, however, in deciding where the balance lay, to consider the sponsor’s family life as unitary with the family.

The Court of Appeal’s decision on where the proportionality balance lay under article 8(2)

13. The UT had made several errors in undertaking the proportionality balance under article 8(2) (see [145] to [168]). Even if family life had existed between the sponsor and the family (which the Court of Appeal had held it did not), the balance should not have been determined in favour of granting the family entry clearance. Exceptional or compelling circumstances had not been shown. The UT had been wrong to pay so little regard to the immigration control policies of the SSHD and the UK Government, as reflected in the Rules, as expressing what was necessary in the interests of the economic well-being of the UK and for the protection of the rights of the citizens of the UK. The UT wrongly over-stated the importance of the family's short-lived family life with the sponsor (had it existed at all), the best interests of the children of the family and the admittedly serious risks faced by the family in Gaza.
14. The UT's close focus on the effect that the war was having on the family wrongly distorted the article 8(2) balance in the family's favour (see [166]). The words of article 8(2) were not given their proper effect. Article 8(2) does **not** prohibit interference by a public authority with the exercise of the right to family life, if that interference is "in accordance with the law and is necessary in a democratic society in the interests of ... the economic well-being of the country ... or for the protection of the rights and freedoms of others". Immigration control is to be assumed to be in the public interest and protective of the economic well-being of the country.
15. The SSHD's policy is a matter for her and for the UK Government (see [167]-[168]). It was not a question of floodgates or numbers likely to apply from warzones across the world. It was a question of respect for the UK's laws and democratic process. The decision as to what was necessary in UK society to protect the economic well-being of the UK and the rights of citizens of the UK was the business of the SSHD and the

Government. The courts must attach considerable weight to the SSHD's immigration policies at a general level, alongside considering all the factors which are relevant to the particular case. Those policies did not include a resettlement policy concerning Gaza. Had they done so, the balance might have been struck differently.

Conclusion

16. The appeal was allowed. The Court of Appeal remade the decision of the FTT (which was upheld by the UT) as to the existence of family life within the autonomous meaning in article 8(1). It decided that no family life existed between the sponsor in the UK, and his family in Gaza (see [130] to [136]).
17. Had the Court of Appeal held that that family life existed between the sponsor and the family in Gaza (as the FTT and UT held), it would have determined that there were no very exceptional or compelling circumstances justifying the grant of entry clearance to the family outside the Rules, or, to put the matter another way, it would have determined that refusal of entry clearance was not a disproportionate interference with the family life, had it existed (see [169] to [175]).
18. The SSHD was granted permission to appeal to the Court of Appeal notwithstanding that she had already agreed to provide entry clearance to the family, because the appeal raised points of general importance. Accordingly, allowing the appeal will have no effect on the family's situation.