



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

Appeal Number: VA/01197/2013

**THE IMMIGRATION ACTS**

**Heard at Glasgow**

**Determination  
promulgated**

**On 30 September 2014**

**On 01 October 2014**

**Before**

**UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

**ENTRY CLEARANCE OFFICER, WARSAW**

Appellant

**and**

**TATIANA ALICI**

Respondent

For the Appellant: Mr M Matthews, Senior Home Office Presenting Officer  
For the Respondent: no representation

No anonymity order requested or made

**DETERMINATION AND REASONS**

1. The parties are as described above, but are referred to in the rest of this determination as they were in the First-tier Tribunal.
2. The case has a history of confusion, which has been contributed to by both sides.
3. The appellant applied for entry clearance as a visitor. By notice dated 4 January 2013, the ECO refused that application. It may be observed in passing that the reasons given appear rather over-suspicious, particularly as similar previous applications by the appellant had been granted.

4. The appellant appealed (or purported to appeal) to the First-tier Tribunal. She did not ask for an oral hearing. Judge J D L Edwards purported to allow her appeal after consideration “on the papers” by determination dated 25 October 2013.
5. The ECO appealed to the Upper Tribunal on the grounds that the determination is self-contradictory and lacks reasoning.
6. The case came before Vice President Ockelton and UT Judge Deans on 18 July 2014. In a notice dated 22 August 2014, signed by the Vice President, the UT said that the ECO’s grounds on their face appeared to make a reasonable criticism, and that “... a judgment which makes no reference to the facts on which it is based or to any lasting concerns of the other party is unlikely to be regarded as professional by any standards.” However, for reasons explained in the notice, unless withdrawn by the ECO the case was to be relisted.
7. On 30 September 2014 Mr Matthews pointed out that the original decision was one which carries a right of appeal on human rights and racial discrimination grounds only, and no such grounds had been put forward, or could rationally be said to arise. He acknowledged that the ECO’s refusal reasons were not strong, but that was beside the point.
8. The submission by Mr Matthews is correct. The “appeal” to the First-tier Tribunal should not have been accepted as such. Having been put before Judge Edwards for decision, a notice of no valid appeal ought to have been issued. The point has been noticed only very late in proceedings, but as it goes fundamentally to jurisdiction, it must now be given effect. The appropriate mechanism at this stage is to allow the ECO’s appeal to the UT, to **set aside** the First-tier Tribunal determination, and to substitute a decision **dismissing the appeal**, as originally brought by Mrs Alici to the First-tier Tribunal.
9. The failure of these proceedings should not be held as adverse to any further entry clearance or other immigration application Mrs Alici may make.



30 September 2014  
Judge of the Upper Tribunal